House Armed Services Committee Holds Hearing on Sexual Misconduct at Lackland Air Force Base, Panel 1

LIST OF PANEL MEMBERS AND WITNESSES

MCKEON:

Good morning. Thank you for joining us for our first hearing of the 113th Congress. I think it's appropriate that we begin our oversight with a subject that this committee has been vigilant in addressing for many years.

At the same time, I find it extremely disturbing that, despite the collective work of Congress, the Department of Defense, the military services and the dedicated groups who advocate on the part of victims of this heinous crime, sexual assault and sexual misconduct, remains a problem within our armed forces.

Today, we meet to receive testimony on sexual misconduct by basic training instructors at Lackland Air Force Base. The events at Lackland are the most recent example of sexual assaults that have plagued our military for far too long. This tragic example where 32 instructors have either been found guilty, have been charged with, or are still being investigated for crimes against 59 trainees begs the question: How could this have happened?

How could the system, and in particular, the leadership have failed to protect the men and women who serve our nation from sexual predators who also wear the uniform?

While I applaud the Air Force for pursuing in-depth investigations to find answers to these questions, I'm particularly disturbed to learn that there's -- that there was significant delay reporting the allegations to the proper authorities when they first came to light. Equally troubling is that no action was taken by local leadership when the reporting delay was uncovered. This, to me, is unacceptable.

I look forward to hearing from General Welsh and General Rice how the Air Force has addressed these issues to eliminate the possibility that sexual misconduct goes undetected in the future. Make no mistake, Congress shares the responsibility for preventing sexual assault within the military, and assuring victims that their cases will be prosecuted to the fullest extent of the law.

Over the past five years, republicans and democrats have joined forces to put real reforms in place. We have ensured that victims of sexual assault are taken seriously, provided medical care and support, and that cases are investigated and prosecuted.

Last year, Congress passed reforms on how the military tracks sexual assaults in order to paint a reliable picture of just how big the problem is. We also established a commission to take a critical look at the uniform code of military justice and make recommendations for reform to make certain that the military justice system can successfully prosecute sexual assault.

However, legislation is not the only answers (sic). Commanders at every level and in every service

must make eliminating sexual assault, and all forms of sexual misconduct from their commands, the highest of priorities. Senior leaders at all levels must hold commanders accountable for aggressively pursuing allegations of sexual misconduct. We will accept nothing less.

I understand that the Air Force has already made several changes to improve the safety and effectiveness of basic training.

I would like to hear from our second panel if the reforms and safeguards, recently put in place, are sufficient. I have no doubt that there is more to be done. My visit to Lackland in September renewed my belief that the young men and women who volunteer to join our armed forces are the finest in the nation. These young men and women have earned the respect of the nation. They deserve the respect from their leaders and fellow servicemembers.

Before I ask Ranking Member Smith for his opening remarks, I'd like to remind our members that at the same time as we hold this hearing, the Air Force continues to prosecute the remaining cases at Lackland.

When military perpetrators of sexual assault are tried by courts martial public statement by military and civilian leaders, especially senior leaders, about the guilt or innocence of an alleged perpetrator can be -- can be perceived as or even maybe undue command -- there may even be undue command influence on the outcome of the trial. That means public testimony about Lackland could be used as grounds for a mistrial by defense attorneys.

This isn't an outcome anyone wants.

To that end, I will give latitude to General Welsh and General Rice to answer questions to the extent that it will not prejudice ongoing criminal prosecutions.

We're all committed to eradicating sexual assault in our armed forces, but first, we have to respect the victim's need for urgent and sure justice.

Mr. Smith.

SMITH:

Thank you, Mr. Chairman, and I -- I concur in all of your remarks. And I thank you for that -- that strong statement. I too have a statement which I'll submit for the record and just summarize briefly here. I thank General Welsh, General Rice for being here, and for the leadership that they've shown on this issue.

This obviously is a very serious problem, being able to protect the men and women who serve in our military is job one. If there is not trust, if the people who are serving do not trust the people who are supposed to be leading them, then the entire system breaks down.

And sexual assault and sexual violence is a major problem throughout the military. I think that's one big point to keep in mind throughout this hearing, this is not just Lackland. I mean certainly this is an extreme example, one that I hope we can learn from. One that certainly continues to need to be resolved. The cases need to be prosecuted. We need to get to the bottom of exactly what happened, but this is a problem that has plagued the military for far too long, and that we, on this committee, and throughout the military, needs to be addressed in order to make sure our military can continue to

function at the ability that we all expect it to.

So I thank the chairman for having this hearing. I -- I do want to thank both General Welsh, General Rice and Secretary Panetta and others, and we have had many meetings in the last couple of years. And it is apparent to me the Department of Defense takes this issue very seriously, and is now trying to do their best to figure out what went wrong and how to fix it. It's completely unacceptable that we got to this point, that it wasn't solved before this, but at least now we have searing -- seeing the seriousness from the Department of Defense that I -- I think is warranted.

I also want to thank -- there are -- there are too many members on this committee to name who have taken a leadership role on this issue in trying to make sure that we put the best possible legislation in place to make the changes necessary to protect our men and women from this type of assault and violence. So I thank them for that leadership as well.

But going forward, the critical thing is to make sure that we do much, much better than we've done now, to learn what are the changes that are going to be done within the Department of Defense, within legislation to do a better job of protecting our men and women. At the end of the day, the culture needs to change.

I've heard a number of members talk about this. I forget who made this point, but basically when it gets to the point where if you're serving in the military, you know that you're advancement in the military is dependent upon protecting the men and women and being out front to protect the victims and make it clear throughout your command that this is completely unacceptable behavior that will be punished. When everybody serving in the military knows that, that's one of the primary things that there gonna be judged on for advancement, when that cultural change is made, that's the only point at which I believe we will begin to seriously address this issue.

I hope we can learn more from this hearing today how we get to that point. Again, I thank the chairman, and I thank the Generals for being here this morning. I look forward to the testimony and the member's questions.

MCKEON:

Thank you very much.

I -- at this time, without objection, I ask unanimous consent that an additional statement from the Center for Military Readiness would be included in the record of this hearing.

Without objection, so ordered.

I want to echo Mr. Smith's comments about General Welsh and General Rice. They have been most helpful and -- and those who conducted the investigation, I -- I couldn't commend them more for the seriousness with which they've taken this, and for the leadership that they've brought to this issue.

This time now we -- I understand we may have votes at any time. So what I would like to do in the interest of trying to make sure that we have time to properly conduct this hearing, if -- if we just have one vote on the rule, we will not break. We will ask the members to go vote and -- and keep moving so that we can -- can expedite this.

We'll hear from General Welsh, and he'll divide the time up between him and General Rice.

General Welsh.

WELSH:

Thank you, Chairman McKeon, Ranking Member Smith and distinguished members of the committee for the opportunity to speak with you today.

This topic is obviously a tough one, but we don't have to enjoy the subject to appreciate the privilege of being before this committee. Thank you for the opportunity.

And General Rice and I are truly honored to be here.

Mr. Chairman, with your permission I'd like to start by having General Rice give you an update on the incident and allegations and activities conducted relative to the basic military training investigations at Lackland. And then I'll follow that with a few service-wide things that we're doing to try and follow up on activity, to learn from it, and to do everything we can to ensure that it never happens again.

MCKEON:

Certainly.

RICE:

Thank you, Chairman McKeon, Ranking Member Smith and distinguished members of the House Armed Services Committee. Thank you for the opportunity to provide comments on the Air Force's investigation into sexual misconduct by basic military training instructors at our basic military training complex at Joint Base San Antonio-Lackland in San Antonio, Texas.

Over the past nine months, we have conducted a very deliberate and comprehensive investigation. Over 550 investigators have been involved. They have conducted over 7,700 interviews. We have surveyed every basic military training graduate from the last 10 years for whom we have contact information. Although we have conducted a 10-year look-back, the vast majority of the allegations are of alleged misconduct that occurred over the past three years.

During this three-year period, 855 airmen have been assigned to military training instructor duty. Of this group of 855 instructors, we have completed disciplinary action for sexual misconduct against eight. We have preferred court martial charges against another nine, and 15 other instructors are under investigation.

The allegations against these instructors range from sexual assault to the inappropriate contact with students after they graduated from basic military training and were no longer under the authority of the instructor. At this point, 24 of the military training instructors are presumed innocent unless and until proven guilty beyond a reasonable doubt.

We have identified 59 victims or alleged victims of this criminal activity of misconduct. Regardless of whether a victim or alleged victim was the victim of a sexual assault, the recipient of an inappropriate e-mail, or willingly participated in an unprofessional relationship with an instructor in violation of established policy, we have offered each of them the full range of available victim support services and

no victim or alleged victim has been charged with a policy violation or otherwise held accountable as part of this investigative process.

The 32 instructors who have been disciplined or who are under investigation represent less than 4 percent of the instructors who have served in basic military training over the past three years, and I believe it is important to underscore that the vast majority of our instructors served with distinction in a very demanding duty assignment.

That said, it is completely unacceptable to us that so many of our instructors have committed crimes or violated our policies and we clearly failed in our responsibility to maintain good order and discipline among too many of our instructors in basic military training.

Among the most important and fundamental responsibilities of command is the requirement to maintain good order and discipline among the members of the military organization. This responsibility cannot be delegated. All of the changes we are making in basic military training are directed in one way or another at helping our commanders discharge this fundamental responsibility.

Although it is still very early, the evidence indicates that our efforts are making a difference. We have not had a reported incident of sexual misconduct in basic military training for the past seven months. This is not to say that we believe we are nearing the end of our work. On the contrary, we know this is not the beginning of the end, but the end of the beginning of a journey that can never end.

The key to success over the next weeks and months and years is to sustain the intense level of focus we have devoted to this issue over the past nine months. To this end, I believe the most significant action we are taking to address this critical issue is the establishment of the Recruiting Education and Training Oversight Council.

This council would include the senior leadership of my command and will, one, review the progress and effectiveness of the actions we are now implementing; two, provide an expanded perspective on future actions we will take to prevent problems from recurring; and three, advise me on strategic issue affecting airmen safety and the maintenance of good order and discipline in basic military training.

In short, this council will help us institutionalize the intense level of focus we must sustain if we are to successfully defeat the threat of sexual misconduct in the basic military training environment.

I look forward to your questions after General Welsh's remarks.

Thank you.

WELSH:

Thank you, Ed.

And I completely agree that the BMT investigations don't mark the end of anything. The Air Force has recommitted itself to ensuring that every airman is treated with respect. It's not a one-time fix. It has to be a way of life.

This collection of events at basic military training has been stunning to most of us in the Air Force. There is simply no excuse for it. There's no justifiable explanation and there is no way we can allow this to happen again. The Air Force goal for sexual assault is not simply to lower the number. The goal is

zero. It's the only acceptable objective.

The impact on every victim, their family, their friends, the other people in their unit is heart-wrenching, and attacking this cancer is a full-time job and we are giving it our full attention.

Of General Maggie Woodward's 46 recommendations presented to General Rice at the end of her investigation, 23 are already fully implemented, 22 more will be implemented by November of this year, and the final recommendation has actually been separated from this particular activity. It has to do with shortening the length of basic military training itself, and General Rice is considering that under a separate curriculum review that's already underway.

Some of these recommendations have applicability to the entire Air Force, and we're working now to build them into the larger Air Force sexual assault prevention and response program, into our Air Force leadership training at every level, and into our investigative and legal processes.

Since becoming the chief of staff, I've worked pretty hard to express my deep concern with the issue of sexual assault and I've shared my thoughts with airmen at every level of our Air Force. I've also shared it with every commander in our Air Force. They understand, especially our senior commanders understand, as both Ed Rice and I do, that the American people trust us with their greatest treasure, their sons and daughters. They expect us to lead them with honor, to value each of them, and to treat them as if they were our own. We do not have a greater responsibility than that.

Every Air Force supervisor, every Air Force commander must be actively engaged in this effort. If they don't get actively engaged, I consider them part of the problem. I met with our Air Force four- star generals in early October to ensure they knew exactly how I felt about this subject. Not surprisingly, they all feel the same. I directed all 164 of our Air Force wing commanders to come to Washington, D.C. in December, or excuse me, in late November, so that I could discuss this issue with them face to face. There's simply no room for misunderstanding as we move forward from here.

Secretary Donley approved an Air Force-wide health and welfare inspection during the first two weeks of December. The intent was to ensure that we provide every airman a work environment that allows them to excel and to ensure each of them feels valued and is treated with respect. The detailed results of this inspection are available to your staff and have been publicly released.

And finally, a couple of weeks ago in my monthly letter to airmen, I reinforced the fact that obscene, vulgar or disrespectful images, songs or so-called "traditions" are not part of our heritage and will not be accepted as part of our culture. While these things may or may not directly relate to sexual assault, they certainly do create an environment more conducive to sexual harassment and unprofessional relationships and I personally believe that both of those are leading indicators for sexual assault.

We've worked very hard to ensure we are aligned with sexual assault policy and initiatives from both the secretary of defense and the chairman of the Joint Chiefs of Staff. We've also worked with the Office of the Secretary of Defense to create special victims teams comprised of investigators and attorneys who have received specialized training in sexual assault cases. That effort has been encouraged and supported by members of this committee and I thank you for that.

A cadre of 24 special investigators have now finished training, and 60 Air Force attorneys have been identified and trained to serve as special victims counsel providing comprehensive and compassionate legal assistance to victims. That program goes fully into effect on the 28th of January, but in fact we've already assigned seven special victims counsels to victims around the Air Force.

We continue to employ over 3,100 volunteer victim advocates. And in accordance with the F.Y. '12

National Defense Authorization Act, we are on track to hire and place a full-time, fully accredited victim advocate at every installation by October 1st of this year.

Mr. Chairman, there are many other things we're attacking -- we're doing to deal with this problem that I would be happy to discuss during question-and-answer period. But in closing, let me just say that I will never stop attacking this problem. We will never slow down our efforts to ensure our victims receive the best, most capable, and most thoughtful care and advice possible until we can eliminate the problem. And I promise every member of this committee that the United States Air Force leadership team will never quit working to eliminate this horrible crime from the ranks of our Air Force.

Thank you to the committee members for the help you've already given us in this effort and for the time you're spending here today. General Rice and I look forward to your questions.

MCKEON:

Thanks very much.

I just was informed that when we do have the vote, it will be three votes, so we will have to recess and return as quickly as we can after the votes.

General Welsh, during your confirmation hearing, you testified that everyone in the Air Force is trying to do the right thing to figure out some way of stopping sexual assault. I don't think this is an incident only at Lackland. I don't think it's an incident only in the Air Force. I don't think it's only in the military.

