

Oversight Hearing on Sexual Assault in the Military

before the

Subcommittee on National Security and Foreign Affairs

House Committee on Oversight and Government Reform

**United States House of Representatives
Rayburn House Office Building
Room 2154**

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Written Statement

by

Mary Steiner Lauterbach

Chairman Tierney, Congressman Shays, members of the Committee, thank you for the opportunity to appear today to offer testimony on "Sexual Assault in the Military."¹

My name is Mary Lauterbach.² I live in Vandalia, Ohio, a small town to the north of Dayton, Ohio. With me is Merle Wilberding,³ a lawyer who represents our family and a former member of the Army's Judge Advocate General Corps. He has counseled us through the complexities of the military legal system and has helped me understand and develop ideas on helping victims of sexual assault in the military.

I want to acknowledge my appreciation for the support and kindness that Congressman Mike Turner (Ohio - 3rd) has given to me and my family throughout this difficult time.

I am the mother⁴ of Lance Corporal Maria Lauterbach, the pregnant Marine from Camp Lejuene who was murdered in December. The charred bodies of Maria and her unborn child were later found buried in a shallow fire pit in the backyard of fellow Marine Corporal Cesar Laurean. Six months before her murder, Maria had filed a rape claim against Cesar Laurean.

Because Maria is gone, I feel that I need to speak for her and tell you about her, and tell you about the things I believe Maria would fight for if she were here today.

Maria and her younger sister, Annie, were legally adopted when Maria was about eighteen months old. Maria and Annie were removed from their birth parents due to allegations of severe neglect -- at times they were left alone for eight hours at a time. Because of her difficult beginning, Maria developed strong separation anxiety from me. That separation anxiety continued throughout her life, not ending until the day of her death. During boot camp, Maria wrote me every day. Afterwards, when she was allowed to use a cell phone, she would call me three times a day, virtually every day.

While she was in high school, Maria encountered a Marine recruiting booth that offered a contest to see if anyone could sustain a chin-up for 60 seconds - Maria held up for 70 seconds. The recruiter was astonished and immediately pursued Maria to join the Marine Corps. Maria wanted nothing else than to meet the challenge of becoming a Marine.

¹ Neither I nor my counsel, Merle Wilberding, has received any federal grants (or sub-grants thereof) during the current or during either of the two previous fiscal years.

² 386 Poplar Grove Drive, Vandalia, Ohio 45377. My *curriculum vitae* is attached as Exhibit 1.

³ Attorney, Coolidge Wall Co. L.P.A., 33 West First Street, Suite 600, Dayton, Ohio 45402. The *curriculum vitae* for Merle F. Wilberding is attached as Exhibit 2. I would also like to acknowledge my appreciation to Christopher R. Conard for his support and legal analysis of the many issues confronting us.

⁴ As the mother of Maria Lauterbach, I have been appointed by Judge Alice O. McCollum of the Probate Court of Montgomery, County, Ohio, to be the Administrator for the Estate of Maria Frances Lauterbach. A copy of the Letters Testamentary is attached as Exhibit 3.

There is a video that has been posted on both the CNN website and the NBC *Dateline* website that shows Maria Lauterbach talking to the camera about her hopes and dreams:

*After high school I am going into the Marines,
so I'll probably be doing that for 20 to 25 years,
and then hopefully becoming a cop.*

In boot camp her love for the Marines was loud and clear. On June 18, 2006, she wrote a letter in which she said,

"I LOVE IT HERE."

Later, that summer in another letter, she passed on to her friend Josie this message:

*This might surprise you, but I find it enjoyable here
-- like the physical fitness is awesome. I love the
running, push ups, sit ups, and all the other stuff
that I'm sure you hate.*

After boot camp she really hoped she would be deployed to Iraq, but after an ankle injury she was reassigned to clerical duties with the direct report Service Company of the Combat Logistics Regiment 27 at Camp Lejeune, North Carolina.

I still remember the day that Maria called me about the rape. It was Mother's Day in May of 2007. She said, "Mom, I have been raped." I asked Maria what happened, and she said that she and a fellow "Marine were on duty together in a building during the night of April 10th and that he locked the doors and attacked me."

Maria told me that she did not want to report it because, in her view, if she reported the rape, "there would be hell to pay." I cautioned Maria, "If this is not true, you would be getting some else in trouble, and that would not be right. But, if it is true, you have to report it. It's your duty." Maria resigned herself to that duty, "Okay, Mom," she said, "I'll report it." The next day, May 14, 2007, she filed her rape claim.

By Maria's accounts to me, Cesar Laurean was charismatic and had a lot of friends in the unit. While Maria was fearless on the outside in terms of physical activity, Maria was very vulnerable on the inside. The combination of Laurean's popularity and Maria's vulnerability in the context of the culture of the Marine Corps made the next seven months a nightmare for Maria.

The rape turned Maria's life upside down. After the rape, she began to have problems functioning at work, coming in late, missing meetings, and being the subject of many acts of harassment and intimidation. It was precisely at this point that Maria needed support from the Marines.

