

[H.A.S.C. No. 111-121]

**REPORT OF THE DEFENSE TASK FORCE  
ON SEXUAL ASSAULT IN THE  
MILITARY SERVICES**

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HEARING

BEFORE THE

MILITARY PERSONNEL SUBCOMMITTEE

OF THE

COMMITTEE ON ARMED SERVICES  
HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

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HEARING HELD  
FEBRUARY 3, 2010



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##### DOCUMENTS SUBMITTED FOR THE RECORD:

[There were no Documents submitted.]

##### WITNESS RESPONSES TO QUESTIONS ASKED DURING THE HEARING:

[There were no Questions submitted during the hearing.]

##### QUESTIONS SUBMITTED BY MEMBERS POST HEARING:

[There were no Questions submitted post hearing.]



## **REPORT OF THE DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE MILITARY SERVICES**

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HOUSE OF REPRESENTATIVES,  
COMMITTEE ON ARMED SERVICES,  
MILITARY PERSONNEL SUBCOMMITTEE,  
*Washington, DC, Wednesday, February 3, 2010.*

The subcommittee met, pursuant to call, at 3:04 p.m., in room 210, Capitol Visitor Center, Hon. Susan A. Davis (chairwoman of the subcommittee) presiding.

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

Mrs. DAVIS. Good afternoon. Today the Military Personnel Subcommittee meets to receive the report of the Defense Task Force on Sexual Assault in the Military Services. The task force was created by the National Defense Authorization Act for fiscal year 2005 as an extension of the Defense Task Force on Sexual Harassment and Violence at the military service academies.

We are very pleased that you are here. We are very pleased that you have completed your report. We know that you got started a little after that initial 2005 authorization, certainly not the task force's fault, but we are glad that it commenced and that you really did the tremendous work that you did. Thank you so much for that.

Sexual assault is a complex problem that does not lend itself to a single hearing. Last year we set out to continue our examination of sexual assault in the military by starting a series of hearings on individual subjects so that members and witnesses could have in-depth discussions about various issues to build towards a comprehensive understanding of the problem. This in turn will guide our deliberations on what can and should be done next.

The first two hearings of this series looked at victim advocacy and support as well as the prevention programs put in place by the Department of Defense. Our next hearing was to focus solely on prosecution of sexual assault in the military. But since the Defense Task Force on Sexual Assault in the Military Services released their report in December, we have decided instead to have this hearing to fully examine their findings and recommendations.

I want to thank the task force co-chairs for the depth, the breadth, the thoughtfulness and quality of this report. This is exactly the type of well-researched report we hope for when we create these task forces in law, complete with comprehensive and practical recommendations. I certainly cannot promise that all of your recommendations for Congress will be implemented, nor that those that are implemented will be done exactly as you have put forth,

but I can assure you that each and every one will be carefully reviewed and considered by this subcommittee.

I certainly don't want to steal any of the thunder from our witnesses but there is a recurring theme that needs to be mentioned from the outset. While the Department has done much in recent years to address sexual assault in the military, much more remains to be done. Thankfully, due to the work of this task force and others, we have a much clearer understanding of the problem. It is important that we make some significant improvements to how the Department deals with sexual assault and that we all do what we can to avoid inadvertently making things worse in the process.

Sexual assault within the ranks is antithetical to the trust and camaraderie that defines military culture. Any sexual assault undermines the moral foundation of our Armed Forces and does irreparable harm to unit cohesion. Hopefully, today's hearing will help us chart a legislative course to make progress in our goal to eliminate sexual assaults in the military.

[The prepared statement of Mrs. Davis can be found in the Appendix on page 27.]

Mrs. DAVIS. We have with us two distinguished members of the task force. Rear Admiral Iasiello is a former Chief of Navy Chaplains and served as one of the task force co-chairs. Brigadier General Dunbar is a director of force management policy for the Air Force and served as a senior military member of the task force. We certainly welcome you to be here.

I wanted to mention that I would ask unanimous consent that Mr. Turner be allowed to participate in today's hearing and be able to ask questions after the subcommittee members have had an opportunity to do that.

I now turn to Mr. Wilson for any of his comments.

**STATEMENT OF HON. JOE WILSON, A REPRESENTATIVE FROM  
SOUTH CAROLINA, RANKING MEMBER, MILITARY PER-  
SONNEL SUBCOMMITTEE**

Mr. WILSON. Thank you, Madam Chair. I join you in welcoming our witnesses and thank them and the other task force members and staff for the excellent work and report concerning a very difficult, important, and challenging set of issues. This report is comprehensive, detailed, and highly insightful as to how much yet needs to be done to ensure that the military culture adequately, appropriately, and effectively addresses the issues related to sexual assault.

Certainly the report cites many instances of best practices by the military services to illustrate that progress has been made and is being made. Among those best practices are the efforts at Fort Jackson, which is in the Second District of South Carolina that I represent, the Army's largest gender-integrated, initial-entry training center where sexual assault is addressed within the first two days of training. Overall, however, the report cites serious shortcomings in the strategic direction, prevention, and training, response to victims, and accountability efforts of the Department of Defense [DOD] and the military services. Furthermore, the report is critical of the well-intentioned effort by Congress to create a new comprehensive article 120 of the Uniformed Code of Military Jus-

tice, UCMJ. Practitioners see it as cumbersome, confusing, and a barrier in some cases to convictions. Also, significant issues have evolved related to the article's constitutionality.

Finally, the report touches on implementation challenges of DOD policies and practices during deployed joint operations overseas and in joint-basing situations in the United States.

It is sad that nearly 65 years after World War II demonstrated the military necessity to expand the roles for women in the military and continuous efforts by Congress to facilitate the integration and assimilation of women into the military, we are here today to receive yet another report that clearly indicates so much still needs to be done. I believe the authors of this report provide most of the answers to my question. I quote: "The task force believes that culture change is essential for military services to improve how they prevent and address sexual assault."

The lesson we should take away from this report is that culture change is hard, difficult, and neither smooth nor quick. It is a process requiring enduring commitment to change over the long term. In that vein, I am sure this subcommittee will energetically pursue and support the task force recommendations.

But I would also caution that as the subcommittee begins to address other issues that will require significant military cultural changes that I have seen in my 31 years of Army National Guard service, such change will not be easy or quick and, like the efforts to change military culture with regard to assimilation and integration of women, likely to be disruptive and difficult for many years, not withstanding the assurances to the contrary of some advocates for change.

Thank you, Madam Chair, for holding this hearing. I look forward to the testimony of our witnesses.

Mrs. DAVIS. Thank you.

[The prepared statement of Mr. Wilson can be found in the Appendix on page 29.]

Mrs. DAVIS. Dr. Iasiello, would you like to proceed.

**STATEMENT OF DR. LOUIS V. IASIELLO, CO-CHAIR, DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE MILITARY SERVICES**

Dr. IASIELLO. Chairwoman Davis, Ranking Member Wilson, and other distinguished members, thank you for this opportunity to present the work of the Defense Task Force on Sexual Assault in the Military Services. As co-chairs we are honored to be here to discuss the recommendations and findings of the task force membership and staff. Given the fact that our formal statements have been forwarded to you, we will keep our opening comments very, very brief.

As regards to the task force authority, as the Chairwoman has already mentioned, the Congress directed the task force to be established in 2005 by the Defense Authorization Act and it was established by the Secretary of Defense in August of 2008. The task force employed an extensive methodology, employing both quantitative and qualitative measures.

Over a period of 15 months, we have visited more than 60 military installations, CONUS [continental United States], OCONUS

[outside the continental United States], and in the AOR [area of responsibility]. We have interviewed more than 3,500 individuals, 61 victims of sexual assault, senior military and civilian DOD leadership, sexual assault response coordinators [SARCs], victim advocates and, of course, their supervisors.

We have interviewed the first responders to sexual assault, the doctors, the lawyers, the chaplains, the military police, the DOD Criminal Investigative Services. We have reviewed hundreds of their criminal investigative reports as well as all prior reports on sexual assault leading up to our work. And at the completion of our work, we submitted our report to the Secretary of Defense December 1 of 2009.

The task force focused its work in three distinct yet interrelated areas: victim response, prevention and training, accountability and strategic oversight.