I think it's a societal problem. We cannot fix a societal problem. We can address, as you are, the Air Force problem. And I -- I know in talking to General Dempsey and the other chiefs, they're also looking at all of the branches of the military.

However, you acknowledge that what was being done at that time was not adequate to reverse the trend. What are your thoughts on how the Air Force can reverse the trend? Do you -- do you have some specific examples, other than what you've mentioned already, that still need to be done?

WELSH:

Mr. Chairman, I think there are a lot of things that need to be done, and we need to be doing them from now until the Air Force quits being an institution.

The biggest thing is committing to dealing with people on an individual level every day by every supervisor and commander.

I don't think institutional directives will solve the problem. I think caring more for every airmen will help solve the problem.

We have been trying a number of programs, a number of training activities, a number of educational missions. While some of them may be successful, they may be helping the problem, we're certainly not reversing the trend in a dramatic way.

And so I believe we need to keep looking for new and different ways to approach the problem. As we find things that work, we should expand on them and continue to exploit (ph) them.

The special victims council, I believe, is a good example. If we can get the 30 percent or so of the -- of victims who initially report as unrestricted and allow us to begin an investigation, who then step away because of concerns about -- about a number of things -- I won't go into all the details that we're hearing. You know all the reasons they decide not to participate in the prosecution.

But some of those, clearly, are related to the way we conduct an investigation, the way we advise the victim, the way we make them feel as they go through the follow-up victim care in preparation for trial. We have to eliminate those things and keep those victims engaged in the process of finding, prosecuting and removing the perpetrators. Because if we don't there will be additional victims.

I believe there are predators who commit this crime. I don't think everyone who commits sexual assault is inherently a predator, but there are predators. We have to find them; hopefully, screen them out early, if there's a way to develop tools to allow us to do that before they come into the military. If not, we have to find them through indications from the people around them who know them.

And if they do commit a crime, we have to stop them after the first and not allow them to continue.

We also have to work very hard to identify those activities that lead to bad behavior, and they're a number of them. We deal with them with our children all the time. Our younger airmen are no different. They're involved in the same social circles, they do the same kind of activities, and there're the same indicators.

A young man who routinely binge drinks and loses control of himself is going to conduct bad behavior, and that bad behavior could result in sexual assault. Let's stop binge drinking. Let's identify the behavior early. But that takes a clear understanding of the issue at every level of our Air Force, starting with our young airmen and our youngest officers. And it requires supervisors and commanders who never quit engaging.

I think that's the key, Mr. Chairman.

MCKEON:

The command directed the investigation initiated by you, General Rice, found that the MTI manning levels at Lackland did not support optimum oversight during basic training. The report recommends increasing MTI manning.

Given that the Air Force is drawing down personnel and is facing continued reduced budgets and the potential of sequestration, how will you fill these extra MTI requirements?

RICE:

Thank you, Mr. Chairman.

As I reported, my response to the command, directed investigation to the chief and the secretary of the Air Force, and talked about some of the resource requirements that would be necessary in order for us to implement fully the recommendations.

I am happy to say that resources were not a constraint in terms of my ability to address the issue.

As for more MTIs, military training instructors, they have been authorized. We are in the process of

hiring them and training them. In the meantime, we have effectively achieved the impact of having two military training instructors assigned to each flight, which is the end state that you want to get to, by both bringing in temporary instructors on temporary duty status.

And we are arranging some of the staff positions, put them on the line, if you will, to perform military training instructor duties because we thought that was important to do now and now wait for the assignment and personnel process and the training process, quite frankly, to catch up.

So we are -- have been authorized -- the additional positions by the Air Force. Quite frankly, the long pole in the tent is our ability to effectively train enough instructors. We are in the process of doing that now. But that will take a little bit of time for us to complete. In the meantime, I'm satisfied that we've been able to achieve the effect through other mechanisms.

Thank you.

MCKEON:

Thank you.

The investigation directed by Major General Leonard Patrick (ph) into the training wings (ph) response to the MTI misconduct found that there was significant delay in reporting by senior MTIs. The investigation also revealed that when the commander learned of the delay no corrective action was taken.

What actions have you taken to address these failures and to raise awareness among the Air Force leaders of the importance of aggressively pursuing reports of misconduct?

RICE (?):

Thank you, Mr. Chairman.

In the specific instance I believe you're referring to, in the command-directed investigation, I directed a separate investigation into the delayed reporting, and did find that there was culpability among members of the supervisory chain in terms of informing the commander in a timely manner of an issue that the commander should have been aware of. And I have held people accountable for that delay in reporting.

I did find in that specific instance that when the commander knew of it he took appropriate action initially. But there were other instances that were identified in the command-directed investigation and other areas that we have discovered through other means where I was not satisfied with the actions that commanders and other leaders took in response to reports of misconduct.

We have addressed that in a number of different ways, to -- and include putting in place mandatory reporting requirements such that any incident of misconduct or maltreatment must immediately be reported up the chain of command, not just to the squadron commander, but to the wing commander and up to the two-star commander who has overall responsibility for non-flying training within the Air Force.

If it involves sexual misconduct, this report must occur within 24 hours, and the alleged offender is removed immediately from the position of -- of either the staff position or the instructor position until we've had enough time to sort through the details of what went on and ensure that it's proper to either

go to an investigation fully or to place that instructor back into the duty position.

So partly we've handled it through this idea of having mandatory reporting procedures that allow us to ensure that these (inaudible) proper information is transmitted to the proper people at the right time in order to deal with this.

I would say a secondary and a second order way we've dealt with this has to do with the level of seniority and experience that we have placed now in the basic military training environment, such that we have more senior, experienced and seasoned leaders and supervisors making decisions about what the -- what constitutes an infraction and what doesn't and what should be done about it.

This is not an environment where we want to test or determine whether someone is a good leader, whether someone has had supervisory experience. It's a place where we bring people who have demonstrated strong leadership, strong ability to supervise, a strong history of making good decisions.

So the part of what you would see in the changes that we have made is to ensure that we get more experienced, more seasoned leaders into these positions so that when they get that information they can make better decisions.

Thank you.

MCKEON:

Thank you.

After Ranking Member Smith's questions we will recess.

Mr. Smith?

SMITH:

Thank you, Mr. Chairman. Appreciate that (inaudible) covered the subject fairly thoroughly.

Just a couple quick questions. One of the (inaudible) is how do you measure success going forward? It's difficult because, you know, on the one hand you can say, well, we have, you know, fewer sexual assaults, but you also don't want people to be not reporting.

As you're, sort of, looking at, you know, are -- are you making progress just within the Air Force (inaudible) the broader issue, what are you looking for to figure out whether or not you are moving forward, making progress in reducing, and as General Welsh said (inaudible) the point where you eliminate sexual assault within the Air Force?

RICE (?):

One of the things, sir, that I think that we need to do is establish and maintain a clear baseline of information. In 2010 we conducted a Gallup survey that gave us numbers on the incidence and the prevalence of sexual assault and reporting within the Air Force.

We are in the process now of contracting for the follow-up survey to that, the 2013 survey, to try and

follow up on the initial baseline and see which direction we happen to be moving. Is our reporting increasing, and if so, why? Are the types of incidents changing? Are the number of incidents changing? Is the demographic of the victim changing? All those things, I think, are critical to baseline our effort and then figure out what is working and what isn't working.

I think the other thing that is not something we can grab a hold of and show you is the feedback we get from people within the Air Force. We have made a huge effort recently to start getting to a discussion at the small unit level of respect and treating each other with respect.

The feedback we're getting from that effort is interesting, because it's clear that we haven't done enough in this area; that people don't feel valued, that we have a certain population of our Air Force that has been going along to get along by ignoring things that they're uncomfortable with in their workplace or in their work environment or with the people who (inaudible) work around, whether it's mannerisms, poor language, pictures hanging on the wall, whatever it might be.

That feedback...

(CROSSTALK)

SMITH:

I think that -- that is incredibly important -- sorry to interrupt. But just -- you have to talk to people in (inaudible) what is it that's making them feel intimidated. And it may surprise, you know, higher ups what that is exactly. So understanding I think is critical, so I appreciate you making that point.

Go ahead.

WELSH:

And -- and -- but I think that's where it starts.

The other thing we need to do is identify the numbers in a clear way so that we can have a -- an unemotional, logical discussion about a very emotional topic when it comes to how are we doing in prosecution, conviction, et cetera, and what are the tools we can use to get better.

We have major disconnects between the numbers we use in the department -- in the Department of the Air Force, our numbers, versus if you look at a prosecutor's numbers on the outside.

I don't think the numbers are that far apart -- my personal opinion. Now, I base that on the fact that I took the Air Force numbers and asked our staff judge advocate to use the RAIN (ph) methodology to compute our percentages for convictions and prosecutions, et cetera. Internally, when we did that, we were within about a percentage of most of the mean data that they have.

WELSH:

And what we've done to follow up with that is to take that to RAIN (ph) and I've asked our staff judge advocate to sit with a representative from RAIN (ph) and together put these numbers together so we can share with you what the numbers are relative to something that's considered a standard or at least a baseline in the non-military world, just so we can determine where the problems really exist.

We spend a lot of time focused on numbers. And if the numbers are not consistent, if we're not talking apples to apples, it's -- it's hard to figure our where you put the most effort. For us, the level of effort, the number of resources we apply has got to be focused in a way that has the most effect.

SMITH:

Just one more quick question, and we do have to run. I briefly prosecuted domestic violence cases, and (inaudible) you mentioned sometimes the victims won't come forward. Can you tell me what -- I think within the military, certainly, you've got the broad cultural challenges that we talked about, but one of the advantages you have is you have options in terms of punishment, discipline, and other things that a normal criminal justice system wouldn't have.

How do you -- how do you -- how are you planning on using those options in situations where you may not be able to prosecute because of, you know, various evidence things, but you still know there's a problem that needs to be addressed? Can you explain some of the discretion that you use within the military chain of command to again change the culture, punish perpetrators, and discourage this behavior?

WELSH:

Yes, sir. Let me make a general comment, then I'll ask Ed to add some detail on the specific incidents at Lackland.

Of the Lackland cases -- of the 59 incidents that we're investigating -- 45 of those are cases that we couldn't prosecute under a sexual assault prosecution. They were prosecuted for unprofessional relationships, which is something the Uniform Code of Military Justice gives us the opportunity to engage on where you might have a very difficult time prosecuting outside the military.

For a little more detail, though, let me ask Ed to expand on that.

RICE:

I think commanders have and will continue to use the entire suite of tools that they have to enforce discipline. The court martial process using the Uniform Code of Military Justice is only one of those tools. And as General Welsh said, in the cases that we are looking at at Lackland, we have cases where the commander looked at all of the evidence that was available to him or her, decided that a court martial was not the appropriate venue to get to the right answer in terms of justice in that case. And so they used some of the other tools that are available to them uniquely in the military justice system.

I think it's something that's not as well understood oftentimes in terms of the decisions that commanders make, in terms of the venue that is used to achieve the right outcome in a case. And the fact that we can use nonjudicial punishment and other forms that in many cases would have the same sanction as you would find in a court martial, but are done in a way that does not require the same level of standards of proof that a court martial would, is a very important tool that commanders can use in order to enforce discipline and get to a better outcome in more cases than if they did not have that tool.

SMITH:

(inaudible) to set that cultural -- cultural norm and change. I appreciate that.

I think we are going to run and vote, so I will yield back.

Thank you, Mr. Chairman.

MCKEON:

The committee will stand at recess for about 15 minutes or so. Thank you very much.

(RECESS)

MCKEON:

The committee will come to order.

Mr. Wilson?

WILSON:

Thank you, Mr. Chairman.

And Generals Welsh and Rice, thank you for being here today. It's really uplifting to me, General Welsh, as you were quoting Air Force Secretary Michael Donley. He indicated that the Air Force is a family. And that's the way I believe, too. And for me, it's first- hand. My dad served in the Flying Tigers in the Army Air Corps. I'm very grateful I have a nephew who is serving in the Air Force today. I served 31 years in the Army Guard and Reserve. I've got four sons serving in the Air Force and Navy today.

And so it is family. And we want the best for our family members. We want them to achieve to their highest -- a fulfilling achievement of military service which, to me, is an opportunity. And so the issues that you're dealing with must be addressed.

I'm particularly grateful, too, General Rice, that you were ahead of the curve. Your leadership by selecting Major General Margaret Woodward to conduct the command-directed investigation has been so positive. And I want to thank you. And I would just be grateful if any of my family members could serve with you. So, thank you for what you've done.

And indeed, with General Woodward's report, she -- in meeting with here, I was so impressed by her determination, her competence. And she, of course, came through with 22 findings. And the findings then directed 46 recommendations. And these 46 recommendations are real world ways to address the problems for the best of our military. And I know that you'll be implementing 45 of the 46 recommendations, and from each of you I'd like to get a report on what is the status of implementing these recommendations?

(UNKNOWN)

Thank you sir.

We have, to date, implemented 23 of the 46 recommendations. As you know, there was one that I decided was not appropriate for this forum, so we're going to implement 45 of the 46. And we've completed our implementation of 23 of them.

Some of the most important near term actions we've been able to complete, especially as it addresses leadership, and as I indicated in response to an earlier question, the reporting requirements to ensure that leadership is notified in a timely manner of issues.

We are on pace to implement the remaining recommendations, 22, by November of this year. Some of them require a more deliberate process for implementation such as ensuring that we get the right leaders in position through the assignment cycle, instead of just pulling people in who may not be appropriate for the position.

As I indicated earlier, we've got to go through the right process for training. We have some experience of what happens when we try to overload the training system. We did that not too long ago, and the results were not satisfactory. So I'm directed that we do this in a very aggressive, but deliberate manner so that we get quality training done.

And so I'm -- I'm comfortable that we have taken action on the most important recommendations near term, those that we couldn't implement in the way that we want to finally implement them. We have taken initial temporary action to achieve the instate, and I am briefed weekly on our progress in implementing the rest. And we will get at those quickly.

(UNKNOWN)

And indeed, I -- I worked on such issues as a JAG officer in the South Carolina Army National Guard. A concern I have are -- are trainees being reluctant to report misconduct. There's always a concern about retaliation, peer pressure.

How is this being addressed?

(UNKNOWN)

You've highlighted one of the most challenging issues that we have, and that is how do we get quality feedback from everyone, both trainees, instructors, and others who are part of this system?

We have a system of getting feedback now, but it's not effective enough. When I look at the 59 victims, less than a handful came to us to provide us feedback on what happened. Totally unsatisfactory. We've gotta find a better way of connecting with them. I think that, as part of the investigative process, we've broken some important ground in how to do that better, as an institution. We know that you can't just ask the question once and expect that the original -- the initial answer is always going to provide an accurate assessment of what is going on.