- As a rape victim, she needed to attend a program that helped her understand that having those types of problems with work are common problems of rape victims.
- As a rape victim, she needed to attend a program that helped her work through those problems and enable her to be a contributing member of the Marine work force.

The absence of those types of programs -- and they should be mandatory -- is a critical reason why victims of sexual assault in the military have such a low rate of success in returning as valuable members of the military work force.

In late summer, her brand new car was keyed. I say "keyed," but it was really "screw-driven." It was a very deep gash that ran from the headlight to the taillight. This should have been a *Red Alert* to the Marines.

Within a few weeks of the first incident, as Maria was walking across the base one evening, someone called her name. When she turned around, she was sucker-punched by another Marine. It was dusk and she could not see his face and did not recognize his voice. This should have been a *Red Alert* to the Marines.

Instead of recognizing these incidents as *Red Alerts* that would trigger a higher level of protection for the rape victim, the Marines have discounted these events as "random" and "unrelated," even though she was under a military protective order at the time. That illustrates what I have observed about the military's treatment of sexual assault victims -- the burden is on the victim to protect herself, while the military waits for someone else to connect the dots to relate any incident to the sexual assault allegation.⁵

The Marines have also reported that at some point Maria had recanted the paternity of her baby Gabriel. I wonder about that. On several occasions Maria told me that she just wanted it to go away, primarily because the so-called investigation was dragging on and on and no one seemed to believe her.

I do know that she was ready to say anything to make it all go away -- even saying that Laurean was not the father. No matter how much pressure was applied, however, Maria steadfastly refused to recant her rape accusation.

Maria regretted reporting the rape, and, more than anything, I regret urging her to report the rape. If she had not reported the rape, both Maria and my first grandchild would be with us today.

⁵ In Maria's case, the Marines in their public statements always complained that no one gave "the command" any information that would trigger an investigation or even an effort to look for Maria. It seems like "the command" was always carefully limited in its definition so that it would not include (1) Maria's missing her OB/GYN appointment, (2) the finding of Maria's cell phone in the median strip of the main highway leading to Camp Lejeune, (3) Maria's allegedly recanting to the NCIS investigator her paternity claim (a classic symptom of rape trauma syndrome), or (4) the information I gave to the JAG officer who called me on December 21, 2007, complaining that my truant daughter was messing up her Article 32 investigation.

The last time I talked to Maria was at 2:30 pm on Friday, December 14, 2007. We talked about her upcoming baby. She was eight months pregnant and already a few centimeters dilated. I had planned on coming down about January 10th for the delivery of the baby.

Maria wanted me there in January, but she also wanted me to come down before Christmas. Maria loved Christmas and wanted to celebrate my birthday (December 23rd) with her. So, I said, "Alright, Maria, but that will be your only present." She was excited, and I told her that I would take her and any friends of hers to dinner. She said, "Good. I want to go to the Olive Garden restaurant."

She also told me that she "had to go" to this Christmas party that night and she was very upset because "he would be there." After again wondering about a MPO that would allow such contact, I told her that if she had to go, just go and make a brief appearance so she did not get into trouble with the Marines, and to call me when she got home that evening. Less than three hours later I received the call from her housemate, Marine Sgt Daniel Durham, who told me that Maria was missing. I never talked to Maria again.

One of the most troubling parts about Maria's murder is that the Marines received so many clues, so many **Red Alerts**, that should have put them on notice that they, the Marines, should have done more. From any objective view, when any of the following facts relating to a victim of a sexual assault takes place, there should have been an alarm bell sounding and the military service should have investigated whether there was any connection between the incident and the pending rape claim.

- On Tuesday morning, December 18, 2007, I called WO Wright and told him that there was something wrong, that Maria would not simply go "UA." WO Wright told me that there was "nothing I can do." I asked him, "Could you file a missing person report?" He said, "No, but you could," and he gave me the telephone number for the Jacksonville, North Carolina, Police Department.
- On December 21, 2007, I had a telephone call from a female JAG officer who informed me that she was a lieutenant colonel. We had the following conversation:
 - The JAG officer told me that my daughter "was UA, that she was a material witness in an Article 32 hearing, and that the case would fall apart if she did not show up."
 - I said to this JAG officer, "I am very worried that something bad has happened to Maria. Do you know that they found Maria's cell phone today in the median strip on the main drag going to Camp Lejuene?"
 - I went on to say, "Do you think there is any connection between her being missing and the rape claim? Do you know where this guy is?"

- The JAG officer retorted that “He’s accounted for.”
 - I responded, “Are you going to question him?”
 - The JAG officer then backpedaled and ended the conversation.⁶
- A day or two after Christmas, Maria missed her OB-GYN appointment
 - On January 4, 2008, I spoke with First Sergeant Jordan who was responsible for Maria. After I expressed my deep concern for Maria’s safety to First Sergeant Jordan, she responded by telling me that the Marines have no resources to search for missing Marines, even after they move from UA to AWOL or deserter status.
 - On January 4, 2008, I spoke with Megan Grafton, the NCIS investigator, and told her again of my concerns and the facts that had occurred that made me concerned. Her response to me was that Maria was in danger of being court-martialed.