First off, the report recognizes the progress made by the Department of Defense in the area of victim response since the inauguration of the SAPR [sexual assault prevention and response] program in 2005. We believe that the recommendations contained in our report will significantly improve these programs in this critical area of victim response.

Next, in the area of strategic direction, the task force recommends that the Deputy Secretary of Defense take responsibility for the SAPRO [sexual assault prevention and response office] for a period of at least one year and until the Secretary of Defense apprises Congress that the SAPR program is meeting its established goals. We further recommend that the SAPR program be given a more permanent complexion. The Department of Defense needs to communicate the message that the SAPR program is here to stay and illustrate that resolve through designated funding for SAPR funding in its DOD POM [program objective memorandum] or budgeting process.

The task force recommends that the organizational design, personnel, and mission of the DOD SAPRO Office be revised to strategically lead in this critical area.

We recommend the establishment of a uniform SAPR terminology and core structure to be implemented across service lines. The task force recommends the professionalization of victim advocates to ensure qualified personnel with national certification, and we recommend that SARCs, the sexual assault response coordinators, be either DOD personnel or uniform personnel.

The task force recommends the development of program standards and subsequent metrics which will enable the DOD to more accurately measure the health of the SAPR programs.

And finally, in the area of strategic direction, the task force is strongly recommending funding for SAPR research in collaboration with civilian experts throughout our country such as those found in the world of academia, advocacy groups, and other Federal agencies.

[The joint prepared statement of Dr. Iasiello and General Dunbar can be found in the Appendix on page 30.]

Dr. IASIELLO. And now I would like to turn the microphone over to my esteemed colleague, General Sharon Dunbar.



**STATEMENT OF BRIG. GEN. SHARON K.G. DUNBAR, USAF,  
MEMBER, DEFENSE TASK FORCE ON SEXUAL ASSAULT IN  
THE MILITARY SERVICES**

General DUNBAR. Chairwoman Davis, Congressman Wilson, other distinguished members, as a senior uniformed member of the task force, I appreciate the opportunity to come before you to talk about the findings and recommendations of our report.

Based upon the 15-month review that we had, several themes clearly emerged. First, prevention in sexual assault should be the number one goal to prevent the devastating impact sexual assault has on member, his or her unit, the readiness of his or her unit, as well as the undermining effects sexual assault has had on the reputation of our Armed Forces.

Second, there needs to be greater consistency among each of the services because of the jointness which we see in our operations today, joint basing as well as the deployed operations taking place.

There are also distinct differences between our components, Active and Reserve. We do not have time to fully address these differences, which is why we recommend DOD undertake a separate review of this. The availability and the consistency of data also remains a concern for us.

Finally, in the area of response, a notable improvement in that area, but additional improvements as we have discussed are clearly needed.

In the realm of prevention and training, prevention if we accept it as a top priority in addition to providing support for victim advocates and being key to combating sexual assault, we would say that the SAPRO Office needs to establish a very clear overarching prevention strategy. That was not clear during our review. We understand that they have since developed an overarching prevention strategy, and so its implementation will be key to the success of the Sexual Assault Prevention Response program.

In addition, that overarching prevention strategy will allow greater consistency among the services and drive them into having uniform terms and conditions, positions, and approaches for addressing this particular issue. Under that prevention strategy, bystander intervention is a very clear area where the Department of Defense and military services have made tremendous strides.

But we would argue that the overarching prevention strategy entails much more. It encompasses assessment of a community's physical environment from the terms of safety, facility location, issues that we saw in the AOR. It is also encompassing of community awareness, leadership emphasis and involvement. To a certain extent we have seen that where the leadership is involved, the success of the program is much more effective, stemming from looking at the senior leadership of the military services, holding annual summits addressing sexual assault prevention and response to the Chairman of the Joint Chiefs of Staff's video, which we saw when we traveled over into the AOR, to even at the lowest unit level commanders who are very actively engaged in addressing the issue of sexual assault prevention and response. The leadership sets the tone.

We also would say that sexual assault from the standpoint of prevention, the strategy that we would like to see will guide initia-

tives, process, the training and the public outreach that is required to address the issue, which would also enable the military services and the Department of Defense to better leverage and partner with outside experts in addressing the issue. That affects not just those who are serving in the military services but all of our society as well.

In the training arena, we would argue that in order to be effective, the training that is currently conducted must be more tailored and developmental in nature. Tailored to both military and civilian personnel over the course of their service, tailored to maturity levels, leadership levels, and skill levels.

Improving awareness should be one of the key aspects of training, addressing the frequency of incidents, addressing victim and perpetrator risk factors from age, alcohol, location, acquaintance versus stranger, garrison versus deployed, and risky behavior in general.

The training should address myths, the very myths that are out there that are prevalent and accepted by members of society as well as members of our military services. And we would also argue that the training needs to be less nearly focused on women because that makes it all the more difficult for male victims to come forward. We all know that the ability of male victims to report is much less. It is very difficult for any victim of sexual assault to come forward. But currently the training tends to be more geared towards females than encompassing any individual who might become a victim of sexual assault.

We would also argue that the training needs to be more specialized and recurring: first responders and SARCs; victim advocates specific to the gender of the victim; as well as investigators and prosecutors in order for us to be able to improve successful prosecution of sexual assault; as well as specialized training for leadership, as I mentioned, at all levels of service.

In the victim response area, as we have said, much has been done in order to improve what we are doing there, but some of the areas where we see additional improvement is in providing the immediate victim support from the first responders, the community-based support and victim advocacy, as well as just from general safer access, the contact numbers and accessibility. All of those are very key for a victim to know in a standardized way if they are anywhere serving, whether it is CONUS, OCONUS, or in a deployed environment, exactly who they go to, where they can go in order to receive the care and treatment that they need.

We have heard consistently that the victims are dissatisfied with the treatment that they received during the investigative process, and we make a number of recommendations in order to improve how these victims are treated in order to ensure that they are able to receive support from a certified, very well-trained victim advocate, to being able to get advice from a qualified military attorney, to also providing them with privileged communication which we see as necessary in order to encourage more victims to come forward.

And longer-term support is something, obviously, that we need to be looking at beyond an individual's service in the military. We did not fully address this particular area, but we would offer that as an area to further explore.

In accountability, we took a look at the system accountability as well as offender accountability and found that we need improvements in terms of the database, in terms of the reliability and the validity of the data as submitted to Congress in the annual report. We have concern over the sufficiency of the funding in order to ensure timely delivery of the much-needed database and the service's ability, in order to provide the data to be integrated into a database which allows the opportunity for Members of Congress as well as the Department of Defense to do trend analysis in sexual assault.

In the accountability area we would also address leadership accountability, the need for commanders to address more openly the issue of sexual assault at the unit level. As I mentioned, we have seen it addressed at the senior levels of the services to include the Chairman of the Joint Chiefs of Staff, and we have seen it very successfully addressed at some unit locations, but we would argue that much more needs to be done in this area.

Routine discussion of sexual assault by unit commanders helps to continue to increase awareness, reinforce a commander's stance on no tolerance of sexual assault in the unit, and it instills confidence in the system in the attention that it is given to it.

We outlined a number of best practices. Fifteen are listed. No doubt there are many more best practices that are out there beyond the locations we were able to visit. There is much that is going on that is very positive within the DOD and the military services, and I think that the SAPRO Office needs to take a look at what all those best practices are and integrate those into the prevention strategy it is currently addressing.

In closing, I would say that on behalf of the task force members, some of whom have been addressing the issue of sexual assault for decades now, we thank you for your leadership on this issue, your concern, and the invitation to speak before you today.

Dr. Iasiello and I stand by to take any questions you may have.

[The joint prepared statement of General Dunbar and Dr. Iasiello can be found in the Appendix on page 30.]

Mrs. DAVIS. Thank you very much. I appreciate your thoughtfulness throughout this.

One of the recommendations you have had, especially as we move forward, is to place a sexual assault prevention and response office under the Deputy Secretary of Defense for at least a year. And you thought that that would give them a chance to kind of apprise what is happening. Our experience has been that they just aren't really in a position to be able to do that, that it is not the staff—they are not designed for that kind of oversight.

I am wondering if you have had any additional thoughts about that, if you feel that you looked at that and felt that that was the only way to give this the kind of stature, perhaps, that we are looking for. How can we look at that? There is a concern that they are just not ready to do that.