And so how we talk to people and the persistence with -- with (sic) we engage them in the right way is very key to this. We also know that although victims oftentimes themselves won't talk to us, or report for any number of reasons they do talk to other people in many cases. They talk to their friends. They talk to their family. They talk to co-workers, and by engaging those people in the right way, we have been able to get a great deal of additional information on the cases that we have today.

I believe this area of feedback and accurate feedback is one that we are going to continue to explore. I've asked the RAND Corporation to specifically look at this issue. It's easy for me to sit down and write down a bunch of questions, you know, over a couple of hours and think that I have an effective survey. The actual facts tell us that, that isn't very effective. And to do this right requires, I think, a sophisticated understanding of -- of people and how they feel about these issues.

And so they've begun this process, and I think are going to help us understand how better to get at this area of better feedback.

(UNKNOWN)

Thank you very much.

MCKEON:

Ms. Sanchez.

SANCHEZ:

Thank you, Mr. Chairman and thank you the witnesses, generals for being before us.

My question is of those military training instructors who have been convicted or are currently under investigation in the Lackland case, did their service records show any history of unprofessional behavior or sexual harassment prior to this?

WELSH:

I'm not aware of any that showed any behaviors of sexual harassment or sexual misconduct. We have a screening process that before you can become a military training instructor, we look back at your history for five years. And you had to have, essentially a clean history.

That was waiverable by the group commander. And so that's another area where we have addressed that process to look at the background screening program, and to assure ourselves that we are doing everything that we can to not bring -- as I said earlier, not bring people into this environment that don't have a very strong and proven record of disciplinary history in terms -- in -- in addition to job performance.

SANCHEZ:

OK.

In the Air Force, if an airman or an airwoman is found to be involved in a sexual harassment case, how does the Air Force proceed?

WELSH:

In a sexual harassment case?

Yes ma'am.

The same way we deal with any other misconduct with an airmen. UCMJ (ph) is -- is an option available to commanders and their legal advisers. You go through an investigative process, and you make what you believe is the appropriate and proper decision.

SANCHEZ:

So, if you're being screened, if you want to be one of these instructors, and you're being screened and you've had some sexual harassment in the past on the job, would it necessarily be on your record?

WELSH:

I can -- I can create a scenario where it would not be, Congresswoman.

SANCHEZ:

Various scenarios where they might not be?

WELSH:

Yes ma'am, and others where it would be. It -- it-- I think it depends on the case. But yes.

SANCHEZ:

Because it's at the discretion of commanders or certain people, right, as to how they're gonna deal with it. And a lot of times -- lot of times, the sexual harassment in this type of situation may not show up on somebody's record, am I correct?

WELSH:

I believe you and I might disagree on the term "a lot of times". I wouldn't tolerate it as a commander.

SANCHEZ:

You wouldn't tolerate, but there are various incidences, correct, where the commander can have the choice of doing other things, and it doesn't...

WELSH:

Yes, certainly it's happened.

SANCHEZ:

If this instructor -- wannabe instructor is being transferred to another unit, would that new commander necessarily know that they had, had a sexual harassment episode in the past?

WELSH:

Let me answer generically, and then I'll ask Ed to -- to address if there's a specific issue related to the Lackland investigation that we're walking towards.

If an individual was transferred as a result of poor performance, bad behavior, related to sexual harassment, I would be astonished if it was not somehow related to (inaudible) in his record.

If they were being transferred as a matter of routine transfer, and there had been a decision made that the sexual harassment was not substantiated, for example, then it would probably not be on the record.

SANCHEZ:

Or if there might have been an incident, but the commander decided he'd handle it in a different way and it wouldn't show up on the record, then this person could be transferred somewhere and that would never pass along with them?

WELSH:

I would just tell you that yes that could happen if I or any commander I know including the one sitting next to me knew about one of their commanders acting that way, we would remove them from command.

SANCHEZ:

Well I wish all of our commanders were held to that standard. It's my understanding sometimes they're actually -- they don't actually hold themselves to that standard.

I'm asking these questions because I'm trying to find out, you know, we have seen through studies that sexual harassment leads in many cases to sexual assault. And so we really have to be cognizant of trying to, you know, handle these things -- these issues, and to really put it on people records so that we don't promote them, move them, et cetera and let them know that well they got away with it in this case. Sometimes it's -- sometimes, it's a progressive sort of situation.

So my next question is about the Air Force commander's conduct of climate assessment. The GAE (ph) court, in September of 2011, told us that this wasn't consistently done.

How was this done in the Air Force (inaudible) now put in the 2013 -- I'm sorry, in the -- in the fiscal year 2013 NDA that climate reports have to be done. There are two reasons why people don't like to do them, we learned, was commanders are resistant to conducting them, and the command lacks an equal opportunity adviser to help conduct it.

So, what are you doing about this, because we know that -- that if we had climate assessment, some of this harassing kind of a situation might have been put forward? What are you doing now?

MCKEON:

Gentlelady's time has expired. If you could answer that...

SANCHEZ:

I would like that written for the record, please Mr. Chairman.

WELSH:

We'll be glad to, Mr. Chairman, thank you.

MCKEON:

Mr. Turner.

TURNER:

Thank you, Mr. Chairman. Appreciate you holding this hearing, and the other hearings that you have also held, and -- and you're attention on the legislative side to us trying to address the sexual assault issue. You've been a leader on this, and I've appreciate your support as my co-chair Niki Tsongas has -- does as the co-chair of the Sexual Assault Prevention Caucus. You -- you have been a great advocate as we've worked with the Senate on these -- these provisions.

Gentlemen, we know why this happens. It -- it happens where we -- we come to this time where we say, how in the military could there have been such a systematic breakdown of leadership and -- and not know. We know why, and it is absolutely an issue of culture.

We can try to pass laws, we can try to pass legislation, but until we break that -- the culture that allows the environment for this to occur, we're never going to be able to make these -- these changes from the seats up here in Congress. It has to come from the seats that you have, from the leadership that -- that you have. And I want to thank you, because I believe that you have turned to -- to this issue.

But I want to focus on the issue first, of culture, to really identify how bad this is, and why the military and DOD needs to -- to address this issue first of -- of culture.

TURNER:

I had two tragedies occur in my district. Maria Lauterbach, who was a Marine who was -- who came forward with an allegation of rape and was subsequently murdered by the accused, and Kori Cioca, who has -- who had been revictimized by the system and my office provided assistance to her. And we all know her story because of the movie "The Invisible War."

But in the Maria Lauterbach case, I want to read to you a letter I got back from the Marines. After Maria Lauterbach had been viciously murdered by her accused,we contacted the Marines and asked them, "How could you not know that she was at risk for a violent crime or a violent action or assault?"

And they actually wrote back this letter to me, which I have here, from Lieutenant General Kramlich, U.S. Marines, director Marine Corps staff.

And I asked him this question, "Doesn't a rape accusation inherently contain an element of force or threat?"

And this is the written answer that I got back, as a sitting member of Congress: "Lauterbach" -- the victim -- "Lauterbach never alleged any violence or threat of violence in either encounter."

So I have first for you, gentlemen, a question that's relatively simple: Have you ever heard of a non-violent rape?

General Rice?

RICE:

No.

TURNER:

General Welsh?

WELSH:

No, Congressman, I have not.

TURNER:

I appreciate that, because that's the answer I've gotten in every hearing that I've started with that question. Because that's basically part of the problem of the culture of understanding that this is a crime, that this is -- is violent.

Now, I want to tell you another story, I have a question for you there. We were at the Marine commandant's house, sitting around his dining table. My co-chair, Niki Tsongas, was there, and she can corroborate this story.

We were having a discussion on the issue of culture and the need to change the culture in the Department of Defense. And we were all done; we had all identified the issues that needed to be addressed. And the Marine commandant's wife said, "Before everyone leaves, you need to hear this."

And she turned to a senior female office who was sitting around the table, and said to her, "Could you tell them what you told me earlier? If you were subject to a sexual assault, would you report it?"

And she said, "No."

Here's a Marine, senior female office, sitting at the commandant's table, and she said no.

I would like to address that issue with both of you, because clearly that's the culture. The concern is the fear of coming forward, of the -- of the fact that they would be subject to revictimization, that their career would be subject to -- to a -- a disadvantage.

And as we hear all the stories of the victims, the basic issue that we have is their concern of fear of coming forward.

Now, I want to ask both of you, you had to see in this, and you have to see in the culture of the military, that part of the problem of what happened here in this case and these number of cases that you have is this fear of people who are victims from coming forward.

So I want to ask you to discuss that, of the fear of the victims and how you change that culture.

The second thing is -- is -- and General Welsh, you made a comment that I kind of cringed at, because I hear this in the military, and it's a term that goes, I think, partly to the -- to some of the disconnect in the view of this.

You said, "We have to stop bad behavior."

It's not bad behavior, it's a crime. And I think the people around it, the non-victims, they -- they don't feel comfortable either because they have this a similar fear.

Now, we only have 30 seconds, so, gentlemen, if you could begin to comment on that.

WELSH:

The bad behavior I was referring to, Congressman, was behavior before a crime is commenced -- committed by people who will eventually commit a crime if we don't stop the at-risk behavior. Not of the victim...

TURNER:

Appreciate the distinction.

WELSH:

... of the potential perpetrators. The key to solving this problem -- every time I talk to an Air Force audience, the first question I ask them about this issue is why, on what was undoubtedly the worst day of a victim's life, did they not turn to us for help?

We stand beside them in combat areas. We go to war with them. We protect each other's lives. We talk about this constantly. We are missing something fundamental in the human-to-human interactions that will allow them to feel safe enough to come to us and report and let us put our arms around them and help them through this horrible event in their life.

You're right, Congressman, that's at the heart of the problem.

TURNER:

Gentlemen, if you make that your priority, we're going to go a long way in being able to address it.

Thank you, Mr. Chairman.

MCKEON:

Ms. Tsongas?

TSONGAS:

Thank you, Mr. Chairman.

As Congressman Turner has alluded to, and by the mere face of this hearing, I think you know that there are many of us on this committee who take this issue very seriously, and many who have worked so hard to address it -- to address it and move you all ahead.

So I thank you both for the efforts you've put forth to address sexual misconduct in the Air Force. It's a crime that continues to shock us with its regularity.

And in particular, General Welsh, I appreciate -- appreciate the efforts you've made since you became Air Force chief of staff, most recently in bringing all of the 164 wing commanders to Washington to discuss this most serious issue.

But I think we all know, as Mr. Turner just alluded to, as others have, that in order for changes to really take hold, the culture of the military has to change. And it's a multi-faceted effort.

Mr. Turner told you what brought him to this issue. What brought me to it was meeting with a nurse, soon after I'd been elected to Congress, about five years ago.

She had been deployed several times. She herself had never been sexually assaulted. But I asked her if it was as prevalent as I was beginning to learn.

And she said, "Ma'am, I'm more afraid of my own soldiers than I am of the enemy."

So that tells you that this is really a very challenging situation that you confront.

And the cultural change has to happen not just among our officers, but among our enlisted service members as well, who make up about 80 percent of the force.

So as you talk about what you're doing -- and you're starting at the top -- how do you change culture across the 80 percent? What are you doing at that level -- how -- to encourage everyone to embrace the efforts that you are currently engaged in?

Because I fear if you don't and aren't successful there, we will be coming back again and again and again. You will tell us your good stories, but we will continue to hear very shocking situations that you have said will not occur again.

WELSH:

Thank you, Congresswoman, for giving me the opportunity to comment on this.

I've never said it will not occur again.

(CROSSTALK)

WELSH:

We have to do everything possible to prevent it. We can't accept this. It's horrible. And we all know that.

Human behavior, as you well know, because you're actively involved in this every single day, is very difficult to change.

I don't believe the entire Air Force has a culture of sexual assault. I don't believe that.

I believe there are units, there are places over time, as people change and personalities take over, that we create pockets where culture is a major problem.

Ed'll tell you that that's what happened at Lackland, (inaudible) investigation.

I don't believe that everybody in the United States Air Force accepts a culture of sexual assault.

We have officers, we have NCOs, we have civilians in our Air Force who have daughters who are working side-by-side with airmen around the world. They're not going to tolerate a culture of sexual assault.

TSONGAS:

But, General, how do you -- what do you do -- what do you do to change the culture across that 80 percent, not at the wing commander level?

(CROSSTALK)

TSONGAS:

What are the specific steps that you can take to begin to address that?

WELSH:

You start with simple things. The number one thing we tried to do is increase the battle rhythm in addressing this issue.

As an example, this is a sheet that just shows activities that involve every level of supervision and command in the Air Force for January to March of 2013. And there are things like videos from me and the (inaudible) -- or the chief master sergeant of the Air Force to the force.

It's commanders' conferences. It's four-star sessions. It's command chief sessions at every MATCHCOM (ah) level.

It's an iteration of those down at the unit level. Every chief in every squadron is getting together with the wing command chief to discuss this issue.

It's commander's calls down to the squadron level. It's roll call at the flight level. And it's -- it's in every accession's training (ph), it's in every PME course. It's a matter of getting this discussion going and keeping it going, not just for a short period of time, so it -- but so it becomes -- it becomes part of who we are, part of the way we operate. That's the first step.

TSONGAS:

And how do you -- how do you institutionalize that that goes forward, once you're no longer the Air Force chief of staff? How do you make sure that that continues?

WELSH:

I meet every week now with our sexual assault prevention and response team on the Air Staff (ph), because I think you have to drive this from multiple levels. And we meet weekly. If I'm out of town, my vice chief meets with General -- Brigadier General Eaton Murray (ph), who runs this for us, with our A-I Lieutenant General Darrell Jones (ph) and our expert in this -- in this certain area.

We create activities. And what I've asked them to do is every week bring in something new, something we haven't tried, some idea they've found somewhere else -- from a member of Congress, from an

advocacy group, from a university or another service that tried something that seemed to work at a certain base or a certain demographic group.

And then, let's talk about the logic of implementing this thing. And we create a battle rhythm. What we're talking about this, we're implementing new ideas, we're assessing how well they work. We've stopped doing the ones that don't seem to have a major impact and continue the ones that seem to be making a difference.

It's got to become part of the fabric of how we operate. It's no different than the way we operate aircraft every day.

We talk about it, we communicate regularly on it. We meet, we come up with new approaches that save money, to increase effectiveness.

We have to do the same thing on the command side of the house. That's where we're starting that.

MCKEON:

The gentlelady's time has expired.

TSONGAS:

Thank you.