Any one of those facts should have ignited a search by the Marines. The Marines should have the obligation to see if they could connect any of those facts to the underlying rape claim. Instead, in their public statements, the Marines have put the obligation on the victim to generate the evidence, to connect the dots. This is simply wrong and should not be tolerated. Look how the Marines explain away in their public Opening Statement any duty on their part to do anything:

At this point [January 4, 2008], the commander has no reason to believe LCpl Lauterbach is not voluntarily UA. There is no evidence she has been the victim of foul play, and though her mother’s concerns has intensified, there is still no indication that something has happened to LCpl Lauterbach. The command still has not received any information concerning recovery of her cell phone⁷ or of the suspicious activity on her ATM account. Cpl Laurean has not been implicated in the absence in any way.⁸

⁶ I later attempted to find out the name of this officer. When I spoke with Colonel David Smith, the commander of Maria’s unit, he told me that the officer was no longer on base and never gave me the name or any contact information.

⁷ I told the female JAG officer on December 21, 2007, about the cell phone recovery. The Opening Statement proclaims that “the command” had no evidence of the cell phone recovery. It is not right for the Marines to parse between this Marine command an NCIS investigator, a JAG officer, or an OB-GYN clinic. The Marines need to put a system in place to connect those dots. It is especially important – and may literally be a matter of life and death – that those dots be connected.

⁸ Opening Statement on January 15, 2008, by Lt. Colonel Curtis Hill, Public Affairs Officer, 2nd Marine Expeditionary Force, Camp Lejeune, North Carolina.

In other words, the Marines would not and did not do anything unless someone gathered the evidence and handed the evidence to "the command,"⁹ presumably on a silver platter. I believe the Marines should have a greater obligation to connect the dots in the case of a victim of a sexual assault. When anyone of those events happen, there should be an affirmative effort to see if there is a connection the event and the rape claim.

As a family, the Marines have been wonderful. I cannot tell you how many present and former Marines have come to me in tears, sharing their own grief with me. This happened at the visitation, at the funeral, and at the Memorial Service at Camp Lejeune on February 28th. The Memorial Service was simply extraordinary in its compassion and inspirational patriotism. All of that has been a real source of strength for me.

As an institution, the Marines have been disappointing, very disappointing. I remember so clearly our telephone conversation with Colonel Gary Sokoloski, the Staff Judge Advocate, and Lt. Colonel Curtis Hill on January 15 when they read to us their Opening Statement,¹⁰ immediately before they released it at their press conference. There were so many things that were inconsistent with what Maria had told me, omissions of many important details such as Maria's attacks on base that were not perceived as threats, and several facts that I know to be true were contradicted by their public statements.

I felt then, and I feel now, that their public statements have been all about protecting themselves with no self-analysis as to whether their judgments and procedures could have better protected Maria or whether they could have done a better of job maintaining custody and control over Cpl Cesar Laurean. Instead of uttering a *mea culpa*, it seemed like the Marines were saying *Maria culpa*.

The real concern I have with the Marines' Opening Statement and then its follow up response is that its judgments and procedures seem to ignore the emotional symptoms shown by rape victims - - self-doubt, guilt, loss of trust, and a diminished capacity to be a productive person in the Marine Corps.

The Marines did not provide Maria with adequate support to understand and work her way through the traumatic ordeal of being a rape victim and having to live for more than six months with the accused and his friends. The Marines did not pro-actively provide adequate protection against the risks that came with that environment. Even if the Marines had one nothing more than transfer her to another base, Maria and her baby would be alive today.

Many of the behaviors the Marines are now citing as justifying their failure to protect Maria are behaviors that are common among rape victims. Many of these behaviors are counter-intuitive, behaviors such as reluctance to report, recanting, expressing a desire to absolve the accused.

⁹ It is also interesting to note that their public statement always focuses on "the command" which thereby eliminates information other Marines (e.g., NCIS, JAG, OB-GYN) had outside "the command."

¹⁰ The Opening Statement is attached as Exhibit 4.

When you really look at the facts, Maria was behaving like a rape victim, and now the Marines are using those things to chip away at Maria's credibility and justify their failure to protect her. If that is the end of the story for Maria, I fear it will also be the end of the story for other rape victims in the future. We need changes in how the military treats victims.

Something that really shocked me was the number of stories I heard from former Marine women who had also suffered sexual assaults and shared their stories with me. The stories were painfully familiar: No one believed them, there were threats of disciplinary action against the victim, and there was harassment and intimidation from fellow Marines. Each one of them could have been Maria sharing her experiences with me. The most prevalent sentiment that was shared was a very real fear of the consequences of daring to report a rape.

In addition to those people who have contacted me during the last six months, my counsel has been contacted by more than a dozen families and support groups. All of them were seeking specific help for women in the military who have been sexually assaulted. The stories have been virtually identical – the complaining victim becomes isolated, taunted, and tormented. She was not guided or directed to appropriate support programs, she does not feel protected from her assailant, and she found herself treated as the guilty party, not the victim.