We had an experience as well with oversight of the process at Walter Reed, and, you know, there is just a lot of question whether that is really the best place to put this additional responsibility for oversight.

Dr. IASIELLO. It was our thought as we put forward that recommendation, that after 2005 each of the services took off in their

own direction trying to answer this issue and trying to confront this issue in the best way possible, and we applaud that initiative that each of the services took in sort of taking this forward. But I think I speak for the task force membership when I say that we really would like to see a strategic leadership role taken by the SAPRO Office at the DOD that would help to bring together these incredible efforts that we see now from the leadership of the different services, the I Am Strong Program in the Army being just one of the many examples that are out there; and especially, as the General mentioned, as far as the comprehensive prevention strategy that we are talking about, someone really needs to take the lead on that. Someone needs to be able to be liaison and to partner with the intellects that are out there in the civilian society and to capitalize on the great ideas that are part of our American culture.

And so we felt that by placing the office, at least temporarily, under the Deputy Secretary of Defense, that we expect, of course, a lot to be done in a very short period of time. We felt that that added support, added attention, would, in fact, help them to realize their goals.

Mrs. DAVIS. I think you would stand by that statement.

I think what we are just wondering is if a decision was made that perhaps they don't have the ability now, the capacity to actually provide the kind of oversight that we are really seeking here. Were there some other thoughts about how this might be done?

I think what I hear you saying very strongly is that you want to have more authority, more oversight, and certainly raise the level of—I am not sure that the word is “competency,” I think it is the capacity to deal better and to be seen as an office that really means exactly what it says here. And we are struggling a little bit to sort of define that better.

General DUNBAR. Yes, ma'am. I think the intent behind the recommendation is to provide higher oversight, and I think that there are a number of ways to do that. The recommendation was geared to highlight the fact that that oversight is necessary, and so that is one recommendation. But there are clearly other ways of doing that. And we indicated in the report, one of the areas that we found a shortcoming was just in the staffing alone of the SAPRO Office in order for it to be able to do what is required. And I think when you look at some of the issues that drove that recommendation, it stemmed from the under resourced nature in terms of staffing of the office that, frankly, you go back to the inception of the office, it was geared more towards response and it now needs to expand into prevention and training and other areas. And in order to do that higher oversight at a level, whether it is the level recommended in the report or elsewhere, we believe is prudent.

Dr. IASIELLO. And if I may, we see it as critically important that there be uniformed members as part of that staff, people in uniform and people that have had the experience of leading and understand.

We also are asking for a seasoned JAG [Judge Advocate General] officer from one of the military services to be part of that staff and to have a designated victim advocate on staff with the expertise to handle the issues at that strategic level.

Mrs. DAVIS. I was going to ask if there are professionals, and you mentioned the JAG officer, experience level or educational level that you feel would contribute greatly to that kind of stature and authority that it would have. Is there anything in addition to that?

General DUNBAR. Principally the leadership of the office and the recommendation that we make is that it be led by a general flag officer or a civilian-level equivalent.

Mrs. DAVIS. Thank you very much.

Mr. Wilson.

Mr. WILSON. Thank you.

General and Doctor, thank you very much for being here. I notice behind you, you have a very distinguished JAG officer with you. I am a former JAG myself, so I appreciate your service.

However you want to answer in whichever order, you cite there are implementation difficulties with JAG, with article 120 of the UCMJ, in your report and recommend a review by military justice experts as to its effectiveness. Are these difficulties related to the fact that the law only went into effect for offenses committed on or after October 1, 2007, and lawyers are simply not familiar with how to use the new provision; or are there serious issues with article 120 and on what particular issues should the review focus?

General DUNBAR. Congressman Wilson, I believe that from practitioners what we have heard is that article 120, as it is currently outlined is, as you used the word, "cumbersome." It is complicated and confusing. It is confusing for those who are trying to prosecute, but it is confusing for individuals who are hearing the cases in order to look into the types of charges. It encompasses far more, and I think as a result of that, it is very difficult for individuals sitting on a jury in order to be able to come to a conclusion. The concern is because of the broad nature of it, that there may be individuals that, as a result, may be acquitted. And that is why we would just ask for a review of it. Those who are implementing it, the JAG officers, know better than we do, and I think that that dialogue is important.

Mr. WILSON. And in line with your concern about acquittals, I have the same concern. Your report suggests the view that the military is aggressive in prosecuting sexual assault. However, you note that the pursuit of prosecution in court-martial cases, where evidence is not as strong as it might be, leads to pure convictions. This is also an obstacle for obtaining court-martial convictions.

What recommendations would you give to the military prosecutor for increasing court-martial convictions? What role can nonjudicial measures, such as article 15s and administrative actions, have in the effort to prevent and to punish sexual offenders?

General DUNBAR. As a former commander, I think that this is an area that everybody struggles with from the standpoint of wanting to prosecute cases to looking at what is prosecutable, and I think in the end you want to provide justice for the victim.

What we would recommend and we do, in fact, recommend for prosecutors as well as investigators, is additional training, because sexual assault, the incidence level of it spread across all the installations, across all the JAGs who have to try the cases, their ability to have familiarity with trying sexual assault cases is not as extensive as one would think. So if you establish a cadre of individuals

who are well-trained in order to be able to prosecute those cases—the Army is doing that—or you bring on additional investigators, as the Air Force and other services are doing, and you provide specific training to sexual assault, we are hoping that that leads to increased success in prosecution.

To your reference as far as nonjudicial punishment, we would argue that certainly when we are looking at cases and the ability to prosecute successfully those cases, that the JAG and the commander need to have that discussion and need to look at the tools that are there in order to be able to provide justice for the victim. At the same time, it probably merits including the victim in some of the consultative process there, and we have addressed that issue as well.

Mr. WILSON. Another concern I have that your report hits on, indicates victims often jeopardize their option for restricted reporting because they share information with the assault about a friend, family member, or superior. But you note it is natural for a victim to want to tell someone they trust about the assault. You recommend for a victim to have the right to make a restricted report despite disclosing to a third party. However, you exclude the direct chain of command or law enforcement from the third parties.

Why shouldn't a victim have the right to choose restricted or unrestricted reporting regardless of who may be aware of the assault?

General DUNBAR. That recommendation was essentially one step in the direction of trying to afford the victims with a little more latitude as to who they can turn to in order to discuss their situation. Right now, as you know, they could confide in a peer, and it may not guarantee them confidentiality.

Again, kind of harkening back to having been a commander and having the opportunity to speak to the commanders, for the victim to talk to a commander about being sexually assaulted, it puts the commander in a very difficult position because the commander is going to want to seek justice, and having that information and not being able to act upon that information is, I think, problematic. Hence, the restrictive reporting as we have currently set up we believe works very well. But expanding the opportunity for a victim to be able to confide to peers, friends, as research indicates they are more inclined to do, as opposed to go to authorities that they know, even offer them confidence—chaplains as being one of them—we believe provides a support network for the victims which, in the end, one of the objectives is for us to ensure that military victims of sexual assault come forward to receive the care and treatment that they need; and that is an option that allows that, while at the same time enabling the commanders to kind of have that law in order for them to be able to seek the prosecution of the offenders.

Mr. WILSON. I again thank both of you for your efforts. This is such an important issue for the young people serving in our military and the great opportunity that they have to serve that they should serve without fear of sexual assault.

Thank you and I yield back the balance of my time.

Mrs. DAVIS. Thank you.

Dr. Snyder.

Dr. SNYDER. Thank you, Madam Chair.

General Dunbar, would you give me your 15-second summary—I know it wasn't your all's fault, but why there was such a delay between the time of passage until you all went to work?

General DUNBAR. Sir, I honestly can't comment on that because I was busy doing my job, just waiting for us to convene; so the machinations behind it, I couldn't comment on it.

Dr. SNYDER. Do you —

Dr. IASIELLO. I can't speak to the decision, but what I can speak to is the fact that when members were asked, it was an immediate yes. They saw the opportunity to help men and women in uniform, and they aggressively pursued this task, not in a ceremonial fashion, but actually giving up a year of their lives to the work of the task force. So we really can't speak to the question of why, but we can speak to the fact that, when asked, everyone responded in a magnificent way.

Dr. SNYDER. General Dunbar, when you look at the differences between how you view the challenges at a military base domestically versus overseas in a war zone, do you see those as being qualitatively different, or can they be basically the same approach in all three places?