MCKEON:

Mr. Coffman?

COFFMAN:

Thank you, Mr. Chairman.

General Rice, General Welsh, thank you both for coming here today to testify on the problems of sexual assault in Air Force basic training at Lackland -- Air Force basic training.

One question I have, General Rice, I think you mentioned that one of the conclusions out of this was to reduce the training time, the number of weeks, I guess, at Lackland Air Force Base. Is that correct?

RICE:

It was a recommendation that was in the commander-directed investigation. It was the 46th recommendation that I said I would deal with in a different forum.

So we are looking, as we always do, at the length of basic military training, that the length of the training will be determined by the training that we need to accomplish and not based specifically on addressing this issue.

COFFMAN:

Thank you. Well, let me just tell you, obviously your training is inadequate, because you have a culture in the United States Air Force that allows these really pervasive sexual assaults to occur by your senior enlisted personnel during basic training.

And, you know, I've gone to -- the purpose of basic training or any -- the entry level period of training in any of the branches of the service, and I've been through two of them -- Army and Marine Corps -- is to really indoctrinate that soldier and airman, Marine or sailor, into the customs and courtesies of that respective branch of service and to the rules of -- associated with the Uniform Code of Military Justice that spans all of our services equally.

And so, obviously, something's missing in that training.

So, I would ask you, you need to reinforce that training, I think, not reduce the training.

And they need to come out of there -- the airmen, the men and women in uniform that serve in the United States Air Force, with a solid understanding of what the values of the United States Air Force are.

Because obviously, those senior enlisted that perpetrated these crimes were not sufficiently indoctrinated as to the values of the United States Air Force.

Would you like to respond?

WELSH:

Yes, sir.

And I appreciate the question.

I completely agree that what makes this so egregious in basic military training is exactly for the reason that you stated, which is this is the place inculcate the basic values of our service on our newest airmen.

And when we violate the trust that we have to do that and that responsibility, it -- it's difficult to describe the damage that happens to those individuals and to us, as an institution. I agree 100 percent.

I would say, you know, I -- you're right. There is an element of training to this, but at the end of the day, we have people who knew well what the rules and the policies were, who knew well the difference between right and wrong, and decided to make a wrong choice. And so part of that I can address with training. Part of this has to do with people's values of what they perceive as wrong and what is wrong. And how I get at that is partially training, but I think I've got to think more broadly about how I affect someone's calculus about actions that they're going to take.

It's why we look at this, not just from a dissuade perspective, having people make the right decision because it's the right decision, but a recognition that some people are not going to be dissuaded, regardless of the training that I have. And I've got to deter them. I've got to have them make a calculation in their mind that the consequences of their actions are going to be negative enough that they aren't going to take them.

And so as much as I'm concentrate -- excuse me -- concentrating on the training piece of this, I'm also

focusing on the detect, deter, and hold accountable piece because I know that there are people that I have to do that with.

COFFMAN:

General Welsh, I -- I would agree with you on a very critical point. And that is this, that I think that -- that it's important that those -- those entering the service have a moral foundation. Because I think you're right, that people that don't have a moral foundation, you can put them through the toughest training in the world, and at the end of the day, everything will be a calculus as you described, as to what it -- what's the risk and reward for my conduct versus -- versus what's the morally the right thing to do?

And so, but I -- I do want to stress that -- that -- that discipline comes from that entry-level training. And, of course, I think that -- that, no doubt, that it has to be reinforced at all times. But thank you for your testimony today.

I yield back.

MCKEON:

Gentleman time's expired.

Mr. Castro?

CASTRO:

Thank you, Chairman.

And thank you, generals, for your testimony. I proudly represent San Antonio, Texas, the home of Lackland Air Force Base. Thank you for coming to testify today.

I think, when there are scandals like this, there are essentially two things that must happen. First, we need to make sure that justice is swiftly served. The second is that we've got to learn from our mistakes and implement policies to change our practices.

In regard to that, do we know, for example, have we investigated whether any of this occurred at any of the other basic training units in other military branches? What's hard for me to believe is that, in the last three years at Lackland, that there is something specific to that environment that didn't happen somewhere else at another time. So can you all speak to the scope of the investigation and whether there's -- ever -- whether there has been an indication of problems anywhere else?

RICE (?):

I do know, and I won't speak for the other services, but I do know that each one of them, at the direction of the secretary of defense, has reviewed their basic military training equivalent program, has reviewed the report that we have written on it, and has looked at the issues that we have found as they apply to their system. So, yes, I know that there has been a review done by the other services.

And to -- I don't -- I cannot speak to what they found as a result of their reviews. I'm -- I'm sorry, but they have looked at it.

WELSH (?):

Congressman, also, the secretary of defense, very early in this investigative process, asked General Rice to come forward and give him an update on what he was finding. And so Ed did that back in September. As a result of that initial update, the secretary ordered an assessment of military training, accessions (ph) programs for all the services. That is ongoing and will be delivered here shortly. I don't remember the exact delivery date, but it's in the next couple of months.

And the intent is to make sure that anything that is learned from this is -- is, lessons are shared within the services.

(UNKNOWN)

Right.

WELSH (?):

Part of the effort that Ed has initiated with the counsel he mentioned before, is that that counsel will also be able to communicate with the other services, accessions (ph) training programs, and -- and make those connections for routine interaction, not just after something ugly occurs.

So we -- we -- we hope to share all of this with the other services. They've been fully briefed on the results of this investigation, the findings and recommendations on a way forward, all that's been orchestrated through the secretary of defense's Sexual Assault Prevention and Response Office.

CASTRO (?):

And -- and then, finally, have you seen a -- an effect on recruiting, and also, what has been the effect on the morale of the soldiers at Lackland?

(UNKNOWN)

No impact that I can tell, and we've looked, on recruiting. Fortunately, we are still able to attract the best and brightest young men and women that our nation has to offer and will continue to work on that.

In terms of morale, this has been a significant emotional event for the people who are responsible for the training program at Lackland. I would say, in general, the reaction of other instructors and supervisors and leaders when this first started to break was one that, sort of -- their belief was this was a few bad apples. This does not represent, you know, any significant number of MTIs.

I think, today, they understand that, although it is 4 percent of the population, 4 percent is 32 MTIs much larger number than anyone would have suspected existed. And so, they've had to both recognize that this is, in fact, a real problem. They've had to recognize that they have a significant part to play in addressing the problem. I think they have embraced the changes, many of them, which have run against the tradition of the way that we have done things in the past, but, part of what we are doing, and we aren't there yet.

You know, this is an ongoing process, is to work with our MTIs to have them understand that they have to take control of this issue. If we are going to be fully successful, they have to be part of the solution set. And this is an ongoing process, I think, of transformation that we are well on our way toward, but I'm not, in any way, ready to declare victory.

CASTRO:

Thank you, General.

I yield back.

MCKEON:

Thank you.

Mr. Runyan?

RUNYAN:

Thank you, Chairman.

Kind of getting to talking about culture environment, compared the Air Force to other services, and you talk about the environment (ph). How much of it has -- have either of you ran the numbers or seen any numbers, how much of it is people that are comfortable in their situation and have those relationships and created a bad environment, instead of having changeover and holding people accountable more often than not?

General Rice, is there -- do you see where I'm going with that?

RICE (?):

Let me answer the question. If I don't answer it fully, please, re-ask it. You are -- I -- I agree that having people, especially in an environment that can be as challenging as basic military training for too long a period of time, exposes them to, I think, issues and challenges that can be corrosive over time.

And so we have to pay attention to how long we allow someone to serve in these positions. That is part of the solution set as we move forward. We are going to restrict the amount of time that you can serve as an instructor, for example, to three years. It used to be four years. We're going to move that back to three years. And we are going to divide the duty day in half such that you are not having contact during that entire duty day with trainees.

It's -- it's a way of getting at this issue of exposure over time that we believe can be very corrosive, both in terms of an individual, and the development of a culture. And culture, sometimes, is -- is used in a negative way. Every group of people, whether it's two or 200 or 2,000 develops a culture. It's the way human beings react to each other and act.

Most aspects of developing a culture are very positive. It's how we relate to each other. It's how we reinforce each other. And there are lots of elements of culture that I want to have as part of basic military training, both among trainees and trainers, so that they can reinforce the positive elements of what they have to have as part of -- of this environment.

You have to be careful with a culture because it can, over time, become insular and develop negative elements that you have to be careful about. So part of the changes we have made are to ensure that, in addition to the people who are part of basic military training, who have come back for second or third

assignment, which is important for us to have the right experience levels throughout the chain of command, we also have more people who are not part of the culture, if you will, in terms of having had previous experience. So it's why, at the most senior-enlisted level, we are bringing in chief master sergeants who have not been former military training instructors, because it gives a fresh outside perspective that is important to, I think, inject into this group of people.

RUNYAN:

Yeah, and I think it, kind of, and you did answer the question. Thank you very much.

It plays to, kind of, how we are as a society. We're always saying, "If you see something, say something." And when you -- when you're in a -- in a situation, in a group and you have personal relationships with your buddy, you'll tend not to raise that question. And, you know, and as far as -- what do you do, is there anything you can do on a disciplinary aspect of it to -- to codify (ph) more stringent penalties to -- to disencourage behaviors as -- as we're discussing?

(UNKNOWN)

Yes, so we have, essentially, a standard of behavior that we demand of our -- our instructors. There -- you know, has been disciplinary action because people knew of things that they didn't report in the right way. So I have a set of policies that require reporting of any maltreatment or mal-training. And if anyone sees something that is not reported, then they have to answer for that non- reporting as part of the process of accountability that we have for the standards that we put in place. So there is a sanction.

But I would say, when this works properly (inaudible) that's sort of a secondary way to address the problem. When we have it working in the way that we need it to work to be most effective, you know, the instructors and people within the system will -- it will be self- correcting in a way that I don't have to use the hammer in order to achieve the result.

Again, this is a work in progress. I think we have to recognize that regardless of the screens that I use to bring people in I'm still going to have some people that I have to use a variety of tools on in order to achieve a result.

RUNYAN:

Yield back, Chairman.

MCKEON:

Ms. Davis?

DAVIS:

Thank you, Mr. Chairman.

And thank you generals for being here.

As you know, a few of us had an opportunity to go to Lackland. And I certainly want to commend them for opening up the opportunity for us to ask the questions that we needed to ask and to have access to a number of the MTIs, particularly who spoke with us.

And their -- their discussion with us was very compelling. And I wonder if -- if you have or how you have engaged them, particularly. Because they had good background on which to speak about this. Certainly, on feeling ostracized, on this whole issue that we're talking about of culture and what do we do in terms of bystanders who have information that is not shared.

How have you -- how -- how was the information that they have used as you moved forward? And -- and did you actually talk to them? Because we -- one of the things that we heard from them which was really surprising was that nobody had actually asked them (ph).

RICE:

Thank you, Congresswoman Davis. I appreciate the question.

When Major General Woodward conducted her investigation, she actually had an extensive piece of her research work that involved talking to instructors, and several of her recommendations are based directly on that feedback that she got from instructors.

Subsequent to that, the wing commander who is in place now and the group commander who is in place now who is directly responsible for basic military training has conducted a series of engagements with our instructors. The first -- absolute first thing that new wing commander did was sit down with all of the military training instructors and had a session with them to both let him know what his expectations were; importantly to convey to them clearly what the outside world was thinking about this, and to get feedback from them, and to let them know that he was completely open to their assessment of what we need to do to move forward, because he understands better than anyone that he cannot do this alone, that they have to do this with him.

DAVIS:

I know you've spoken to the increased communication, and I think that's -- that's very important.

One of the things that we did here, and I'm assuming that this was relayed, as well, is that having some informal -- this sounds -- this sounds like -- contrary -- but informal, mandatory meetings for everybody to have a chance to sit down and to talk about what they see. Because trying to get these issues of environment and climate and culture in questionnaires, I think most people don't believe that you actually get there.

And so having the opportunity to sit down and -- and -- if it's mandatory, then everybody's doing it. And it doesn't mean that someone is going and telling on -- on their peers, which is a really big problem that you (inaudible) discovered, I know.

Is that -- I didn't quite see that in the recommendations, and I'm just wondering, where does that issue fall when it comes to the broader areas of recruiting and oversight and review that, clearly, have not all been instituted yet?

RICE:

Ma'am, you're right that that was not a specific recommendation. But I wanted to underscore again, you know, the 45 recommendations are just a starting point. So I am -- we have done a lot more since then and will continue to do more (inaudible). And I am open and welcoming any suggestions and recommendations (inaudible) what else we can do.

You and I have talked about this issue. I think it's an important one that we need to find the right way to do -- the right way to address, and I want to do it in the right way. And it gets to this idea of feedback...

(CROSSTALK)

DAVIS:

Yeah. I guess my question would be, why not? I mean, why -- why something like that is -- is -- is it cost, is it personnel why we wouldn't do that?

And I guess just a follow-up question in terms of the numbers of female MTIs and how has that increased, and what are you doing about that?

Sir, did you want...

(CROSSTALK)

WELSH:

Yes, ma'am. I'll -- I'll answer your initial question, if I could, congressman, and I'll turn it back to Ed for the (inaudible) exactly where we stand on the female MTI, increased numbers.

First of all, on speaking to the MTIs at Lackland, actually a lot of people have spoken to them. The secretary of the Air Force has visited with them (inaudible) last fall. I've done the same thing. Ed, of course, and the leadership, as he mentioned, the team there have all talked to them. The individuals you talked to might not have been there, but a lot of people have gone and talked to the MTIs to get their feedback.

The number one thing I took away from the meetings with them was that they -- those people and the passion that they have now for this problem, they feel exactly the way I do, and that's the -- our Air Force, our military ought to be leading this effort (inaudible). We have a structure. We have the ability to command and control and educate and train and oversee, and we have the ability to punish. We have all the tools in place to be the role models for this.

We owe you. We owe the American people.

On the...

MCKEON:

General? Please -- time has expired. Could you please...

WELSH:

Yes, sir.

MCKEON:

... finish that answer for the record?

Mr. Nugent?

NUGENT:

Thank you, Mr. Chairman.

And as a graduate from Lackland Air Force base many years ago, really disturbing as we move across (ph). But my big concern, having been a sheriff and prosecuted and investigated sexual assault cases, is the victimization of how we deal with those victims -- and particularly as an organization how does the reporting process go.

Sexual assault or sexual harassment don't always go hand-in-hand, but they are -- they're different in certain aspects. But the reporting process -- and if I hear this correct, the commander makes the decision whether or not it goes to the judicial process or it goes to a non-judicial process. How do they make that decision?