The security and safety of all of these victims, including Maria, was punctured by the hard realities of being a victim of sexual assault in the military. They all report that the military does not believe them, that they live in fear of harm from the perpetrator, and that they are in fear of harassment and intimidation from the rest of the unit.

After *NBC Dateline*¹¹ aired a program on Maria's case, my counsel received a telephone call from a mother who had watched the program. Her twenty-year-old daughter was a member of the military and had just made a sexual assault claim. Now she feared for her life. When she asked for a military protective order, her first sergeant told her that it would be of no value, because, in her view, if her assailant wanted to kill her, the MPO would not stop him. She was threatened with her own court-martial if her story did not hold up. She was obligated to stay in the same unit with the alleged attacker and was haunted by his presence. She did have a military victim advocate assigned to her, but the victim advocate told her that there was not really anything she could do.

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

All of these families have spoken out of desperation and fear, desperation because no one could help them and fear that their daughters would be physically harmed or emotionally traumatized. Like Maria, these victims had been threatened with court-martial,

¹¹ The hour-long program was aired on NBC Friday evening, June 6, 2008, at 9:00 pm (E.D.T.).

administrative reprimands, or in some cases being drummed out of the service. One mother said that the only difference between her daughter and Maria Lauterbach was that her daughter was still alive.

I believe that Maria would be alive today if the Marines had provided a more effective system to protect victims of sexual assault, a more effective support program, and a more expeditious investigation and prosecution system. I also believe that if other parents would become aware of the myriad of stories about sexual assault in the military and the consequences to the victims, no one in their right mind would allow their daughters to enlist in the military. It is time for Congress to act. It is time for the military services to improve the protection of its members who have been victimized by sexual assault.

There are things that I believe can be done to change how the military treats its sexual assault victims. We need changes that will provide better programs that will pro-actively help future victims of sexual assault, and not put the burden on the victim to connect the dots, not put the burden on the victim to generate the evidence for the military, and not put the burden on the victim to protect herself.

Specifically, I believe the military needs

- More effective security measures,
- More effective victim advocates,
- More, and more effective, programs for sexual assault victims, and
- More expeditious prosecutions.

By more effective security measures, I mean that there should be an absolute right to base transfer.

Maria had a series of military protective orders¹² issued that related to her and to Cesar Laurean. There were lapses in these military protective orders. More troubling is that the Marines seem to discount, after the fact, that they had any concern for the safety of Maria. Their public statements emphasize this point: "The MPO was established to

¹² The Marines define a military protective order as follows: "A non-punitive order imposing conditions upon a service member to maintain the safety and protection of another person. An MPO does not preclude disciplinary action under the Uniform Code of Military Justice nor does it preclude the issuance of a civilian protection order." <http://www.usmc-mccs.org/victimadv/domestic/MPO%20signed.pdf> See also Major Marshall L. Wilde, "Incomplete Justice: Unintended Consequences of Military Nonjudicial Punishment," 60 AIR FORCE LAW REVIEW 115 (2007); Cf., Major Joshua M. Toman, "Note from the Field: Official Federal representation Against State Restraining Orders following the Armed Forces Domestic Security Act of 2002, ARMY LAWYER 26 (2007)

preserve the integrity for the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach.”¹³

I also mean that military protective orders should create absolute physical separation and not just mandate separation between the individuals. MPO's cannot have formal or informal exceptions that ending up requiring the two individuals to be in (a) formations together, (b) to be in the mess hall together, (c) to be in safety meetings together, or (d) to be at Christmas parties together. Military protective orders should automatically be put in place, should be self-renewing, and notice should be given to civilian authorities.

By more effective security measures, I also mean that the victim should not have the burden to connect the dots between incidents of harassment and the rape claim and the victim should not have the burden to generate evidence for the command

By more effective victim advocates, I believe we need a study of the effectiveness of victim advocates in the military compared to victim advocates in the civilian society.

Based on my observations, my conversations with my daughter,¹⁴ and our conversations with numerous victims and mothers of victim,

- I do understand that there are military victim advocates in the Marine Corps and in all of the military services, and that they undergo a special training course.¹⁵
- A study of the effectiveness of victim advocates in the military compared to victim advocates in the civilian society. It has been our experience that victim advocates in the civilian world are far more pro-active in protecting the victim, sometimes suggesting and other times pushing protective measures or rehab programs.

¹³Opening Statement on January 15, 2008, by Lt. Colonel Curtis Hill, Public Affairs Officer, 2nd Marine Expeditionary Force, Camp Lejeune, North Carolina.

¹⁴ My daughter did have a military victim advocate who came up to me after the Memorial Service on February 28th and gave me her condolences. At lunch that day, we asked Colonel David Smith, the commander of Maria's unit, for the name and contact information for Maria's military victim advocate. He assured us that we would get it and that we should just ask Megan Grafton, the NCIS investigator, for that information when we met with her after lunch. We did meet with Megan Grafton. She assured us she would give it to us, but when the meeting broke up, she said it was "upstairs" and that she would send it to us by email. When the information did not arrive after one week, we called Megan Grafton, and she never returned our call.