General DUNBAR. I believe that there are qualitative differences. We are looking at OCONUS versus CONUS. One of the issues that we saw OCONUS overseas was the need to ensure that we are providing our civilian members, the DOD, civilian personnel, with the support that they require because they are overseas in a different environment. From a military member standpoint, OCONUS to CONUS, probably not that much different. In the AOR compared to CONUS or OCONUS, certainly differences. You have individuals who are moving in and out of theater very quickly, out of bases very quickly. You have individuals that are dispersed over the area, and that need for accountability, the importance of having individuals know exactly who it is that they can go to, is paramount given the circumstances of just operations in the deployed theater in general. So there are differences.

Dr. SNYDER. One of your recommendations deals with the issue of letting victims of sexual assault know what the results of formal military disciplinary reaction is. That is not a problem just for sexual assault, though, is it? I mean you could have victims of other crimes, breaking into their home, destroying—vandalize their favorite trophy, who knows what it is—all kinds of things can happen—beat up their kid. That is a problem not just with regard to sexual assault; is that correct.

Dr. IASIELLO. If I may, obviously the investment that a victim makes in the whole legal process is a very emotional one, a very draining one. And also the way that things are handled and keeping the rumor mill under control and so on within a command is extremely important, obviously, for the morale and welfare of the members of a unit. And I guess the point we were getting at or trying to get at was the fact that too often we interviewed victims or we met with focus groups, and people were absolutely unaware of what happened, why someone was acquitted, why charges were dropped or whatever. So the information chain is critically important not only for the victim, but also for the members of the unit

in order to have a more transparent look at what is going on. That is why the recommendation was made.

Dr. SNYDER. My question is that is not just a problem—I understand you—that is not just a problem with sexual assault, that the disciplinary process may not inform, you know, whether—I mean certainly it is qualitatively different, but people who go down and file charges and testify or make complaints may not hear what the results are in other areas too, not just sexual assault; is that accurate.

General DUNBAR. Yes, that would be the case.

Dr. SNYDER. Your recommendation that the SARCs need to specifically be either DOD civilian or DOD military. Would you amplify that about why—I don't know—a military spouse who is not DOD, may not be a civilian, maybe a volunteer or somebody from the community, a community organization—why that breaks down so strongly that you feel that it—you make that strong recommendation?

Dr. IASIELLO. It is one of the recommendations we all felt very strongly about. And the reason why, Congressman, was the fact that it is really access to the commander, a person's ability to be able to access their commander. And what we found with contractors is sometimes they are placed under other organizations, like family advocacy groups or community services and so on, and there may be a two- or three-tiered chain of command between them and the commander.

We feel for a SARC to be effective, there needs to be this immediacy of presence with their commanders not only to keep them informed but to have that access when necessary.

So the membership, as we were talking about ways to make things better, we felt that making the SARC a member of the DOD team as far as a DOD employee or, as the Air Force has done in some locations, making them uniformed members and giving them that SARC responsibility, we saw a great improvement in the areas where that was happening. So that is why we made the recommendation.

Dr. SNYDER. Thank you.

Mrs. DAVIS. Thank you.

Ms. Sanchez.

Ms. SANCHEZ. Thank you, Madam Chair, and thank you again for having this hearing. As you know, I have been working on this issue for a while and I am very interested to hear—and I have read the report with respect in particular to the article 120 comments, and I would like to say some of the comments in there were red herrings, and I have a different view of it. But also some of them were due to, I think, just the nature of law-making. I mean the initial change to article 120 that I proposed was different, and when I look at cumbersome pieces of it, those pieces actually came from the Secretary's Office. So I would love a chance to go back, Madam Chair, and be able to redo, if we have to, article 120, because I think it is that important for us to bring it into today's world.

In the military report, you had a case-by-case synopsis of all sexual assault cases reported, and when I looked over the number of cases where an individual would be convicted of rape or aggravated sexual assault, but then they would merely receive an administra-



tive action or be demoted, or in many cases no action was taken at all, there were quite a few of those.

And since one of the reasons we made the effort to change article 120 was so that we could get prosecutions—and now we have prosecutions, we have convictions—and so I am wondering why is it that individuals who were clearly convicted of sexual assault are getting away with mere demotions or administrative action? And I have to tell you that that, when I read that, unless you can clarify that for me, pretty much really angered me. So it is my understanding that most of the investigation and adjudication of the allegations of sexual assault fall under the commander's jurisdiction. And so that is why I added language to the fiscal year 2010 NDAA, requiring the Comptroller General to provide the congressional defense committees with a report on the capacity of each service's infrastructure for the investigation and the adjudication of allegations of sexual assault.

So what are the barriers that exist in the sense that—to facilitate a fair and effective investigation, to adjudicate the sexual assault cases to the full extent of the UCMJ, and why are so many individuals committing these crimes, getting convicted, and getting minor sentences or demotions?

Dr. IASIELLO. I am not sure how appropriate it would be, but we have some great legal minds with us who have studied this for the last 15 months and have pored over a lot of cases. And if it would be appropriate to allow Colonel Grant, who is a member, who is also one of our legal experts, to maybe address that question for Congresswoman Sanchez?

Mrs. DAVIS. Any objection?

Hearing none, please go ahead.

Colonel GRANT. Ma'am, as far as your initial statement, I believe you were referring to the reports at the end of the SAPR report?

Ms. SANCHEZ. Yes.

Colonel GRANT. The way that those are written is, the allegation is rape or aggravated assault, and one of the problems that we know in the report itself is there is frequently not a discussion of what the actual —

Ms. SANCHEZ. Conviction to —

Colonel GRANT. So it is the allegation. I am sure in reading our report, we are very critical of the way that that information is related because it really doesn't provide you good information at all. And that is why a lot of our recommendations deal with improving the report, so you get a clear picture as to what really happened in each individual case.

Ms. SANCHEZ. So, in other words, what you are saying is someone alleged rape and then it went to be prosecuted and we received a conviction; we don't know what that person was really convicted of under the report.

Colonel GRANT. I do not believe that the reports actually have that information in there, yes, ma'am.

Ms. SANCHEZ. But we do have that information, and if we figured out a way to get that information, we would have better information to tell us what they are being convicted of and why. Because, again, I saw mere dismissals and changing to other units, et cetera,

et cetera, which if that is the case, that is not the intent of what we had in mind.

Colonel GRANT. Absolutely. But what happens is they go and they report to the investigators and they say, I was raped. And then the investigation occurs and there is any number of different conclusions that can be reached after the course of that investigation. There is a gap in the report as to that particular process. Maybe there is an unknown perpetrator. She was raped but we don't know who did it. She was raped by a civilian, not a military person. She recanted, it really didn't happen. She thought she was raped but after we figured out what the facts were, it wasn't technically, legally, rape. There are any number of reasons but—

Ms. SANCHEZ. But again there were convictions, so we didn't find the perpetrator, we don't know who he is. I mean, you wouldn't convict somebody.

Colonel GRANT. Yes, there are convictions in certain cases, I would agree with that. But some of the information where you are saying is—I can't remember exactly what the punishment was, but it was not consistent with a conviction. There are situations where, if there are convictions and they are just like demoted in rank, it is possible that the thing they were found guilty of, it was not actually rape or aggravated assault.

Ms. SANCHEZ. I understand. I guess it goes back to the whole issue of we need to have the right information so we can find out whether we are really getting convictions or whether the culture is still one where the commandant or whoever, the commanding person, is still leery of, you know, ruining somebody's, you know, whatever.

I mean, we have had so many stories of people being sent off to other places, et cetera. We need to get to the bottom of what is a conviction and why are there dismissals going on.

Mrs. DAVIS. Thank you, Ms. Sanchez. I am going to move on so we can get at least a question in before we have to break for votes.

Ms. SANCHEZ. Yes. Thank you.

Mrs. DAVIS. I think the discussion has been having the results of disciplinary actions, having more transparency around those, and trying to figure out what is the best way to get to that place so that we are even able to see that in the context of the discussion today. Thank you.

Ms. Tsongas.

Ms. TSONGAS. Thank you, Madam Chairwoman.

And thank you for your testimony and your report. I found it very interesting, a very serious effort to address the great challenge of sexual assault in the military. We know there is much more to be done, just from anecdotal stories from people who have experienced sexual assault, who tell us how that they feel they are not particularly taken care of. And one of the issues I think we keep coming back to is the role of the commander in making the decision over whether or not a case goes to court martial.