RICE (?):

Sir, sexual harassment will sometimes be handled through other venues rather than the UCMJ. Very often it will be raised by a report to the Equal Opportunity Office on base or to the inspector general on base. And it's passed to the Equal Opportunity Office for an investigation conducted by that office. There's a formal process it goes through.

That process reports back to the commander, and then there's a decision made on what to do. Is it something you handle administratively? Is there something that actually escalates this to a level where you deal with (inaudible) UCMJ. You make the decisions after the process is completed.

A report of a sexual assault is a -- takes this to a different level. There's law enforcement, the OSI -- the Office of Special Investigations -- is involved, and it immediately jumps to a process that is bound and -- and judged through the UCMJ.

NUGENT:

Do they have to follow chain of command to report that?

RICE (?):

No, sir, they do not. In either case you can report directly to an Equal Opportunity Office, you can report directly to the inspector general, you can go to your chain of command. You can report any number of ways.

Clearly, reporting is part of the problem, though. Despite all...

(CROSSTALK)

RICE (?):

... the options we attempt to offer, people do not come forward and report routinely on either sexual assault or sexual harassment. That's one of the major issues we had...

(CROSSTALK)

NUGENT:

And that's the climate issue in regard to how do you get folks to come forward...

(UNKNOWN)

Yes, sir.

NUGENT:

and particularly in a military application cause they're all -- they want to cooperate and graduate. They want to be able to move up to the ranks, and they're fearful that an allegation will be used against them versus a fair and judicious application as it relates to the offender.

And I guess -- so what are you doing specifically for the victims to encourage them to come forward without the worry of, you know, retaliation?

RICE (?):

We start this when they are recruits, so their recruiter provides them with a one-on-one briefing about what is and what isn't allowed in terms of behavior at -- when they get to basic military training. That briefing is repeated once they get to basic military training within the first days that they arrive. And then we repeat it again in technical training in terms of expectations.

It's not a silver bullet, but it's one of the means that we've tried to over time set the expectation of what a very brand new people to our organization should expect and what is normal behavior and what is abnormal behavior; and then try over time through those engagements in the right way -- they have to be done in the right way -- to develop a level of trust in the person that is conveying that information and in the system and how it will react.

I think a second important way we are addressing this in basic training is to provide other avenues and more of those other avenues for trainees to report. So we have added more sexual assault response coordinators who will be out and about in the community and will have more opportunity to have engagements with the trainees. We've added more chaplains, again someone we hope that they would feel -- feel may be more comfortably talking to in one-on-one sessions.

And more leadership in general will be part of the equation. Again, none of these are, you know, one point solutions, but part of a total package that we think heads us in the right direction.

NUGENT:

One last question. Your victim advocates that you have and your investigator, do they work hand-in-hand in terms of trying to help the victim move forward in regard to dealing with the actual allegation?

WELSH (?):

The special victims council's job is to advise the victim, to make the process as simple, as

understandable and as painless as possible for the victim, and to streamline the activity associated with the UCMJ process, to include up through a court martial activity, so that they are removed from the friction and the frustration and the lack of understanding and the poor communication that often makes their situation even worse.

NUGENT:

Is there mental health counseling...

(CROSSTALK)

MCKEON:

The gentleman's time expired.

RUNYAN:

I yield back.

MCKEON:

Ms. Speier?

SPEIER:

Thank you, Mr. Chairman.

And thank you, Generals, for your participation.

I have a letter dated November 16th to General Rice from me that I would like to submit for the record, Mr. Chairman.

MCKEON:

Without objection, so ordered. What year was that?

SPEIER:

Last year.

MCKEON:

Without objection, so ordered.

SPEIER:

General Welsh, we all had a meeting about this document. We talked about 17,000 hours. We talked about 32 staff. General Rice referenced 7,700 interviews. And not one of the victims -- not one of the 50-plus victims at Lackland was interviewed. Forty-six recommendations came out. But how can any of

those recommendations be complete without first having talked to at least some of the victims?

Now, the letter I sent to General Rice dated in November sought to have those victims interviewed. I have yet to get a response from General Rice.

WELSH:

I don't think the effort can be complete until we have a chance to talk to the victims.

SPEIER:

All right. Let me go on. The trainees that we met with, we had lunch with them. They were 17, 18, 19 years of age. They were young. They were naive. They were earnest. And as I sat there having lunch with them at Lackland, I thought to myself, "Oh, my God, these are the age of my daughter; all these trainees are the ages of my daughter."

And my daughter would no more have the ability to say no to a military training instructor who you are taught is the law. You do everything that training instructor tells you.

Now, there's been a lot of talk here today about all the things that are happening. But what happened was that military training instructors directed these trainees to go to supply closets and to the laundry room where they were then sexually assaulted and raped. We have two instructors that admitted to having had sex with 10 of their trainees each, and these instructors were married.

Now, in the end, do you agree or not agree that consent should not be part of this quotient? General Rice said that some of these were willingly engaged in sex with their MTI. As I understand it, the MTI is never supposed to be alone with a trainee in a room -- never alone. So, can a trainee willingly have sex with her instructor?

Your answer?

WELSH:

I would never be able to look you in the eye and tell you that no trainee of any age -- we have trainees who are 30, 32, 34 years old that go through this program, would ever be able to offer their personal consent in a situation like this. I don't know that. I can't judge that. And I think that's a little problematic under the law.

If the -- let me tell you what I do agree with, and I think you probably agree with this. An individual who is serving as a military training instructor who has a relationship like this with a trainee has no place in our Air Force. And there should be a presumptive sanction under some mechanism to discharge them.

SPEIER:

So, I'm introducing a bill today that will basically say no longer can a consensual relationship between a training instructor and a trainee be used as a defense for the acts of the training instructor. Would you support that legislation?

WELSH:

Ma'am, I'd have -- I'd have to ask my legal experts to advise me on the technicalities of that legislation. I will support you in an effort to make sure that someone who has that kind of a relationship in an Air Force training program at BMT is just unacceptable.

SPEIER:

And that they are kicked out of the military?

WELSH:

And that they're out of the military.

SPEIER:

Thank you.

A military expert, Professor Heigl (ph) from Yale, recently said that the UCMJ is something that would be recognized by George the Eighth (ph); that they are very similar to what is going on in the U.K. Now, the United Kingdom had a scandal like this in 2006. And they created a separate unit -- a separate unit that was staffed with experts in investigations and prosecutions within the military to handle these cases, so that the decision was not being made by the unit commander. That was in 2006.

In 2007, they found that good order and discipline stayed intact; that in fact the unit commanders were relieved of not having to handle these cases anymore. I would like to encourage you to speak with your counterparts in the U.K. to see how their system works and see if we wouldn't be better served moving into a system like that.

I yield back.

MCKEON:

Dr. Wenstrup?

WENSTRUP:

I'm encouraged to say to hear you say that there is a training session for the new recruits before they actually go to BMT. And I think that that's very helpful.

I guess my question is how to -- how do we get the recruits to fully understand or believe that reporting bad behavior will be supported by the leadership and will nor harm them -- that they can develop that trust and know that that is the right thing to do, and be more confident in their reporting? And what might your suggestions be on that?

RICE:

Very challenging. You know, I have been through basic military training as well, as an enlisted person, but at the Air Force Academy, we do the same thing. And so I have been in that position and understand fully what these trainees think about this environment, and how challenging it would be, you know, looking back on my time and my experience, to talk about things like this. Sometimes it's very challenging.

So I -- as much as we want people to do certain things, I think we have to deal with the reality of the environment that they're in and try to think about it from their perspective. Part of this has to do with getting more feedback from trainees and looking at those barriers.

I think the most important element or decision we can make in this regard, though, has to do with trust. At the end of the day, if people don't trust either a person or the institution, there isn't anything that we are going to do in terms of training that's going to have them make that decision to take what they perceive as personal risk.

So as we train our instructors in how to relate to the -- the trainees, how we train other people within this environment to relate to trainees, who we try to ensure that they have that level of trust and confidence in -- within the system, is a part of the work that we are undertaking.

I don't have the answer today, but I know that's a place that I've got to get better at if I'm going to be more successful in the future. And I think we can do a lot better, but I'm not ready to tell you today that I've figured that out.

MCKEON:

Mr. Johnson?

JOHNSON:

Thank you, Mr. Chairman.

A person who is training under a trainer and has a consensual, some might say, sexual relationship -- sexual intercourse -- in other words, sexual intercourse with the boss, the boss might think is consensual, but what's going through the mind of the trainee is that I need to do this in order to get through training successfully. So it's a duress -- it's a mental type of situation. It may not be forcible physically, but forcible mentally.

And that is why if there is not where now there should be a crime that makes it a per se violation to have sexual intercourse, be it forcible -- be it consensual or not, between an instructor and a trainee. And I think that that is probably something that Ms. Tsongas has dealt with in her bill, which I fully support.

Now, a different situation between, say, a former trainer or a trainer who formerly trained someone who's made it through training and now that person is out of the dominion and control of the trainer. Then there could be a consensual sexual relationship that does not equate to rape.

So it might be maybe unprofessional or something like that, so I'm not saying it's at all times non-criminal, but let's just say that a former trainer and a former trainee, who -- a former trainer and persons that he trained -- he or she trained at a time previously -- they're in a sexual relationship, but then the woman or the man -- the victim -- might say, "No, I don't want to do this today," and then it is forced on them. OK?

So, that is a classic rape allegation -- a classic allegation of rape, or someone just took authority and just imposed themselves on a weaker individual physically -- rape.

JOHNSON:

I've looked at the guidelines that -- the list of commanders directed investigations recommendations and I see nothing about training of military police in the gathering of physical evidence that would support the accused -- excuse me -- that would support the accuser in making the allegation of a forcible -- forcible rape because you only have ones word against the other, no other witnesses. So you've got to prove the case, prove it by some physical evidence, a rape kit is what it's generally called. Why is it that we don't have -- we don't make provisions for these types of cases, which I think are pretty typical in addition to the other sexual assault cases, harassment, non-physical activities?

Why is it that we're not dealing with this issue of -- of rape, and forcible sodomy, and things like that, in terms of police investigation, and prosecutorial ability to prosecute effectively?

WELSH (?):

Congressman, we are. We've trained 24 Air Force Office of Special Investigations special victims investigators to this point. We have just started a new class model on the Army's CID class that was advised by outside experts that put together a curriculum to focus on that type of investigation. That first class just completed this week. We had some outside experts in to give us some feedback that was objective.

We will run classes through that course routinely. We sent 50 Air Force and judge advocate generals and OSI agents through the Army's CID course before starting this one. We will continue to further train our investigators in the skills required to better investigate these actions. My opinion is that part of the reason we have trouble with people sticking with an investigation and a prosecution -- victims sticking with it, is because they're -- the way they are handled in the investigative cycle is so critical to them being willing to stay with the -- with the -- with their commitment to actually identifying and prosecuting an assailant.

MCKEON:

The gentleman's time has expired.

Ms. Walorski?

(OFF-MIKE)

WALORSKI:

(Inaudible)

MCKEON:

Yeah. Yeah.

(CROSSTALK)

(OFF-MIKE)

WALORSKI:

I'm sorry. Out of those 17 percent of those women reported the incident. And my question is -- and I

apologize, I'm brand new, and this is my first hearing, I don't have the benefit of all of our veterans on the committee. If I'm a woman in the military and I am sexually assaulted, how do I report that? Do I pick up a phone? Is there a 911 in the military? How do I report that? Do I call from my cell phone? What's -- what generates the report?

(UNKNOWN)

Any number of things. There are hotlines at every base in the military. There -- you can tell someone in your chain of command. You can go -- everyone knows that you can go to the inspector general. You can go to the security forces. You can go to the base hospital, or clinic, and ask for help there. Anywhere in that network is connected to the reporting mechanism that then starts the activity moving forward.

The problem we have is not that nobody -- most of our people don't now who to talk to, or where they could talk to, it's that they don't feel comfortable reporting. As the Congressman mentioned, sometimes it's because they're concerned about them getting in trouble, or -- or somebody holding them accountable for some reason for reporting. Some of them are concerned about their family finding out. Their friends finding out. Their spouse finding out. So them -- some of them are embarrassed. Some of them feel guilty about the incident.

All of these things come together to create a problem where people don't feel comfortable stepping forward. It -- it's something that we have to just work constantly. I don't have an easy answer for this one, Congresswoman. And you know new in the job, or old, you're going to be shocked every time you hear this, just like I am.

WALORSKI:

Well, and -- do we have in the military -- is there something specifically for this -- this is crime?

(UNKNOWN)

Yes, Ma'am, we...

WALORSKI:

I mean do we have a whistle blower protection in the military? Am I protected, and know that I know, that I know? Say as a female, that if I experience -- if I am the victim of a crime in this military, that I know I'm protected. And is there some -- and I'm not familiar with the -- the hierarchy in the military to understand that, am I protected if I go and say, I'm the victim of a crime? Do we have a whistle blower protection?

(UNKNOWN)

We -- it -- maybe. We don't have -- there's no hard, firm law that says you're protected if you come forward and report something, and everybody's then going to make sure that you're never going to suffer a consequence for an action that you took. I think in the past, there have been many more incidents where people were held accountable for activity that was involved in, or around a -- an event where they became a victim.

That's unacceptable. You heard General Rice mention, and in this particular case, none of the victims have been held accountable, made to feel like they were guilty of anything. That's the way it has to be going forward. We have a sexual assault response coordinator to every organization. They are trained

and certified to now how to handle these situations. As soon as we find out through any part of this reporting chain that we have a victim, the victim is contacted by the sexual assault response coordinator and all the things that we can help provide are available to them.

Not just law enforcement, or investigative stuff. That's the last thing we want to worry about that first contact. It's the personal care, the counseling, the -- the health care, the forensic exam if required.

WALORSKI:

I appreciate it. And so, if -- when I -- when I call and report that incident, am I matched with -- is it gender to gender reports? Am I reporting to -- if I'm raped, am I reporting to a woman?

(UNKNOWN)

In...

WALORSKI:

Am I calling a woman?

(UNKNOWN)

...in every case you would not be. I -- anecdotally the majority of our SARCs are women. But anecdotally, no. That's not the case everywhere.

WALORSKI:

And what's the ratio? I think somebody asked earlier, but I'm not sure. I just simply don't know. What's the ratio of basic military instructors -- and I don't know all of our acronyms, I apologize. But if you're a basic military instructor, what's the chance -- how many women versus men percentage wise do we have in the Air Force?

WELSH (?):

It's about 11 percent women. We're moving to 25 percent.

(UNKNOWN)

Air Force wide, it's about 19 percent women.

WALORSKI:

Thank you. Thank you Mr. Chairman.