¹⁵The Marines have its "Understanding Sexual Assault" training program in both a Power Point presentation and an html presentation posted on the Internet. The discussion is appropriate, but I wonder at its application. The Power Point presentation itself says the right things, but it needs to be done in the field. [http://64.233.167.104/search?q=cache:gCgpS2H_etgJ:mcdetflw.tecom.usmc.mil/MarCorDet%2520Equal%2520Opportunity%2520Program/Sexual%2520Assault%2520Prevention%2520%2520Student%2520Version%2520\(Sgt%2520Bailes\)%2520TVT.ppt+usmc+uniformed+victim+advocate+training&hl=en&ct=clnk&cd=1&gl=us](http://64.233.167.104/search?q=cache:gCgpS2H_etgJ:mcdetflw.tecom.usmc.mil/MarCorDet%2520Equal%2520Opportunity%2520Program/Sexual%2520Assault%2520Prevention%2520%2520Student%2520Version%2520(Sgt%2520Bailes)%2520TVT.ppt+usmc+uniformed+victim+advocate+training&hl=en&ct=clnk&cd=1&gl=us)

- Too many victim advocates are victim listeners. I have had victims tell me that their military victim advocates have been very understanding, very nice, but in the final analysis are unable or unwilling to do anything.
- Victim advocates need to be more pro-active. It seems that the military victim advocates may list options, perhaps even list good options for the victim, but then put it back on the victim, making them decide. It is at these most critical times -- when the victim is most vulnerable -- that the victim advocate must act. It is important to remember that these victims are often 18 to 21 years old and at this point feel very vulnerable, very much alone, and incapable of making good decisions.
- Victim advocates need to be guiding and directing victims along the way
 - All too often victims are young, isolated and traumatized.
 - They need guidance both in handling the investigation and in regaining a sense of control over their work and personal lives.
- Victim Advocates need clear authority to act independent of the command

By more effective programs, I mean that the military needs to actively enroll victims into proper trauma treatment programs, education programs, and re-hab and re-training programs. I know -- and I have seen the Marines' Power Point program -- the Marines acknowledge the effects of "Sexual Assault Trauma Syndrome," but I do not believe it is effectively practiced in the field. My own conversations with Maria and my conversations with other mothers and other victims have convinced me that the day-to-day culture and live style gives little or no credence to the debilitating effects of rape trauma syndrome. Consequently, I think there should be a study on the impact of rape trauma syndrome¹⁶ on the victims' lives and job performance.

Finally, I believe there must be more expeditious investigations and prosecutions. More than six months had passed from date of Maria's complaint to her death. This is simply unacceptable. This delay is not fair to the victim. It is not fair to the accused. For both of them the charges loom above them and hold their lives in suspense. At the same time, the delay accentuates the frustration of the victim, and it continues the understandable uncertainty for the accused.

I believe that the longer the "investigation," the longer will be the period of isolation and intimidation. One of the major frustrations that Maria incurred was that she believed that the investigation was not going anywhere. She filed her complaint on May 14, 2008. When she was murdered six months later, the complaint was still pending. No Article 32 hearing had been held. In many ways, this was a simple claim. It was either valid or not

¹⁶ T. S. Nelson, FOR LOVE OF COUNTRY: CONFRONTING RAPE AND SEXUAL HARASSMENT IN THE U. S. MILITARY (Haworth Maltreatment and Trauma Press 2006).

valid. The passage of time only lessened the value of evidence while it its delay festered in the mind of Maria, and perhaps was festering in the mind of Cesar Laurean.

I understand that the military currently takes DNA samples of all new members of the armed forces as a part of a program that initially restricted its use to the identification of remains, but now may be used in very restricted instances for law enforcement purposes.¹⁷ I also understand that there are legal arguments of constitutional privacy against the unrestricted use of DNA data. However, I believe that the military should authorize the use of DNA data in the same way the use of fingerprints is authorized in criminal investigations, or at least be authorized to use DNA data in felony investigations¹⁸ under more permissible circumstances than is presently permitted.¹⁹ If it is permissible to use fingerprint records as part of any investigation, it should be permissible to use DNA records as a part of any investigation.

Maria will always be a hero to me. She was a proud Marine. She had the courage to report a rape by a fellow Marine, a Marine who was very popular in their unit. After months of harassment and frustration, she paid the ultimate price.

There are many other victims of crime who have left the military, but who might still be productive, contributing members of the military if they had received adequate support and protection during their times of need.

Our country is committed to an all-volunteer military. To continue to attract women to the military,²⁰ the military must demonstrate that it can protect them when they have been victims of sexual assault, that it can rehabilitate victims and return them as productive members of the military work force, and that the investigations provide the respect for victims that they already provide for the alleged perpetrators.

I am here today to ask you to do what you can to help - - to change how the military treats victims of crime and to ensure that victims receive the understanding, support, and protection that they need and deserve.

Thank you for your time and attention.