The 1999 decision of U.S. versus Gammons in the United States Court of Appeals for the Armed Forces stated, quote: "One of the hallmarks of the military justice system is a broad discussion vested in commanders to choose the appropriate disposition of alleged

offenses.” And we know that the military is a unique place with unique requirements.

The Department of Defense general counsel also analogized the role of a commander to be similar—and we had a meeting with the gentleman to sort of walk us through some of the issues there—to be similar to that of a prosecuting attorney in the event of a reported assault. He or she has full discretion over whether or not to take a case to court. The commander may get advice from a judge advocate general on the merits of the case, but ultimately it is the commander who makes the final decision.

My question is: What existing mechanisms does DOD have in place for third-party oversight of review of these decisions or a commander’s decisions regarding how to proceed on a sexual assault case appealable? If so, what are the steps needed to be taken to appeal such a decision, and does the lack of such a process, do you think, pose a problem?

And the other question I would have is really the oversight around the JAG officer. If the commander is depending very much on the JAG officer’s recommendations, how can we engage in sort of questioning the JAG officer’s role in advising the commander?

General DUNBAR. Those are all very good questions. From the JAG officer, taking the last first, the JAG officer has reachback authority back to the commands—higher level commands, if the individual is feeling as if they do not have all the data points, all the advice, all the support that they need in order to provide the commander with the advice, considering the circumstances.

I believe that most commanders when they are talking with JAGs, they know that the JAGs are providing advice. The commanders ultimately make the decision as to what they want to do, where they want to go in terms of judicial, nonjudicial measures. And if the commander is dissatisfied with the advice the JAG has made, the commander likewise has higher-level command authorities supporting major command in order to be able to elevate the issue in order to seek to get some additional guidance.

From an oversight perspective, I will tell you that our task force did not feel that additional oversight was necessary. I mean the review through the investigative files indicated that where information was available, where you were actually able to make a determination of having sufficient evidence to prosecute a case, that the commanders as well as their JAGs sought to prosecute the case.

The concern, as Congresswoman Sanchez raised, is that it is very difficult to ascertain that information just based upon the report, and that level of data collection and offender accountability needs to be built into the system accountability so you can see exactly what is taking place.

But from the standpoint of oversight, I personally do not see that as being necessary, and I would defer to Dr. Iasiello if he has a difference of opinion.

Dr. IASIELLO. Not at all. I would like to add they were great questions, Congresswoman, very important questions.

One of the things we did see as we went around these many locations was we met with the courts martial convening authority everywhere we went, and we saw a desire there to aggressively pursue and to step forward wherever they thought it was possible. And I

say that, knowing that as we went in and conducted our interest interviews with these commanders and with these courts martial convening authorities at even flag levels, they knew why we were there; but I really sensed from them the intent was to aggressively pursue, wherever and whenever possible, any sort of a perpetrator of sexual assault. And, of course, they know that they set the tone; the commanders set the tone. And they send messages within the command as to whether or not they do pursue and aggressively pursue these perpetrators or alleged perpetrators. So I think the intent is there.

You know, we have added recommendations such as to recognize the special nature of prosecuting these cases and the need for more training for our JAGs and those involved in the judicial process. And I think with that added training, with these specialized prosecutors, and with the intent of commanders to eradicate this crime from their midst, knowing its impact on morale and welfare of their troops, I think we are stepping in the right direction.

Ms. TSONGAS. I have just about run out of time. But did you see many instances in which a commander's decision not to prosecute as it went up a chain of command was overturned, that a higher-up in the chain, somebody said no, that case we really have to pursue it?

Dr. IASIELLO. Ma'am, I have been informed we didn't see anything like that.

Ms. TSONGAS. Thank you.

Mrs. DAVIS. Thank you.

We have the first of five votes and then this will be the last votes for the day. So I beg your patience and we will return in—it is probably going to be close to a half hour.

[Recess.]

Mrs. DAVIS. Thank you very much for your patience and waiting for us to return. We may be joined by one or two members, but I think I am going to start off again and then we will see if others arrive.

Mr. Wilson and I are very happy to have you here and to continue with our conversation. I wanted to try and get in a little more depth about the privileged communication and how you see the changes that you are recommending. You wanted to enact a comprehensive military justice privilege for communication between a victim advocate and a victim of sexual assault. It is interesting, because I think some of the more emotional testimony that I have heard, just more privately as people have talked to us about that, is how frustrating that has been. And perhaps you can share with us if this is one of the areas where you really did feel quite a bit of passion on the part of the people you spoke to about trying to define that better, what can we do to make sure that that works.

Are you aware of any time that a victim advocate has actually testified in a court martial?

General DUNBAR. I am personally not aware of any specific incident, but I know that in the review that we did of the cases, that there have been instances where they were called to testify, which goes back to why we believe that this is very important. And I think that when we first established victim advocates, the intent was to allow victims to have somebody to talk to, somebody who

was trained; and it is pretty extensive training, 40 hours of training. But I don't think folks thought about the unintended consequence of an individual confiding in somebody who ultimately would be called to testify against them.

And it goes back to what is the intent of why it is that we address sexual assault response, prevention. We want individuals to be able to come forward so that we can help them. And if they know that the individual that is designated, who is very well trained, who can help them, ultimately can also testify against them, many of the victims are loath to come forward and, as a result of that, do not receive the care and the treatment that they need.

Mrs. DAVIS. Are there other effects that you see as well in terms of that relationship if, in fact, that person did have to testify? I think in some cases perhaps it would be a positive thing that they would testify as well. Does it go both ways?

Dr. IASIELLO. Madam Chairwoman, as far as what the General has already said, I can think of no instance of that being reported. But even just the threat that something could be used against someone—and as someone who enjoyed that privilege as a chaplain in my former life and having that sort of sacred trust of having someone walk in my office and know that whatever was discussed would never be discussed outside of those four walls, that sort of comfort that you give to someone at a moment of extreme pain, personal pain in their lives, is so critical. And we don't make this recommendation lightly. We know that extending this military justice privilege is really stretching things. But we feel that for the sake of the victim, it is so important to know that. And not all victims feel comfortable going to their chaplain. And to have that outlet of having someone else not within the command structure, but somebody in the proximity of them that they can go to and share this incredible pain with, begin the catharsis, begin the healing, we feel is so critical. But even the threat they could be called in some way to testify and to break that seal that others enjoy, that is why we felt strongly about making that recommendation.

Mrs. DAVIS. Does that belief also go to—that it be a uniformed advocate and a uniformed victim?

Dr. IASIELLO. Ma'am, we were looking at whoever fulfills that role of victim advocate. And that is why we see the professionalization of that role and the national certification as extremely important. Because along with the privilege comes a great responsibility that needs to be understood and needs to be put in context. So the extension of the privilege is really contingent upon the training and the certification of those individuals.

Mrs. DAVIS. Did you have any concerns about the capacity of the system to bring forth individuals who are willing to go to that extent to become a victim advocate? Did you sense a lot of willingness for people to be far better trained? And what kinds of benefits might they have to be in that highly professional position?

General DUNBAR. Madam Chair, we actually have a number of victim advocates who are volunteers across the services. And that is actually one of the things that we focus on. We have probably far too many victim advocates, and, as a result, their ability to actually provide support doesn't occur very often, because you may

have 80 victim advocates on any one installation and the frequency of sexual assaults is that maybe one or two might actually have some experience. So there is extensive training, the investment of training to keep people refreshed on the skill, to keep them aware of what is going on. And then folks are doing this as a second collateral duty, additional duty.

So what we are recommending is actually narrowing down and professionalizing the victim advocates so that you may have a full-time victim advocate that could be a civilian social worker type. But then you also need to have military victim advocates because those victim advocates need to deploy. While civilians do deploy in our services, typically that is a military member. It is a combination of both. It is a smaller group of people, some of whom will be volunteers at a more senior level as opposed to some of the junior levels that we have seen. And through the training, the professionalization, we would be able to ensure that they are able to provide the level of support that we would want for the victims, to include being able to have that level of maturity for the confidentiality.

Mrs. DAVIS. I appreciate that. Thank you.

Mr. Wilson, do you want to go on? And maybe we will come back.