MCKEON:

Thank you. Mr. Enyart?

ENYART:

Thank you Mr. Chairman. General Rice, would you agree with me that the command chiefs with the commander set the command climate of the unit?

RICE:

I think command chiefs are an integral part of that, but I believe it is fundamentally the commander's responsibility to maintain the command climate within a unit.

ENYART:

And the command chief relays as the underling -- the interface between enlisted folks, the NCOs and the commander? Is that person...

RICE:

Certainly, yes. A critical link between the commander and the airmen within the unit.

ENYART:

General Rice, I'd like to know how many female command chiefs do you have at Lackland Air Force Base? And how many do you have in the Recruiting Command?

RICE:

I can't give you an exact number. I'd like to take that for the record, please?

ENYART:

I'd like to have that information back. Thank you.

General Rice, can you tell me what is the accessibility that a female basic military trainee has to reaching out to a female command chief?

RICE:

No, I -- I can't give you an exact answer to that question. I do -- I would answer it this way. We have a number of females who are in the instructor, or staff, or supervisory, or command positions. We are moving to a place where we have more females in those positions. I don't select commanders based on their gender. I don't select command chiefs based on their gender.

I do believe at the military training instructor level, that the team that is responsible for a flight of 50 trainees should include one female, but beyond that, we have not made another determination to make assignments of leadership positions based on gender.

ENYART:

Have you, in any way, General Rice empowered your command chiefs to deal with this problem that seems to be happening -- seems to have been happening, I'm sure that it's not happening now, but have you empowered your command chiefs to act with this? And if so, how?

RICE:

Yeah. No.

So, at my level, I have not taken any direct action to specifically empower command chiefs other than making it mandatory that the rank of the command chief is no longer a senior master sergeant, but a chief master sergeant which is not a trivial matter. I -- I believe you understand, based on your background, the significance of that.

But fundamentally, I have to depend on a commander to use the resources that I have provided to him or her to maintain a proper command environment. And it's up to that commander to use those resources, whether it's a first sergeant, whether it's a command chief, whether it's an operation officer, whether it's a supervisor or anybody else to use that combination of resources in a unique way, because every commander is different to maintain good order and discipline, and the proper command environment. And I think it's problematic if I start to dictate how they put that team of people together.

ENYART:

I would agree with you that it may well be problematic for you to do that, but I think you have a problem that you -- that needs to be dealt with. I would suggest that having dealt with those kind of problems in my previous career, that by setting the proper command climate, you can resolve those problems.

And an inherent way of doing that, is empowering and relying on your command chiefs, and by that I'm talking about the E-9s, the chief master sergeants to aid the commander in ensuring that the NCOs -- and everyone one of those T.I.s was an NCO -- those NCOs fully understand the commander's intent.

I'll yield the balance of my time.

MCKEON:

Dr. Heck?

HECK:

Thank you, Mr. Chair. And thank you both for being here and for your service.

We've heard a lot of discussion about the climate, and -- and what's being done to encourage individuals -- victims to report without fear of retribution. And General Rice you talked about much of the training that goes on to try to impart the knowledge of how to report, and -- and what to report.

I can tell you that, as a military commander, I know well those training programs, both basic and recurrent. And -- and the problem is, whether it's E-0 (ph) or consideration of others or prevention of sexual harassment, they seem to become stagnant PowerPoints where people are sitting in a classroom with eyes glazed over.

Now these programs have been going on for years, yet these incidents have occurred even while training programs have been put forward. How do you judge the effectiveness of those training programs that are supposed to be providing those initial entry servicemembers, or those that are on the front lines going through their annual recurrent trainings on these topics to make sure that they understand.

Because it seems that the training that we do -- and it's not the Air Force -- I'm -- I'm an Army guy -- the training we do across the services isn't resonating. And -- and, I mean, these incidents continue despite this ongoing initial entry and recurrent training.

So how are we going to assess the training programs we have out there to try to stem the tide of these sexual assaults and associated sexual incidents?

RICE:

Fantastic question, sir, thank you.

Exactly the question we're trying to answer right now. I mentioned before the -- the volumes of training and education programs that we've had in place for years, and we continue to keep in place, and we've added more. Every time we have an incident we add more. All the services do this.

The question is, which ones are having an impact. Expand those, emphasize those, get rid of the rest of them and quit wasting resources on them, wasting people's time that could be better spent in a different way attacking this problem.

The problem -- we -- we've talked to experts who are advising us on this topic, but one thing they told me that got my attention -- because I'm more interested in seeing if it works quickly and then dumping it if we can't tell that it does and trying something else -- the experts said, you've got to be a little bit careful about that, because some of these things you won't know the impact until you give them time to work.

Some of them are institutional education changes, and it takes a while. So our -- our -- the tricky part for us right now is figuring out which ones do we stick with.

And the ones we stick with we have to refresh, we have to modernize, we have to make them applicable to our young workforce, we have to put scenarios on YouTube, we have to do things -- you know, TED Talks, we have to do the kinds of things that will attract them. Generally that's scenario based education and training, it's not PowerPoint, go home and look at it on a computer. That is not going to help.

Now -- and so, that's the type of effort we're focused on right now. How do we energize this training and bring it down to the personal level, not sitting in the back of the room with 500 of your closest friends sleeping through the latest sexual assault awareness training.

HECK:

Well, I'm encouraged by that approach. And I hope it works. And I hope that you share it with our sister services. I can tell you far too often we've become more about training to time than to standard. And it's about sitting in a classroom and watching the slides go by for 30 minutes regardless of the information that's being absorbed by the person sitting in the chair.

So I -- I applaud your efforts in trying to do some comprehensive assessment of what does work and making sure we push that out across the services.

Thank you, I yield back Mr. Chair.

MCKEON:

Gentleman yields back.

Ms. Noem?

NOEM:

Thank you, Mr. Chairman. I appreciate it.

General Welsh, I have a question I believe should be directed towards you.

How are the victims that were involved in this investigation, at Lackland Air Force Base, currently being cared for by the United States Air Force?

WELSH:

Thank you, ma'am.

This may be the most important question of the day.

They're being cared for as well as we possibly can. Fifty-nine victims all were offered whatever level of support we could provide them, 57 of them accepted some level of assistance, whether it was health care, counseling, legal assistance, whatever it might be. General Rice can give you more of the details, the types of things they accepted, I'm not fully aware of that.

We've tried to do everything we can with them. We offered them this new special victims council. Although it's not in place yet, we did offer some of them that in advance of the initial capability date because we knew there were trials coming up and wanted to help them through that. Some of them took advantage of that.

Anything we can think of to do to help them, sadly, after the fact we're trying to do.

NOEM:

Thank you.

General Rice, could you shed some light on why some of these victims chose not to exercise every opportunity to get care and counseling from the United States Air Force?

RICE:

I think there are a variety of reasons. As I have gotten feedback, it goes from some of them do not consider themselves victims, and so they do -- have not wanted to have support. Others have considered the level of victimization, if you will, such that they don't require support. And others have made more full use of the support mechanisms that we have. So each one of these is a very individual case, an individual decision.

I'm -- I'm -- I'm confident that we have made a good faith effort to offer the support and to conduct the

investigations in a way that we have tried not to re-victimize the victims. We have tried to honor their requests. If they've said, you know, please I want to just sort of move on here? I do think, and it's something I've talked to my team about, just as we have found out that often times the initial answer to, "Did something happen to you?", is no. That if we reapproach people in a different way over time, that we can get them to develop a sufficient level of trust that they will be more accurate with us.

That because a victim said, "No, I don't need any help.", that we should go back at some appropriate time interval and re-ask, and re- offer that assistance because time does change people's perceptions of this. So we need to find the right way and time to do that. But -- but I have that on my list of things to -- to do here.

NOEM:

We've had a lot of discussion here today about lack of reporting, unwillingness to report incidents as they happen. And I think that right now every single airman is watching this situation, and watching our victims to see how they're being treated, and making decisions on whether to future report. To report on incidents that could be going on right now, or could go on in the future. That you are building a reputation right now on how you respond to these victims.

And it will determine your success on getting more accountability, on getting more reporting to -- of airman being willing to come forward and talk about what may, or may not be happening. So just know that as we work our way through this painful process, and try and -- to bring a resolution and improvement to it, that there are a lot of eyes on you. And there are a lot of eyes on how we're caring for the current victims that we have. And that we have an opportunity here to really do the best that we can to take care of them.

I've looked at some of these recommendations that have come forward, and I jut have a specific question on one or two of them, depending on how much time I have. One of the recommendations was 819, which says shorten the MTI tour length to a maximum of three years. And do not allow follow on special duty assignments. Were the MTIs that were perpetuating these crimes, or assaults against the victims there for a longer period of time? Did they have a longer service rate in their -- in their position that they held? Is that why this recommendation has been accepted?

RICE:

We did have some that were there for longer than three or four years. Typically you won't serve as a military training instructor for that long. You'll move on to a supervisory position. So that recommendation is less about serving as a military training instructor, than it is consistent participation in the whole process. So the idea is you serve one, and then you move on to something else.

NOEM:

My concern was, I read this and I assumed that some of the perpetuators potentially were in these positions too long? And that maybe the climate within that position as they were there for a long period of time, developed a -- an attitude, or an environment where they felt as though it was more acceptable the longer they were there. That's -- I guess that's the answer that I'm looking for is, there's no consistency on length of time in that position from the perpetuators?

OK. Thank you for that. I appreciate that. I'll yield back, chairman.

MCKEON:

Gentleman, that concludes the questions we have for the first panel. Thank you very much for the -- for the work you're doing. And we'll excuse you and move to the second panel. Thank you.

CQ Transcriptions, Jan. 23, 2013

List of Panel Members and Witnesses

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REP. MARC VEASEY, D-TEXAS

WITNESSES:

GENERAL MARK A. WELSH III (USAF), AIR FORCE CHIEF OF STAFF

GENERAL EDWARD RICE JR. (USAF), COMMANDER, AIR EDUCATION AND TRAINING COMMAND

House Armed Services Committee Holds Hearing on Sexual Misconduct at Lackland Air Force Base, Panel 2

LIST OF PANEL MEMBERS AND WITNESSES

MCKEON:

Can we please clear the -- the witness table? We need to get the next panel up. Thank you. We have now -- what timing. We -- this is the call for our last series of votes for the day, but let's try to get as far as we can before we -- we leave.

We have on our second panel: David Lisak?

LISAK:

Lisak.

MCKEON:

Lisak, forensic consultant; Chief Master Sargent Cindy McNally, United States Air Force, retired, with the Service Women's Action Network; and Technical Sargent Jennifer Norris, U.S. Air Force, retired, from Protect our Defenders.

MCKEON:

Mr. Lisak?

LISAK:

(OFF-MIKE) thank you Mr. Chairman, Ranking Member Smith. And thank you to the committee for giving me this opportunity to speak to you this morning.

I'm a clinical psychologist, a researcher, and a forensic consultant. For the past 25 years, I've studied rapists, and I've treated and evaluated men and women who've suffered sexual violence. For the past 10 years, I've worked extensively with the four services of the U.S. military, and simultaneously, in the civilian sector, I've worked with dozens of universities across the United States, and numerous law enforcement agencies, and with state and local -- local prosecutors.

My extensive contact with both military and civilian institutions across the country provides me with a perspective on the problem of sexual violence that I would like to articulate to this committee.

Sexual violence afflicts all nations, and all societies. Societies are not distinguished by whether or not they have a problem of sexual violence, but rather by whether or not they actively and forthrightly confront the problem. The same is true for institutions within those societies.

It's perhaps a little ironic, given the testimony that you've been hearing today, but in almost every respect, the U.S. military is doing more to confront sexual violence than any other institution in the United States.

Nevertheless, despite their efforts, there are serious problems within the services that have either yet to be addressed, or yet to be fully resolved. It will require many, many years of sustained effort and commitment to resolve these problems, and therefore many, many years of sustained scrutiny by this committee, by Congress, more generally and by advocacy groups, some of which are represented here today.

However, the scrutiny and criticism of the military very often implies that its problems and shortcomings are somehow unique. In my opinion, this is not only grossly inaccurate, it also is a serious disservice to our country because it lets other institutions in this country off the hook. And in so doing, it puts the men and women in those institutions and communities at far greater risk of sexual violence.

Specifically, our universities have not confronted their problems of sexual violence with anything like the commitment shown in the services. There are a few exceptions, however, in no university have I ever seen the type of commitment from leadership, the comprehensive prevention efforts, the sustained efforts at tackling the very challenging problems that I've witnessed in the services.

Perhaps the most scathing criticism that the military has received has been focused on its shortcomings in prosecuting cases of sexual violence. Again, I believe that this criticism is necessary, however, our country would be well served if the criticism of the military's prosecution record was placed in the context of the civilian prosecution of sexual violence.

With rare exceptions, again, there are enormous problems with the prosecution of non-stranger sexual assaults in civilian jurisdictions. Non-stranger cases represent the vast majority of all sexual assaults. They are challenging cases to investigate and prosecute, and very few civilian jurisdictions have made the necessary efforts to train their staffs to competently and effectively take on these cases.

As a result, many non-stranger cases are inadequately investigated, and never even taken to a courtroom. Many local prosecutors fail to prosecute the types of non-stranger cases that military prosecutors are now increasingly taking to court.

The services are making efforts -- and you heard reference to some of these, this morning -- to increase the effectiveness of their criminal justice response to sexual violence. As just one example, and I think was mentioned already, the Army has developed a two week course to train investigators in state of the art techniques for investigating non-stranger sexual assault cases, and 440 investigators are now being trained each year.

This is an example of one of the much needed improvements that needs to be -- take place in the military's criminal justice response to sexual assault, but it will take time for these improvements to take hold and be felt. And there is much, much more work to be done. Improved training for investigators and military prosecutors must continue to evolve and it must be sustained.

The services must confront the problem of junior litigators handling complex sexual assault cases far too early in their professional development. Unhelpful biases and attitudes are still present among

some investigators, prosecutors, and commanders and these must be addressed through a process of culture change that has been -- as already stated -- will be a permanent process.

I hope that my testimony will not be taken here either as an apology for the military's handling of sexual assault, or as yet another criticism of its efforts. Based on my experience, working with the services, both very good and very bad things are still happening. This is the reality in an institution that is undergoing significant and meaningful change, and I suspect it will be a reality for some years to come. It is impossible to average these good and bad things. They are simply both true.

If the services sustain their efforts, if Congress continues to provide clear-eyed scrutiny, and crucially, if Congress provides the resources that the services need to sustain their efforts, I believe that the United States' Military will lead the rest of the country in demonstrating what it means to confront sexual violence honestly and with sustained commitment.