Mary Steiner Lauterbach

¹⁷ 10 U.S.C. §1565 *et seq.*

¹⁸ *E.g.*, Patricia Ham, "An Army of Suspects: The History and Constitutionality of the U.S. Military's DNA Repository and its Access for Law Enforcement Purposes," 2003 ARMY LAWYER 1 (2003); Sarah Gill, "The Military's DNA Registry: An Analysis of Current Law and a Proposal for Safeguards," 44 NAVAL LAW REVIEW 175 (1997);

¹⁹ 10 U.S.C. §1565 *et seq.*

²⁰ Just a few months ago, the Marines announced with great fanfare a major outreach to attract women to enlist in the Marine Corps. "Sending in the Marines (to Recruit Women)," Douglas Quenqua, New York Times, April 21, 2008, attached hereto as Exhibit 5.

Mary S. Lauterbach

Current Position Assistant Director of Donor Relations
University of Dayton, Dayton, Ohio

Prior Experience Fund-Raising Consultant - February 2006 to February 2007
St. Christopher Parish, Vandalia, Ohio

Business Manager - September 1999 to June 2005,
Our Lady of Mercy Parish, Dayton, Ohio

Business Manager - September 1993 to May 1999,
St. Christopher Parish, Vandalia, Ohio

Trust Officer - July 1985 to June 1989, Key Bank, Dayton, Ohio

Branch Manager - June 1981 to July 1985, Bank One, Dayton, Ohio

Education University of Dayton, Dayton, Ohio
Master of Arts in Theology 1993

University of Notre Dame, South Bend, Indiana
Bachelor of Science in Business 1981

Merle F. Wilberding

Merle F. Wilberding
1013 Rubicon Road
Rubicon Mill
Dayton, OH 45409-2506
937-226-1029

Coolidge Wall, LPA
33 West First Street, Suite 600
Dayton, OH 45402-1289
937-449-5772
wilberding@coollaw.com

Professional Background: My primary career has been as a practicing lawyer, although my interests and pursuits have included a broad range of topics. During the Vietnam War I served as a Captain in the U. S. Army Judge Advocate General's Corp and represented the government in the briefing and arguing of appellate courts-martial hearings, including *United States v. Lt. William L. Calley* ("The My Lai Massacre") and *United States v. Rowland* ("The Presidio Mutiny"). In private practice I started as an associate with Arent, Fox in Washington, D.C., before moving to Dayton in 1973 when I joined Coolidge Wall, a legal professional association, in Dayton Ohio. I am admitted to practice in Ohio, Iowa, and the District of Columbia, as well as the United States Supreme Court.

- Juris Doctor University of Notre Dame (1969)
- M Library & Information Science. University of Wisconsin-Milwaukee (2006)
- LL.M. (Taxation) George Washington University (1972)
- M.B.A. University of Dayton (1975)
- B. A. St. Mary's University (Minnesota) (1966)
- Additional Study University of Oxford, England (2001)

What Everyone Needs to Know About Law (1971), written for U S News & World Report

Bobsleds & Farmsteads (1998) --- A book on rural Iowa from 1890 -1950

150 Years of Cool Law (2003) -- A book on the history of Dayton and our law firm

Dumplings & Doughnuts (2004) – A book of annotated illustrated family recipes

"My Lai 40 Years Later: What Really Happened in Pinkville?" VIETNAM MAGAZINE
Pages 28 - 35 (April 2008)

"Tax Consequences of Shareholder Guarantees: There's Still Hay in *Tulia Feedlot*," 6
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http://taxprof.typepad.com/taxprof_blog/2006/04/wilberding_on_t.html and reprinted in
The Monthly Digest of Tax Articles 41 (October 2007).

"The Progressive Penal System at the United States Disciplinary Barracks," 31
FEDERAL BAR JOURNAL 44 (1972).

"New Speedy Trial Guidelines Promulgated," 2 ARMY LAWYER 1 (February 1972).

PROBATE COURT OF MONTGOMERY COUNTY, OHIO

ALICE O. MCCOLLUM, JUDGE

ESTATE OF Maria Frances Lauterbach aka Maria F. Lauterbach, DECEASED
CASE NO. _____

2008 EST 00359

ENTRY APPOINTING FIDUCIARY; LETTERS OF AUTHORITY

[For Executors and all Administrators]

Name and Title of Fiduciary Mary S. Lauterbach

Administrator

On hearing in open Court the application of the above fiduciary for authority to administer decedent's estate, the Court finds that;

Decedent died [check one of the following] testate - intestate - on December 16, 2007
domiciled in Vandalia, Ohio

[Check one of the following] Bond is dispensed with by the Will - Bond is dispensed with by law -
Applicant has executed and filed an appropriate bond, which is approved by the Court; and

Applicant is a suitable and competent person to execute the trust.

The Court therefore appoints applicant as such fiduciary, with the power conferred by law to fully administer decedent's estate. This entry of appointment constitutes the fiduciary's letters of authority.