Mr. WILSON. Well, actually in conclusion, I just want to thank both of you. And, General Dunbar, your background here, serving as a congressional fellow, Senate fellow, is well appreciated. And just thank you for your service in this regard.

And, Admiral, I was so happy to find out your background as a chaplain. And I am very grateful that the Joint Chaplain School is located at Fort Jackson, South Carolina. So we look forward to a long history of working with the chaplains and your service as chaplain in the Marine Corps. I represent Parris Island too, the Marine Corps Air Station, so your service with the Navy. So thank both of you. It is certainly encouraging to me and it certainly maintains my high regard, with four sons serving in the military, for the persons who are serving in the military it is a great opportunity of service where people want the best for the young people who are serving our country. So thank you for what you have done to look out for the young people of our country so that they have the best opportunities to serve in a most fulfilling way. Thank you very much.

Mrs. DAVIS. Thank you, Mr. Wilson. One of the other recommendations in the report is for Congress to enact a law that would exempt federal medical personnel from state provisions requiring them to report sexual assaults to civilian law enforcement and to ensure that all service members have the restricted reporting option. So how do you see that working exactly? What sort of concerns would you have about that?

General DUNBAR. Currently we only have a few states that fall in that category. And it is problematic if we are trying to ensure that military members at installations in those states are afforded the same opportunity to be able to make a restricted report. There are agreements that can be made with the local officials, but for the most part one would think that you should not have to do that. So that is the purpose of the recommendation that we make for congressional action.

Mrs. DAVIS. Are there other federal agencies that would be in that same position?

General DUNBAR. Ma'am, I am not familiar with that.

Mrs. DAVIS. California and Illinois, are they problematic in this regard?

General DUNBAR. Yes, those would be the two states.

Mrs. DAVIS. Thank you. And what about sexual assaults that don't take place on federal installations? Does that provide any different obligation in terms of reporting?

General DUNBAR. Our recommendation, I believe, was largely focused on those assaults that take place with military jurisdiction.

Mrs. DAVIS. Only in military jurisdiction. Thank you.

One of the other concerns that we talked about in hearings prior to this is the accountability of commanders. And the issue was raised whether or not we are certain that the case dispositions under that commander are well-known when it comes to career advancement.

Did you have a chance to look at where this might really resonate in terms of how people are evaluated for their advancement? Do you think that it exists? Is it part of the evaluation today? Is there a way that it could be more transparent in terms of incidents that happen under an individual's command?

General DUNBAR. Currently, commanders are assessed on their performance, obviously, in command and the technical specialty, as well as how well it is that they take care of the men and women in their charge. So I think that it is indirectly assessed, as are so many other issues that run into areas of domestic violence, suicide, workplace violence, et cetera.

And I think that to specifically categorize the response to sexual assault, again given the infrequency that it occurs during the course of command—and when I say infrequency, I don't mean to dismiss the fact that sexual assault does occur in the military. For instance, when I was in wing command, it occurred one time, the allegation of sexual assault. And we did what we needed in order to provide the support to the individual. In two other commands, it did not occur at all. So if you are to separate in a performance report a specific area that addresses sexual assault, given the fact that it does not occur that often, I think that that would be problematic. And I do think that there is such a focus on taking care of people that it is sufficiently addressed as it is.

Mrs. DAVIS. Doctor, any comment?

Dr. IASIELLO. I think the General has stated it very well; that first and foremost, of course, is the completion of mission and making sure that the troops are ready to do what they need to do for their country, but being so involved with the morale and welfare of their troops in every aspect, including family life, interrelationships and so on. I would say that specifying this in a way that would identify it as something special from all the other responsibilities would certainly, as the General said, would be problematic.

Mrs. DAVIS. One of the concerns throughout the report is that the strategies in place have been to some extent, with the exception of best practices that you witnessed and wrote about in the report,

that we just haven't had the kind of strategies that really have an evaluation process in place to be able to go back and understand.

Now as we move forward, trying to incorporate many of your considerations in this report, what should that look like? What would you really like to see? And I guess the other counter to that would be you would feel like all this effort was for naught if you didn't see something in place that really stood out in terms of these strategies.

General DUNBAR. One of the recommendations that we make is worded as a metric. But it really gets to coming up with a way to measure the effectiveness, the efficacy of the strategies. And in this area, we believe it would be very beneficial for us to work with others who are dealing with these issues. There are colleges and universities that are addressing the same youth population; federal, state and local areas that are support providers who have some strategies that they believe might work.

We did a lot of research and we could not find any particular way to measure the effectiveness of existing strategies. And that is one area where we believe that Congress could assist, because I think that there needs to be some research that would benefit everybody who is addressing a major social issue.

Mrs. DAVIS. And this authority would lie in a more expanded, more—tighter authority in the SAPRO Office? Is that what you think over time?

General DUNBAR. I believe that part of this is actually funding the research that would enable us to better understand what strategies are effective. But certainly the SAPRO Office, as it is setting up its overarching strategy, needs to do assessments in working with the services so that they can determine how it is that you are having an effect on training, how it is that you are having an effect on prevention.

Part of it is attitudinal. Certainly part of it is behavior. It is understanding. We do a number of surveys, the gender relation surveys every four years. We advocate doing it every two years in order to see maybe the impact of some of the strategies. But I think as we ask some of the questions in the surveys, they need to be specifically drawn back to some of the strategies we have in place to have a better understanding. That is just one example of being able to do it.

But, again, there are colleges and universities that have strategies in place and they don't have any kind of measures of effectiveness. And we were hoping that we might be able to learn from them. It is an area that requires some further study, we believe.

Dr. IASIELLO. Ma'am, you have identified an area that for us we all feel passionate about. We would love to see the metrics there, but you can't develop the metrics until you have developed the standards on which to measure. We see that as an incredible void in not only helping us to identify the health of our programs, but also the way ahead, to be able to identify and give granularity to the numbers so that we can begin to identify trends, so that we can begin to address issues proactively. So we all feel rather passionate about its membership.

Mrs. DAVIS. Just as we are finishing up, is there any interview or discussion that you had that just really stands out that, I think,



inspires you or inspired the task force in their work that you would like us to know about?

General DUNBAR. I think there are a lot of compelling instances where we have seen the remarkable difference of how involvement and how leadership, how awareness has improved the situation in terms of prevention and response.

At the same time, we have seen a lot of compelling cases where it has for us unearthed the fact that this has been a longstanding issue that needs to be addressed, that affects not just females who are serving in the military, but males as well.

And I think as we have done the research and we have realized that others are in communities—and I keep hearkening back to colleges and universities because that is primarily the age group of those who are most at risk—that there is tremendous opportunity for collaboration in terms of coming up with some solutions to address a societal issue.

Dr. IASIELLO. I have to be very careful this doesn't turn into a sermon. But dealing with such a heinous crime could be something that could take the wind out of your sail pretty easily. But for us, going to all of these installations and seeing the caliber of our young men and women in uniform, for us it is always an incredibly uplifting experience. I wouldn't go to one area and one command and say this was a very special event, but I would look at all of them and say that our interaction with our young men and women have energized us again, and they have left us with a very positive and optimistic attitude, no matter how big the issue or how big the crime or how big the obstacle to overcome, that it will be overcome because of the caliber of our young men and women. So that for us has been extremely important in this process.

Mrs. DAVIS. Thank you very much. I appreciate that. Our young men and women serving our country inspire us every day as well. I appreciate that. I certainly hope that you will feel and believe that your efforts have been well taken and that we will continue to move forward, and hope that many of those recommendations are put in place and that we can even have a reporting mechanism in place in the near future. Thank you very much.

[Whereupon, at 5:14 p.m., the subcommittee was adjourned.]



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# **A P P E N D I X**

FEBRUARY 3, 2010

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**PREPARED STATEMENTS SUBMITTED FOR THE RECORD**

FEBRUARY 3, 2010

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**Statement of the Chair**  
**Hearing titled "Report of the Defense Task Force on Sexual Assault in the**  
**Military Services"**  
February 3, 2010

Today the Military Personnel Subcommittee meets to receive the report of the Defense Task Force on Sexual Assault in the Military Services. The Task Force was created by the National Defense Authorization Act for Fiscal Year 2005 as an extension of the Defense Task Force on Sexual Harassment and Violence at the Military Service Academies. Not to make a major issue here, but I do feel that it is important to note for the record that, due to a variety of factors that could have been dealt with more quickly by the Department of Defense and were certainly beyond the control of the witnesses before us today, the Defense Task Force on Sexual Assault in the Military Services did not actually begin their work until August of 2008.