Thank you very much.

MCKEON:

Thank you.

Sergeant McNally?

MCNALLY:

Good afternoon, Chairman, and thank you members of the committee.

I sit before you today having experienced sexual assault in the Air Force from multiple perspectives. First, as a survivor of sexual assault when I was a young airman. Second, as an enlisted troop who has spent her entire career as an aircraft maintainer. And third, as a retired chief master sergeant who has supervised 1,500 enlisted troops as a maintenance group superintendent.

I have had direct dealings with all the personnel issues that come with supervising people in today's Air Force, and I'll be sharing that perspective with you today.

I enlisted in the Air Force in 1975, and was assigned to a WAF squadron, a Women in the Air Force squadron at Lackland Air Force Base. At that time, women trainees were segregated from men both physically and in our course curriculum.

Following basic training, I attended technical training at Chanute Air Force Base where I began my integration into the Air Force. It was there that I was sexually assaulted by two of my instructors. I reported the incident, believing that my leaders would handle it, and that didn't happen. I knew then that I would never ever report another sexual assault.

In fact a year later at my first assignment, I was sexually assaulted again. I did not report it, nor did I ever discuss either of these two incidences until after I retired, 28 years later, and was being treated for PTSD.

While many things have changed in the Air Force since I enlisted, the trauma of sexual assault has not changed. It feels like someone has reached into you and sucked the soul right out of you. It is traumatic. And it is ugly. And for those of us who have survived it, we do so because of our strength

and our will to overcome what could otherwise be a crippling episode in our lives.

I remain in the Air Force, proud of my service however, the reason I served far outweighed any single incident in my life. This was my choice. I also served alongside the nation's finest in an Air Force where honor, integrity, and service before self are a way of life.

MCNALLY:

Our job, as enlisted leaders, is to define the standard and make everyone absolutely understand that we have no problem removing anybody in the blink of an eye if they cross that standard. And maybe that's where General Rice and I somewhat disagree.

I believe the enlisted leaders are one of the most important people in the military to stop this epidemic.

To me, the sexual assault cases at Lackland demonstrate what happens when leadership fails. Basic training is where our sons and daughters are at their very vulnerable. The power that military training instructors or T.I.s have over airmen is perceived as absolute.

Turning young airmen -- young men and women from all over our country into airmen is a transformational process, where the T.I. represents the sole success of that transformation.

Turning to female leaders when assaults have occurred is not always an answer. The true yardstick for an effective leader has nothing to do with their gender. I have worked with many men who have set a stringent work environment where all airmen are free from harassment and a threatening workplace.

NCOs in the chain of command have an overarching duty to take care of their troops. Doing what is right is genderless.

I have followed closely the recommended actions in the midst of Lackland's disgrace, and I've discussed some of these with SWAN. And I've had the privilege of talking to General Woodward. And I applaud her for her efforts in looking into these issues.

I believe the following steps that are being taken will have a positive effect on the training environment at Lackland. I agree we should increase the number of female MPIs to at least the percentage that they are in the Air Force.

All basic training students should be exposed to both male and female NCOs. This is, after all, who will be leading them.

Increasing instructor-to-student ratio is an absolute must. I was shocked to find out that the T.I.-to-student ratio was roughly the same as when I went through basic training 35 years ago. A reasonable student-to-instructor ratio is education 101.

I also agree with the requirement to raise the rank of MTIs. Technical sergeants and master sergeants are seasoned leaders, and have a good deal of experience in deterring, identifying and taking action.

However, involuntary T.I. assignment didn't work before, and it won't work now. I have had troops who viewed T.I. duty as the death knell for their career.

That needs to change to attract the type of people suited to train our next generation of leaders. Incentives to attract the best of the best are the answer, not non-voluntary duty assignments.

Additionally, I do not believe women should be segregated. We train as we fight, one team.

Segregation in training did more harm than good in attempts to integrate us into the Air Force. We want to be viewed as airmen first, and you cannot do that coming from a segregated unit. Our own history with racial integration should tell us that.

For larger solutions, we need to look at integrating women completely into the armed forces. Remove the combat exclusion policy. Then we will be a fully integrated force. Being able to do the job should be the standard, not whether you are male or female.

I believe that as leaders we took our eye off the ball. We enabled a climate where our troops became vulnerable. And we can train and train, but in the end it is about leadership. We draw the line on what is acceptable behavior, define it and enforce it. I don't believe we can legislate leadership, but we can certainly have you hold our leaders responsible and legally liable for the welfare of their troops. That's an absolute must.

In the maintenance career field, where all our leaders are passionate about doing what's right to protect our pilots while they fly, our leaders need to feel as passionate about protecting our troops as they do the flying mission.

You cannot minimize risk to zero, but leaders can and better make sure they're there to make the right decisions and do the right thing. Our troops demand nothing less.

Thank you, Mr. Chairman.

MCKEON (?):

The vote is just about at an end, and I have to recess the committee at this time to give everybody an opportunity to vote. We will vote and return. It will be, it looks like, at least a half hour.

Thank you.

(RECESS)

ACTING CHAIRMAN:

We will call the meeting of the House Armed Services Committee back to order.

Thank you for your understanding as we ran across to cast our votes. And I'm sure other members will be coming back shortly.

At this time we'd like to recognize Technical Sergeant Norris for her testimony.

NORRIS:

Thank you for having me.

I am Jennifer Norris. I'm an Air Force veteran, wife to my dear husband, Lee (ph), national advocate for the Military Rape Crisis Center and Protect Our Defenders advocacy board member.

Protect Our Defenders is a place for survivors to build community, amplify our voices, support one another and take collective action.

It is with heavy heart that I appear here. I speak not only for myself, but for the thousands of survivors whose lives were forever altered by this epidemic: a culture that punishes the victim in a broken justice system.

I want to recognize the servicemembers who have not survived due to murder or suicide and their families who are still waiting for answers.

Last August, I outside these doors with fellow veterans and survivors. We delivered a petition asking you to open an investigation into the Lackland scandal and its causes. There were 30 victims. Now there are at least 59.

Since August, the DOD estimates roughly 10,000 more men and women in uniform have been assaulted. We hope this hearing is the start of fundamental reform to remove bias, conflict of interest, and opportunity for abuse of authority that precludes justice.

We ask that this be the first in a series of hearings to fully explore the reasons Lackland and similar abuses are occurring and what must be done to prevent them.

As the San Antonio Express News put it, "congressional hearings look at the system failings that trials cannot and reinforce the concept of civilian oversight. Both are needed."

Core issues must be addressed. The committee should hear from current Lackland victims and from independent experts on issues of victim treatment in the military justice system. The cycle of repeated scandals, self-investigations and ineffective reforms must be broken.

Because no victims in the current scandal have been invited to testify, I will share one of their stories from the local press, quote: "A young Air Force recruit who said her basic training instructor sexually assaulted her testified, after two months of obeying his orders, she was frightened to protest his advances in a dark supply room.

"The defense asked the woman if she resisted Estacio's advances. 'I was too scared to,' she replied. 'Sometimes when somebody's too scared to talk does that mean that they want to do something?'

"A military judge found Estacio not guilty of sexually assaulting the trainee, allowing the instructor to face a maximum one-year prison sentence."

Her story is very similar to mine. When I joined, I was a 24- year-old, a small town girl with an idyllic childhood. Soon I was raped and assaulted by a superiors. Two of the predators pled guilty to sexual assault. They were honorably discharged with full benefits.

By not dealing with a culture that provide easy targets for predators, we are hurting our military and our society.

The predators often appear to be great troops, achieve high rank, are very charismatic and manipulative. But that is only part of the problem. The military justice system elevates an individual's discretion over the rule of law. Too often the commanders go-to solution is to sweep the problem under the rug and kick the victim out. Often, legislative reforms are inconsistently applied, unnecessarily encumbered, or just not implemented.

In my work as an advocate, it breaks my heart to see the same problems today that existed when I joined 16 years ago.

Sorry.

Thirty-nine percent of female victims report their perpetrator was of higher rank, and 23 percent report it was someone in their chain of command.

NORRIS:

The Air Force's Lackland report and previous reports indicate a failure of leadership. How many more times must Congress hear this before enacting fundamental reform? Why didn't the Air Force interview the victims to determine if they tried to report or feared reporting, and why?

According to the DOD's own data, 47 percent of servicemembers are afraid to report because of the reprisals that occur. This isn't just an Air Force problem. It is service-wide. Many secretaries of defense have declared a zero tolerance policy, yet recent actions challenge that notion.

In September, Secretary Panetta proposed the president sign an executive order which would have eviscerated the military's rape shield rule. In 2011, the military argued in court that rape is incident to service. Had I known this, that the military dismisses rape as an occupational hazard, I would never have joined.

According to the L.A. Times, in 1992 -- 1992 -- in response to the Tailhook scandal, quote, "Several lawmakers proposed stripping the armed services of their rule in probing sexual molestation cases." The deference and patience that Congress has shown the DOD has come at great cost to our servicemembers, our security, and ultimately our society.

Brigadier General -- retired Brigadier General Loree Sutton recently said, "The only credible solution is an independent special victims unit completely outside the unit chain of commander, under professional civilian oversight," and I agree.

I ask you, as our elected representatives, please -- please don't let this wait.

God bless our brave men and women in uniform.

ACTING CHAIRMAN:

I want to thank all of you for your testimony. And thank you, Tech Sergeant, for your courage to be here today and to tell us your story. Certainly, acts of sexual assault under any conditions are especially heinous, but when committed by those in position of power and under color of authority, they are especially reprehensible. And we certainly appreciate you taking the time to be here today.

This question is to Ms. McNally and Ms. Norris. The DOD and the military services have taken a

number of steps, albeit maybe not enough, to develop, assess and refine their respective sexual assault prevention and response programs. As individuals who are regularly involved with providing or coordinating care and other services for victims of these violent crimes, such as sexual assault, what do you consider to be the trademarks of a good response program?

I'll go to the chief first.

MCNALLY:

Thank you.

One of the first things that I think has been a big problem is understanding why we go unreported. And -- and I know -- I could see that the generals were putting their arms around this very same thing, trying to explain that. And I can tell you, speaking for myself and for some of the victims that I've supervised over the years, that they -- they don't report it because, number one, it is so traumatic. It is so ugly. And they know that it will be public knowledge.

And so the number one fear, no matter how compassionate you are, is that this will -- this will go out. And how could I have let this happen to me? You know, the men have the same response when they are sexually assaulted. So the number one thing is something very personal, very ugly, very traumatic is going to be public knowledge. That's one of the biggest fears.

The second thing is that it's a he said/she said. Unless you see evidence that commanders have removed -- removed from the service with consequences anybody who enables an environment that allows harassment to even start, then you have no trust in your system. You have to see evidence, you know, not whack-a-mole responses to whatever crisis comes up in the sexual assault thing.

And finally is the -- you know, we have the he said/she said, and then we have what -- everyone likes to use the word "accountability," and I think that's thrown around a lot. That just means we moved him to another assignment. They need to be responsible. They need to be held liable.

So these are basically the three reasons why people don't report sexual assaults. Until they understand that, they cannot present a viable sexual response, you know, a sexual assault response program in any place, whether it be in the Air Force or in college. I mean, that is the fundamental thing you've got to get your arms around and understand. They should not come to you. You should be out there talking to them, you know, talking to your troops. And commanders can't do that. The senior enlisted can do that. The commanders can't do that.

ACTING CHAIRMAN:

Thank you.

Tech Sergeant, anything to add?

NORRIS:

I provided you with my personal testimony to give you a little bit of background so that we didn't have to go into detail. But unfortunately, the rape and the three different other predators who assaulted me, it all occurred within the first two years of my career. And for those who have served in the military, you recognize quickly that rank does come with privileges, meaning when you're lower enlisted, you're that guy or girl.

And you're new to the institution, so you haven't been able to establish the credibility necessary to make a claim against someone that's been there for 18 years and appears to be the best friend of, or the right-hand man of the commander. You're stuck. If you want a career, you don't want to say anything because you get retaliated against. You get thrown out. You get beat up.

And that's what we need to stop. We need to remove the chain of command from the reporting process. It's absolutely detrimental to us being able to report safely. And if you think about it, it's actually good for the perpetrator, too, not that I stand up for them by any means. But a fair process would give -- be a fair process for both.

NORRIS:

So, think about it: commander, 18-year veteran, active duty guy, just -- just raped me. And I know he's your buddy and your best friend and he's had your back this whole time. I know I just entered, and I'm just a little old E-1, but just wanted to let you know, it doesn't work that way.

You're too scared to tell the commander. Because, first of all, it's alleged in every case, very much of a trigger for me.

Second of all, others start to think that, "Oh no, you've got to be careful around that girl, because she might just say that you, you know, you sexually assaulted her." So you almost become a leper. And because of the small community within a squadron, the rumor mill starts flying. The victim doesn't want to talk about what happened. They don't want to -- I -- I didn't want to tell anybody what happened to me, aside from the commander, because he was the only person I had to go to.

I wanted it kept confidential. I was ashamed. I was embarrassed. I couldn't believe that it happened, and -- and continued to happen and push me to the point where I was forced to report to prevent another rape. So this small squadron business, where they're putting the commanders in charge, I'm not saying every commander's a bad man, or -- or a bad woman.

You know, what I'm saying is that to put that decision-making authority in one person's hands, that's a lot to ask of, not only the commander, but also for the rest of us. You know, he decides one thing. I don't agree with it. What recourse do I have? None. So if they decide they don't want to believe you, have fun with that.

ACTING CHAIRMAN:

Thank you.

Dr. Lisak, based on your experience in both the military and civilian sectors, your view that the U.S. military is doing worse than civilian institutions when it comes to investigation and prosecution of sexual assault cases, and in your view, what are the areas in the military's response to sexual violence that need the most attention and improvement?

LISAK:

Well, it -- this is one of those things that is really impossible to average. There are several civilian jurisdictions that are doing quite good work in -- in both investigating prosecuting non- stranger sexual assaults, but they're really exceptions. By and large, it's a pretty bad picture.

Likewise, in the services, there are -- there's some good things that have started to happen in terms of

better training, both for investigators and for JAG officers. They're -- it -- it may be too soon to see much of the impact of that. I hear a little bit from -- I just did a training of -- of army JAG officers and have begun to hear them say that they are seeing better CID reports. That's encouraging. It's very anecdotal, but if you started hearing that more and more, that would certainly be encouraging.