FEB 20 2008

Date


PROBATE JUDGE
Alice O. McCollum

FILED
PROBATE COURT
2008 FEB 20 P 1:43
ALICE O. MCCOLLUM
PROBATE JUDGE
MONTGOMERY CO OH

CERTIFICATE OF APPOINTMENT AND INCUMBENCY

The above document is a true copy of the original kept by me as custodian of the records of this Court. It constitutes the appointment and letters of authority of the named fiduciary, who is qualified and acting in such capacity.

ALICE O. MCCOLLUM

Probate Judge / Clerk
Alice O. McCollum

[Seal]

by _____

FEB 20 2008

Date

OPENING STATEMENT

Good afternoon ladies and gentlemen, my name is Lieutenant Colonel Curtis Hill and I'm the public affairs officer for the 2nd Marine Expeditionary Force, or II MEF as we refer to it, here at Camp Lejeune. I'm joined here by Colonel Gary Sokoloski, the Staff Judge Advocate for II MEF, and Special Agent in Charge Paul Ciccarelli from the Camp Lejeune field office of the Naval Criminal Investigative Service.

First, on behalf of the Commanding General of II Marine Expeditionary Force, we wish to offer our deepest sympathy and our heartfelt sorrow to the Lauterbach family and their friends for the loss of their daughter, Maria, and their grandchild. It is our hope that they will find strength during these tragic times. We, her Marine Corps family, miss her and we join the family in mourning her. Our thoughts and prayers continue to be with them.

Second, I want to thank you for your patience as we within II MEF and our subordinate command, 2d Marine Logistics Group, worked to collect information and conduct a review to determine what information was available to commanders and when that information was available in relation to the tragic events involving Lance Cpl Lauterbach and Cpl Laurean. Additionally, we collected information and reviewed actions taken as a result of information becoming available. We are now in a position to provide information to you that we are confident is accurate and will not adversely impact ongoing investigations or possible future judicial proceedings.

I will provide you a statement that will, within the limitations of what I can provide, lay out a timeline for this tragic case. I'd ask that you hold questions till the end of the statement. At that time, I'll open the floor for questions.

I will begin with some background information on the two Marines:

LCpl Maria Lauterbach was born in Orange City, Florida. Her home of record when she joined the Marine Corps in July of 2005 was Vandalia, Ohio. She graduated from Boot Camp in September of 2006 and was trained as a Personnel Clerk. This was her first duty station after completing her required training. She had not deployed in support of the Global War on Terrorism. She was promoted to Lance Corporal on February 1st, 2007, and her record indicates she was a solid Marine.

Cpl Cesar Laurean was born in Mexico and is a naturalized American citizen. His home of record when he joined the Marine Corps was Las Vegas, Nevada. He graduated from Boot Camp in December of 2004 and was trained as a Personnel Clerk. This was his first duty station after completing his required training. He had not deployed in support of the Global War on Terrorism. He was meritoriously promoted to Corporal on September 2nd, 2006, and his record indicates he was a stellar Marine.

On May 11th, 2007, LCpl Lauterbach confides in her Officer-in-Charge two incidents of a sexual nature with Cpl Laurean. After some initial discussions, the command's Uniform Victim Advocate meets with LCpl Lauterbach and explains the Victim

Advocate Program to her. The UVA takes LCpl Lauterbach to the Naval Criminal Investigative Service office aboard Camp Lejeune to file a formal complaint. LCpl Lauterbach reports to NCIS an alleged sexual encounter with Cpl Laurean on March 26, 2007, and a second encounter approximately two weeks later. LCpl Lauterbach alleged she had been raped by Cpl Laurean. The command's UVA accompanies LCpl Lauterbach to the medical department for a medical exam. Due to the length of time that elapsed between the alleged assault and the complaint, a forensic examination, or rape kit, is not performed. However, a "Well Woman" exam is performed to include a pregnancy test. The pregnancy test result is negative.

NCIS opens a rape investigation.

On May 12, 2007, the company commander of both LCpl Lauterbach and Cpl Laurean provides a verbal order to Cpl Laurean not to initiate any contact or communication with LCpl Lauterbach and stay a minimum of 1000 feet from her. Additionally, LCpl Lauterbach's UVA accompanies her to the Family Service Center for victim counseling. Both individual and group counseling are offered to her.

Also on this date, the regimental commander reassigned LCpl Lauterbach to a duty office building geographically separated from Cpl Laurean, basically across the base from each other. The commander deemed it appropriate to move LCpl Lauterbach as her new duty location co-located her with her Uniform Victim Advocate.

At this point, there have been no charges preferred, the evidence did not contain elements of force or threats, and there were no indications Cpl Laurean was a flight risk. The regimental commander considered these factors and Cpl Laurean's military character and decided pre-trial restraint was not appropriate.

On May 18th, 2007, NCIS interviews Cpl Laurean and he denies any sexual contact with LCpl Lauterbach.

On May 24, 2007, the company commander follows up the verbal order of May 12th, with a written Military Protective Order effective through June 24th. The MPO was established to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach.

From June 19th through June 24th, LCpl Lauterbach takes annual leave to parents home in Ohio. Upon returning from leave, LCpl Lauterbach behaves normally and displays no anxieties or unusual behavior.