Sexual assault is a complex problem that does not lend itself to a single hearing. Last year we set out to continue our examination of sexual assault in the military by starting a series of hearings on individual subjects so that members and witnesses could have in-depth discussions about various issues to build towards a comprehensive understanding of the problem. This in turn will guide our deliberations on what can and should be done next. The first two hearings of this series looked at victim advocacy and support as well as the prevention programs put in place by the Department of Defense. Our next hearing was to focus solely on prosecution of sexual assaults in the military, but since the Defense Task Force on Sexual Assault in the Military Services released their report in December, we have decided instead to have this hearing fully examine their findings and recommendations.

I want to thank the Task Force co-chairs for the depth, breadth, thoughtfulness, and quality of this report. This is exactly the type of well researched report we hope for when we create these task forces in law, complete with comprehensive and practical recommendations. I cannot promise that all of your recommendations for Congress will be implemented, nor that those that are implemented will be done

exactly as you have put forth, but I can assure you that each and every one will be carefully reviewed and considered by this subcommittee.

I do not want to steal the thunder of our witnesses, but there is a recurring theme in their report that needs to be mentioned from the outset: while the Department has done much in recent years to address sexual assault in the military, much more remains to be done. Thankfully, due to the work of this task force and others, we have a much clearer understanding of the problem. It is important that we make significant improvements to how the Department deals with sexual assault, and that we do all we can to avoid inadvertently making things worse in the process.

Sexual assault within the ranks is antithetical to the trust and camaraderie that defines military culture. Any sexual assault undermines the moral foundation of our Armed Forces and does irreparable harm to unit cohesion. Hopefully today's hearing will help us chart a legislative course to make progress in our goal to eliminate sexual assaults in the military.



Rep. Joe Wilson – Opening Remarks  
Military Personnel Subcommittee Hearing  
Report of the DOD Task Force on Sexual Assault  
3 February 2010

Mrs. Davis, I join you in welcoming our witnesses and I thank them and the other task force members and staff for the excellent work and report concerning a very difficult and challenging set of issues.

This report is comprehensive, detailed and highly insightful as to how much yet needs to be done to ensure that the military culture adequately, appropriately and effectively addresses issues related to sexual assault.

Certainly, the report cites many instances of “Best Practices” by the military services to illustrate that progress has been and is being made. Among those “Best Practices” are the efforts at Fort Jackson, in my district, the Army’s largest gender-integrated initial entry training center, where sexual assault is addressed within the first two days of training.

Overall, however, the report cites serious shortcomings in the strategic direction, prevention and training, response to victims, and accountability efforts of the Department of Defense and the military services. Furthermore, the report is critical of the well-intentioned effort by Congress to create a new, comprehensive Article 120 in the Uniformed Code of Military Justice. Practitioners see it as cumbersome, confusing and a barrier, in some cases, to convictions. Also, significant issues have evolved related to the Article’s constitutionality. Finally, the report touches on implementation challenges of DOD policies and practices during deployed joint operations overseas, and in joint basing situations in the United States.

How is it, I ask myself, that nearly 65 years after World War II demonstrated the military necessity to expand roles for women in the military, and continuous efforts by Congress to facilitate the integration and assimilation of women into the military, we are here today to receive yet another report that clearly indicates so much still needs to be done?

I believe the authors of this report provide most of the answer to my question. I quote: “The Task Force believes...that culture change is essential for the Military Services to improve how they prevent and address sexual assault.”

The lesson we should take away from this report is that culture change is hard, difficult, and neither smooth, nor quick. It’s a process requiring enduring commitment to change over the long term. In that vein, I am sure this subcommittee will energetically pursue and support the task force’s recommendations.

But I would also caution that as the subcommittee begins to address other issues that will require significant military cultural changes, such change will not be easy or quick. And, like the efforts to change military culture with regard to the assimilation and integration of women, likely to be disruptive and difficult for many years – notwithstanding the assurances to the contrary of some advocates for change.

Thank you, Madam Chairwoman, for holding this hearing. I look forward to the testimony of our witnesses.

**STATEMENT BY  
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AND  
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CO-CHAIRS, DEFENSE TASK FORCE  
ON SEXUAL ASSAULT IN THE MILITARY SERVICES**

**BEFORE THE  
HOUSE ARMED SERVICES  
SUBCOMMITTEE ON MILITARY PERSONNEL  
UNITED STATES HOUSE OF REPRESENTATIVES**

**ON THE  
REPORT OF THE DEFENSE TASK FORCE ON SEXUAL ASSAULT IN THE  
MILITARY SERVICES**

**FEBRUARY 3, 2010**

**NOT FOR PUBLICATION UNTIL RELEASED BY  
THE COMMITTEE ON ARMED SERVICES**

Chairwoman Davis, Ranking Member Wilson, and distinguished members of the Committee, on behalf of the Defense Task Force on Sexual Assault in the Military Services, thank you for the opportunity to discuss the findings and recommendations of our Task Force. Our capacity here today is solely as representatives of the Task Force; we do not represent the Military Services, the Department of Defense (DoD) or the Administration. Although we were appointed by the Secretary of Defense, the views we express are the carefully considered views of our Task Force.

Based upon direction outlined in Section 576 of Public Law 108-375, the Ronald Reagan National Defense Authorization Act for Fiscal Year 2005 and amplifying guidance issued by the Secretary of Defense, the Defense Task Force on Sexual Assault in the Military Services conducted a detailed review of matters related to sexual assault in which members of the Armed Forces are either victims or commit acts of sexual assault. The composition of our ten-member Task Force enabled a thorough assessment of sexual assault programs, policies, procedures, practices, and trends: Task Force members included uniformed personnel from each of the military services, as well as civilian experts affiliated with federal and non-profit organizations that address sexual assault issues.

#### **METHODOLOGY**

Over the course of 15 months following our initial meeting on August 11, 2008, the Task Force visited 60 military locations worldwide and met with over 3,500 individuals. We met with deployed military personnel in Iraq, Kuwait, Qatar and Bahrain, as well as recently redeployed personnel from Afghanistan. Our interviews included active duty as well as reserve component personnel, senior military and civilian leaders, general court-martial convening authorities, legal and investigative officials, Sexual Assault Response Coordinators, victim advocates, and primary responders such as medical providers, lawyers and chaplains. We further surveyed Sexual Assault Response Coordinators, their supervisors, and victim advocates in order to obtain their assessment of SAPR program effectiveness. In addition, we reviewed hundreds of criminal investigative files from the military services, data from across the Department of Defense (DoD), related reports,

studies, and articles. We also interviewed 61 victims of sexual assault and received written accounts from other victims.

### **SUMMARY**

On 1 December 2009, we submitted our report of findings and recommendations to the Secretary of Defense. Our review found that DOD overall has made notable progress in addressing sexual assault since the establishment of the Sexual Assault Prevention and Response (SAPR) Program in 2005. Key to this progress has been heightened awareness attributable to leadership emphasis and involvement at all levels, increased program funding, and establishment of dedicated SAPR positions. At the same time, we found many opportunities for improvement. Specifically, while DOD has made important improvements in responding to victims' needs, there must be greater focus on effectively addressing the spectrum of sexual assault prevention and response. In our recommendations, we highlight the need for substantial institutional emphasis on preventing sexual assault: doing so is not only a moral imperative, but is critical to military readiness. To this end, we recommend developing greater consistency among the military services and their reserve components, particularly given the increasing nature of joint operations and basing. We also make several recommendations geared to increase collaboration among the military services, as well as with civilian communities and organizations engaged in sexual assault prevention and response efforts. In formulating our recommendations, we addressed the need for greater strategic oversight of the SAPR Program, developing more effective prevention and training strategies, improving care and responsiveness to victims, and ensuring appropriate accountability.

### **STRATEGIC OVERSIGHT**

Our Task Force makes a number of recommendations related to the strategic oversight and direction of the SAPR program. We found that the current organizational placement of the Sexual Assault Prevention and Response Office (SAPRO) has limited its visibility and ability to effectively address integral cross-cutting issues. We therefore recommend the Deputy Secretary of Defense provide oversight for SAPRO for at least one year or until the Program is meeting established institutional goals. We realize this recommendation may be considered unconventional, but believe that higher level

oversight will ensure appropriate funding and focus on a program that is at a critical juncture.