The -- about three months ago, I consulted on a court martial. In it was, probably, an anomaly in that things went really well. Everything went well. Everybody did their jobs really well. What I value in that experience for is, it -- it told me that it's possible, that if you have both JAG officers and OSI agents and -- and -- and the judge, the military judge were -- are well-trained to understand the issues that this is a process that can be respectful to victims, can be respectful to the rights of the accused, and can handle even the complexities of the non-stranger sexual assault well. And -- and there was a good outcome. There was a, from my perspective, there was a conviction and a -- and a good sentence. So it's possible.

It's still, obviously, happening rarely. And -- and I would hope that if the training that has begun is sustained, that we'll see more of that. I also hope that if you see more of that, that some of what's just been described here is that we will begin to see incremental changes in the level of trust in the system, which would lead, hopefully, to more victims being willing to report.

Thank you.

ACTING CHAIRMAN:

Thank you.

Ms. Davis?

DAVIS:

Thank you, Mr. Chairman.

And -- and thank you all for being here. I'm sorry I missed the -- the first part of the -- of your testimony. But Tech Sergeant Norris, I -- I really appreciate what you said. Because, in many ways, you capture this incredible dilemma that we're facing.

And -- and if I may, Mr. Chairman, I just wanted to follow-up briefly, because I -- I had asked about what we were able to -- to capture really from the MTIs that were spoken to at Lackland. We had an opportunity to speak to several of the whistle-blowers. And they were very clear about what they felt should be the -- some key recommendations.

And I'm just disappointed. And I wanted to record this in the record, that the response came back about MTIs, generally. And I believe that the generals knew -- I -- I -- I think that they knew, and I, you know, have great respect, but I think that -- we were talking about whistle-blower MTIs, and, to our knowledge, they actually have stopped and spoken to (ph). And I think the people who were willing to come forward, because this very issue of, sort of, seeing through the good guys and being able to say, "Hey, you know, it's not all that it appears," which is what many of the victims grapple with.

I think we are doing a better job training prosecutors, and we've had an opportunity to -- to hear some of that evolution of the way that we do that. But it is still a big problem, and I -- I wanted to ask, because, I must say, I -- I have been reluctant to take this out of the chain-of-command, because everything else is in the chain-of- command. And for us to pull this out, in some way says, that we don't

believe our officers are capable of dealing with this issue.

So I wanted to just come back and -- and ask, of the -- you know -- testimony that we had, and I often think that it's better to go with this kind of testimony and then follow up, frankly, but to -- what -- what is it that you heard that was helpful that you think is -- is moving forward well? And what really was problematic? Because what we're interested here is what is the most effective. What will change the culture and change the ability of people to have any trust in it? So if you could respond to that, that would be helpful. And if you want to start...

NORRIS:

Yes, ma'am.

Are you talking about when I was listening to General Welsh and General Rice?

DAVIS:

Yes, if you would like to respond to that.

NORRIS:

I had a very difficult time listening to General Welsh and General Rice today, not only because of my own experience, but also because of what's happening to this day. This morning I got a call from a client that's in the Air Force that we're having issues with. So it's -- despite what General Rice and General Welsh are saying, which could very likely be very genuine, and they really do care, they're basically putting their trust in each individual commander to do the right thing. And, in my eyes, that means, "OK, Commander, you're judge, jury, and executioner. You make the decision."

And what's happening is our commanders, depending on who they are -- and even whether they're -- even, you know, schooled in this. I mean, it was hard for me to understand the whole thing, and I was a victim of it.

And what we're finding is that the commanders aren't always giving people the right information in addition to even dealing with (inaudible). So they're not saying, "OK. OK, maybe we need to contact OSI and do something about this." They have the ability to stop it right there just by saying a -- a couple things. All it would take is for a commander to say, "Well, this is alleged," or, "Well, it's a he-said, she-said," for a victim to pretty much fall apart and decide, "I don't trust you and I don't trust anybody, and I'm not doing anything with this."

Me personally, I'm a spitball. I'm a spitball of fire, and I fought back on every single thing. Because I knew that in America there's basic constitutional rights that include males and females. We are equal.

So why is it that commanders in the military are given this (ph) special position that in society we have civilian courts, we have the Supreme Court, we have the ability to appeal. We have all these different options available to us, but in the military we have one person that may or may not help you.

DAVIS:

If I may go to Dr. Lisak. From your experience as well, looking at this in a -- beyond -- beyond the military, what is your sense of this, again, in terms of pulling that out (inaudible) military accountability?

LISAK:

Well, I guess I have to preface what I say with a major caveat, which is I'm not an attorney and I don't view myself as anything close to an expert on -- on the military justice system. So this is purely from my own experience and just anecdotally.

I recognize that what's been very articulately (ph) posed here is a significant problem. And I think a solution has to be found to that. The -- the services are clearly trying to solve it with training. I'm not -- I don't have a crystal ball. I don't know whether in 25 years, if we can wait that long, whether that will work or whether in 25 years we'll have another hearing like this and be looking for another solution. I wish I could.

Because it's clear -- you know, even not being an expert I can -- I can tell that this is a major decision to make, and it can all kinds of repercussions, many of which we can't anticipate and some of which can be pretty harmful. So it's a serious decision to be made.

I guess, my only contribution could be -- could be that, yes, this is a very serious problem. And -- and what was, you know, sort of described so perfectly, that when you have -- you know, we all want victims to come forward. If they don't come forward, not only can we not provide them with the services we want, but we cannot go after those predators. And if the justice system can't work, nothing works.

And yet, we haven't earned their trust. And how do you earn their trust when the command structure -- is -- in a sense it's a very incestuous place. And you're asking victims to come forward to somebody who has a tremendous amount of power over them.

So how we resolve that? I don't know, and I don't want to pretend that I do, other than you're hearing that this is a serious problem that we have to find some solution.

DAVIS:

I know we have to move on. Did you have a comment -- (inaudible) would you want to respond to -- to this issue?

MCNALLY:

Well, I think the first thing we need to look at is a change in culture. I mean, we sent out -- one of the things that we did was we had the command directed (ph) look at for inappropriate material in the workplaces. That was directed by the secretary of the Air Force. What we didn't say, was you had notice and commanders ignored you? We found this much -- many material, and, generals, why did the commanders ignore you?

I mean, if you have a good grasp of the culture then why are they blowing you off?

You know (inaudible) start at the beginning. I mean, you know, I would have been down at the base (inaudible) commander. After a month's notice, he knew we were coming, and they had videos and inappropriate behavior.

We're not taking action on the existing issues that we have right now.

DAVIS:

Thank you.

ACTING CHAIRMAN:

Ms. Speier?

SPEIER:

Mr. Chairman, thank you.

Let me say to all of you, I really apologize for the fact that so many of the members had to leave, many of them having to catch planes and the like.

I would agree with Congresswoman Davis that it would have been appropriate to have you speak first so that it would have allowed for the generals to recognize what we're talking about here more specifically.

To you, retired Staff Sergeant McNally, you're absolutely right. There was an actual notice that went out into the Air Force, we're gonna come through, we're gonna see whether or not you've got sexual harassing documentation in your cubicle, on your computer -- not your -- by the way, not your laptop, but just the main servers.

And after a month notice, they collected 32,000 -- 32,000 inappropriate documents. So your point is well taken.

Mr. Chairman, I want to introduce one other victim who was not one of the -- or survivor, I should say -- was not one of those who testified. Jessica Hinves is here.

Jessica, would you stand up for a moment?

Jessica was an airman. She was raped. She reported the rape in 2009. So this is not an old case, this is a recent case. She was told that it was going to be investigated. It was going to go to court martial. Two days before it was going to go to court martial a new commander came into town, and that commander has the authority to dismiss the prosecution and ordered the court martial to be abandoned.

That's what's wrong with the system. Certain individuals have power that far exceeds what it should be. And if you can basically stop a court martial after all of that has taken place, you don't have the kind of independence to look at these cases. And that's what's so frustrating to many of us.

Thank you, Jessica.

Dr. Lisak, you spoke earlier and talked about your work with the military, and it's been over 10 years. And I got the impression that you were basically saying that, you know, things are looking pretty good. And while, you know, there's probably more work that should be done, it's better than it is in the civilian arena.

And so I'd like for you to just comment on that a little more specifically.

LISAK:

Sure. Thank you.

Well, I -- I'm sorry I gave you the impression that I think things are looking pretty good. Anything but. I was comparing the military's performance to the performance in the civilian sector, both the local district attorneys and our universities, sort of similar populations. And compared to that the military looks pretty good.

But that really is as much, if not more, a comment about how bad things are in the civilian world. I don't disagree with anything that's been said here in terms of the -- the -- the really profound problems that the services have.

I do see the services making efforts that I don't see in the civilian world. And I see little bits and pieces of evidence that some of those efforts are bearing fruit, and that gives me some hope.

SPEIER:

OK, let me ask you another question: You've done a lot of research and you have profiled sexual predators, if I'm not mistaken. Is that correct?

LISAK:

Well, I -- I studiously do not use the word "profile."

SPEIER:

OK. Well, you've -- you've studied them.

LISAK:

Yes.

SPEIER:

And -- and you've studied them in the military. And my understanding is that it's not unusual to have these individuals, who I will call sexual predators, be exemplary soldiers. And beyond being exemplary soldiers, being soldiers that also are very good at identifying targets that are ripe for the preying. Is that correct?

LISAK:

That's correct.

SPEIER:

All right.

So one of the things that happens in the military is you can have as a mitigating factor the fact that you

have good moral -- good military character. That's a mitigating factor.

So we can reduce -- even though this is a felony, even though this is a crime, if you've been an exemplary soldier, then we're going to reduce the sentence. Because we don't have sentence guidelines in the military either.

So I would actually disagree with you on a lot of counts, as compared to the civilian society, where we do have sentencing guidelines, where there is a rape crime (ph) shield law, and there is an appeal process, and where there's independence, none of which exists in the military.

But, knowing that, don't we have a greater obligation in the military to make sure that these individuals that prey on victims -- trainees in this case -- over and over again get taken out?

(CROSSTALK)

SPEIER:

I mean taken out of the military. I don't mean taken out in the...

(LAUGHTER)

LISAK:

Well, I certainly agree with you that the only solution -- if you have identified a predator and you have some kind of judicial process that the research is very clear that there's very little that can be done to rehabilitate predators and that for the protection of the community, whether it's the military or a university or the civilian community, these individuals have to be isolated from the community, basically.

SPEIER:

Thank you. My time's expired.

ACTING CHAIRMAN:

Ms. Duckworth?

DUCKWORTH:

Thank you, Mr. Chairman.

So, Dr. Lisak, the question I have for you is, in dealing in these situations -- you know, having been part of an air crew and -- and a tight-knit military unit myself, I find that the unit members know the -- the tendencies of individuals, so that when this person is being accused, it's not surprising.

They may be a great, upstanding moral character and a great -- they're, as we say -- used to say in the Army, "They're your high and tight soldiers." They're hard chargers.

But you know, because the same situation that gets you into a situation where you are protective of

one another and close knit also puts you in a role where you understand that, OK, I got to watch out for this guy.

Is there anything that has been changed by the rise of women in -- into higher ranks?

I was often, for example, the highest ranking female in my unit. And I found that it became my role to step in in other units as well. And I was often the only EEO officer.

So are you seeing some of those dynamics?

I'm not saying that -- that there are not great male officers who -- who act the way they should. But does that change the dynamic at all, to have more female officers who are trained?

LISAK:

This is a very anecdotal response to that.

DUCKWORTH:

OK.

LISAK:

Because this is my very limited experience with -- with, you know, the various services.

I think it helps, but I don't think it's something that can be relied on as -- as the fix, because the same sort of cultural dynamics that we've been talking about here all -- all morning, all into the afternoon, apply to women as well.

And -- and the forces, the pressures to conform, the pressures not to report, the pressures to be careful about who you say what to, can apply to women as well, and can silence women, even when they are in authority.

When you're in authority in the services, there's always somebody who's got more authority and more power.

So I think it is -- it's an improvement, and it -- and it helps, but it's not sort of a fundamental fix.

DUCKWORTH:

Thank you.

Sergeant Norris, would you like to add something?

NORRIS:

Yeah. I'd like to start by saying that oftentimes this issue gets turned into a male-on-female issue. And it's very important to note that 50 -- 56 percent of our victims are male. It is yet to be looked at and given the attention that it needs to.

And I want that on the record today, that this is not just a female issue, this is a predator issue.

And just to let you know, things are getting worse. In 2010 and 2011, commander actions on the ground dealing with sexual assault complaints have gone down 23 percent -- down 23 percent.

Court-martials, 2010, 2011, down 22 percent. Court-martial convictions, same years, down eight percent.

The DOD surveys find that 39 percent of perpetrators are of higher rank; 23 percent are in their chain of command.

So we're asking our people, our troops to turn to potential predators to report another predator, according to these statistics.

DUCKWORTH:

Thank you for -- for that. I did not know the -- you said 56 percent number?

NORRIS:

Yes.

(APPLAUSE)

DUCKWORTH:

That is good to know.

So my question to you then, Sergeant Norris, you obviously are -- are, as you said, a spitfire and are willing to stand up. Do you find many of your clients staying -- choosing to stay in, once they are given the tools? Or are any of them -- is there any way -- once they've gone through this process, and if there is a resolution that can be reached, is there any way to keep these amazing men and women that we've invested so much money into, so much effort into, who -- who then take this knowledge and help others as they go on in their career?

Or are they so hurt that they just don't -- want nothing to do with the military?

NORRIS:

That's a great question. On paper, all the sexual assault policies in the military, they're so pretty. They're beautiful. If they actually were implemented, that would be great! But they are not.

And we see it to this day. Since the passage of the Defense (inaudible) Act in 2011, we have been dealing with implementation issues, the entire time, because of people just straight up ignoring it, not wanting to deal with it, or just we don't have time for this, the mission's more important, beat it.

That's what we're seeing. The culture is getting more vicious. I don't know if it's because it's become so popular with Congress now, and that it's out in the media, but the stakes have been risen. So in

addition to getting rape, you're getting beat, you're getting threatened, and then we're having to fight with commanders on how to get this person off that base so they won't get prolonged PTSD.

So, no, right now we're not going to be able to save them, not with the system we have in place right now.

DUCKWORTH:

Mr. Chairman, I'm out of time. I just wanted to thank both Sergeant McNally and Sergeant Norris for your courage and leadership. We sure need a lot more like you.

Thank you.

(UNKNOWN)

Thank you.

MCKEON (?):

Likewise again, we want to thank you for taking time to be here this afternoon. (inaudible) you certainly (inaudible) sergeant (inaudible) your very compelling story, and for other witnesses for providing your expertise to the panel.

Seeing no other questions. The -- the meeting is adjourned.

CQ Transcriptions, Jan. 23, 2013

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