Military and civilian officials at all levels advised that funding for the SAPR program was often inconsistent and insufficient. We believe this issue can best be resolved by DOD including SAPR program funding in its Program Objective Memorandum budgeting process to ensure allocation of specific and sufficient funding. Adequate resources are also essential to conduct research across the full spectrum of prevention and response. In fact, we believe research collaboration and strategic partnerships with civilian research initiatives would be particularly helpful. SAPRO should continue to leverage the expertise, information, and resources of public and private entities facing similar challenges, such as colleges and universities as well as national organizations and coalitions dedicated to eliminating sexual assault and providing victim support. Research funding is essential to identify effective prevention strategies and initiatives, as well as meaningful incidence metrics; presently, there is no such research.

Our Task Force noted that SAPRO does not provide policy or oversight for several of its significant responsibilities. For this reason, we recommend that DOD restructure SAPRO to include the expertise essential to address prevention, response, training, and accountability. Given that military personnel are increasingly serving in joint and deployed environments, the Task Force believes SAPRO must also drive consistency across the Services in policy, terminology, personnel structures, and standards for managing and assessing the SAPR program. We found lack of standardization in significant areas such as SAPR program structures and funding, training and deployment preparation, terminologies used in policies and training, reporting and response procedures, and interpretation of SAPR guidance. For a DoD-wide program and for an issue that affects personnel in all Services, we believe greater standardization is essential.

#### **PREVENTION AND TRAINING**

Our Task Force firmly believes that prevention of sexual assault must be the primary goal of the DoD SAPR program. While DoD's focus on prevention has increased over the past year, it remains insufficient in our view. In particular, at the time our Task Force

began compiling findings and recommendations, SAPRO had not articulated a clear, overarching prevention strategy. Prevention of sexual assault requires close scrutiny of cultural beliefs, values, practices, and structures. Moreover, to be successful, awareness and involvement among those in the military community are essential. Our Task Force believes that DoD has a tremendous opportunity to collaborate with outside experts in developing a comprehensive prevention strategy, improving current prevention and response training, and engaging leadership at all levels to improve military culture with regard to both sexual harassment and assault. We recommend that SAPRO, in close collaboration with the military services and national experts in sexual assault prevention, develop a prevention strategy that is far more comprehensive in nature. This strategy should be used to guide SAPR initiatives, processes, training, and communication outreach. To maximize effectiveness and synergy, military service prevention activities and programs should align with DOD's strategic emphasis.

Commanders, as well as other military and civilian leaders, must be well-trained on SAPR. Accordingly, we recommend more tailored SAPR training for leadership and maturity levels, as well as developmental training for military as well as civilian personnel throughout their continuum of service. In addition, personnel responsible for responding to victims of sexual assault generally require more specialized training on sexual assault response than they currently receive. We recommend that this training be specifically integrated into all initial and recurring first responder training courses. We also recommend that training for Sexual Assault Response Coordinators and victim advocates become more professionalized, particularly the continuing education needed to further develop skill proficiency and awareness.

Leadership clearly has a profound influence on the prevention of sexual assault, from strategy development and execution, to continued focus and open discussion of the issue. Commanders and leaders must take an active role in addressing the issue and modeling correct behavior. Our Task Force found that, when leadership was not involved, SAPR training was generally perceived as yet another mandatory training requirement to fulfill as opposed to a problem to understand and address. As a result, we recommend that all commanders and senior enlisted leaders be actively involved in SAPR training and

awareness programs. We also recommend that installation and operational commanders vigilantly assess the adequacy of measures to ensure the safest and most secure living and working environments.

#### **VICTIM RESPONSE**

DoD has made notable progress in improving assistance to sexual assault victims, particularly through the restricted reporting option. This option permits victims to obtain immediate care and counseling without engaging law enforcement and their command authority. Despite this progress, we found communications between sexual assault victims and victim advocates to be problematic. Because these communications are afforded no privilege under military law, the effectiveness of victim advocates in the military is limited. In the military community, the only practical source of confidential advice is the chaplain. The practical reality is that many victims are reluctant to seek help from a chaplain about a sexual matter. In civilian communities, medical personnel can provide privileged advice and counsel; this is not the case for military providers. The net effect is that military sexual assault victims have little ability to discuss their circumstances with others. The victim advocate is available but must advise the victim that, should he or she decide to pursue an unrestricted report, all communications with the victim are discoverable by the alleged assailant's attorney. Based upon the fact that 35 states have granted effective privilege to communications between victims and victim advocates, we recommend Congress enact a comprehensive military justice privilege for communications between military victims of sexual assault and victim advocates.

Although effective victim advocates are essential to a victim-centered SAPR program, DOD requires no formal certification for its victim advocates. As a result, we also recommend that service members who report they were sexually assaulted be afforded the assistance of a nationally certified victim advocate. Our Task Force found that sexual assault victims are frequently dissatisfied with how they are treated during the investigative process, often because they participate in this process without fully understanding their rights and the limitations of their rights. We recommend that victims of sexual assault be immediately aware of their rights, including the opportunity to

consult with legal counsel – qualified in accordance with Article 27(b) of the Uniform Code of Military Justice – to minimize victim confusion during the investigative process.

Men are less likely than women to be sexually assaulted; however male sexual assault is not unique to the military. The social pressure against reporting these crimes, regardless of gender, can be extremely intense. In the most recent anonymous *Gender Relations Survey of Active Duty Members*, 6.8 % of women and 1.8 % of men indicated they experienced unwanted sexual contact in the past 12 months. Accordingly, we recommend establishment of gender-specific medical care protocols for victims of sexual assault. It is imperative that these victims receive immediate treatment for their injuries; be screened and treated for sexually transmitted diseases; and receive a forensic examination to assist law enforcement efforts. Integrated care must be made available for military sexual assault victims at any location, to include those who are deployed

#### **ACCOUNTABILITY**

Accurate and comprehensive data is essential to achieving accountability for responders and those who are accused of criminal activities. Without meaningful data, trend analysis and efforts to effectively address issues become problematic. Our Task Force found DoD's procedures for collecting and documenting data about military sexual assault incidents to be lacking in accuracy, reliability, and validity. As one example, the most recent DoD report to Congress combined offender and victim data. We offer a series of recommendations for DOD to better comply with data requirements specified by Congress, while ensuring the data is consistent and comparable.

The military justice process plays an important role in victim care and recovery. Our Task Force found that neither victims nor other military personnel were routinely informed of the results of disciplinary actions relating to sexual assault. Focus groups specifically indicated that commanders generally did not communicate case results to members of their command, and that this lack of information often led to misperceptions, rumors, and assumptions that allegations were unfounded. As a result, we recommend that both victims and other military personnel within the affected command be informed of the disciplinary action results related to sexual assault.



Finally, legal practitioners consistently advised the Task Force that the new Article 120 of the Uniformed Code of Military Justice, the article that addresses sexual misconduct, is cumbersome and confusing. Based upon the consistency of this feedback, we recommend a review of the effectiveness of Article 120.

#### **BEST PRACTICES**

During our review of DoD sexual assault programs, policies and practices, we identified emerging best practices in addition to areas for improvement. We highlighted these best practices in our report. From the headquarters of the military services to the small-unit level, we found the key factor among these best practices to be consistently engaged leadership. We encourage the DoD SAPRO to develop an overarching strategy that can leverage these best practices, and others like them, for the highly effective results these practices are yielding to improve sexual assault awareness, prevention, training, response, and accountability in the military services.

#### **CLOSING**

On behalf of our Task Force members, several of whom have worked these issues for several decades, thank you for your leadership and concern on this important matter. The proud men and women who join our Armed Forces accept many risks associated with their service to our country. None of us believe the risk of sexual assault is a condition they should accept as part of their service. Sexual assault is a scourge that requires vigilance and skill to address. We believe our Task Force has provided to you and to the Department of Defense a blueprint that will greatly attenuate the risk of sexual assault and its devastating consequences from occurring among the ranks of those who serve. Thank you again for the opportunity to testify today; we would be pleased to answer any questions you have.