On June 25th, 2007, the company commander re-issues a written Military Protective Order effective through September 24th. Again, the MPO is renewed to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach. Additionally, there is no indication LCpl Lauterbach and Cpl Laurean have been in contact in any way.

On June 27th, 2007, LCpl Lauterbach is ill and seeks medical attention. She is administered a pregnancy test. The result of the test is positive with medical personnel estimating the conception date as 14 May 2007. LCpl Lauterbach's UVA calls NCIS to report the pregnancy. LCpl Lauterbach goes to NCIS to make a statement regarding her pregnancy and belief that Cpl Laurean is the father as a result of the alleged rape.

From July 11th through July 26th, Cpl Laurean takes annual leave. He returns as expected and behaves normally afterwards.

During the summer months, both Marines perform their daily jobs; participated in two long liberty periods, Independence Day and Labor Day that both returned from on time, and there are no indications of contact between LCpl Lauterbach and Cpl Laurean. Additionally, the NCIS investigation continues.

On September 17, 2007, LCpl Lauterbach requests permission from her command to move into off-base housing in order to prepare a home for her and her expected child. This is common practice for Marines who are about to go through a life changing event, for example a marriage or having a child.

On September 20, 2007, the regimental commander issues a written Military Protective Order effective through December 23rd. The regimental commander issues this MPO because the company commander is on annual leave and unavailable. Again, the MPO is renewed to preserve the integrity of the investigation and developing case, it was not based on any perceived threat towards LCpl Lauterbach. Additionally, there is no indication LCpl Lauterbach and Cpl Laurean have been in contact in any way.

From September 26th through October 2nd, LCpl Lauterbach takes annual leave. She returns as expected and no unusual behavior is observed.

On October 18, 2007, NCIS recommends no disciplinary action be initiated on the alleged rape until forensic evidence DNA can be retrieved from the child. Cpl Laurean denied having any sexual contact with LCpl Lauterbach and this was believed to be significant evidence.

On October 22, 2007, the regimental commander submits a request for legal services requesting prosecutors review the investigation and provide a recommended Course of Action with an eye towards an Article 32 investigation. An Article 32 investigation allows for witnesses to testify under oath and subject to cross examination. An accused is present and represented by counsel.

On October 23rd, trial counsel discusses the case with the regimental commander.

On October 31, 2007, LCpl Lauterbach's request to move out of the barracks into off-base housing is approved.

On November 5, 2007, LCpl Lauterbach moves into an off-base house, renting a room from Sgt Durham who is scheduled to deploy during late December and was looking for someone to rent his home while he was deployed. Additionally on this day, trial counsel re-interviews LCpl Lauterbach who readjusts her statement that her pregnancy is a result of the rape. However, she continues to maintain that she was raped by Cpl Laurean. Trial counsel continues to look at evidence and prepare recommendations for further actions to the regimental commander. NCIS continues to look for evidence to corroborate LCpl Lauterbach's allegations.

From November 4th through November 13th, Cpl Laurean takes annual leave to his home in Las Vegas.

On November 26, 2007, LCpl Lauterbach attends a scheduled OB appointment at the Camp Lejeune Naval Hospital.

At this point in the alleged rape investigation, the regimental commander and trial counsel continue to discuss the evidence and the possible charges, if any, to prefer against Cpl Laurean. The regimental commander has not made a decision regarding what charges, if any, to prefer against Cpl Laurean and has not consulted with his Staff Judge Advocate. Cpl Laurean has not been detailed government defense counsel and no Article 32 hearing is scheduled as Cpl Laurean has not been charged with any offenses.

On Friday, December 14, 2007, LCpl Lauterbach reported to work as normal. The work day ended at 12 noon as the command was having a Christmas party. Attendance was not mandatory and LCpl Lauterbach elected not to attend. That morning Sgt Durham saw her car at the home when leaving for work.

At this point, we'll discuss a few things that occurred December 14th that the command did not know until sometime later. For example, when Sgt Durham arrives home from work, he finds a note left for him by LCpl Lauterbach stating, "I could not take this Marine Corps life anymore. So I am going away. Sorry for the inconvenience. Maria." Sgt Durham notices that some of her personal items are missing. She does not leave the house key behind. Sgt Durham calls LCpl Lauterbach's sister concerning the note. Shortly after this conversation, LCpl Lauterbach's Mother calls Sgt Durham. Sgt Durham text messages a junior member of LCpl Lauterbach's work section indicating his belief she was going into an Unauthorized Absence status, commonly referred to as "going UA." There is an ATM withdrawal of \$700 from LCpl Lauterbach's account. Transaction occurs in Jacksonville. Video surveillance confirms LCpl Lauterbach makes the withdrawal. The ATM information is not provided to the command until January 9th. Please remember LCpl Lauterbach was at work on Friday, was not required to attend the Christmas party, and therefore was not required to be at work until Monday morning.

On Saturday, December 15th, Greyhound bus records reflect a ticket is purchased in LCpl Lauterbach's name for one way to El Paso, Texas departing that evening. Ticket is not redeemed. Command is not notified of this information until January 9th.

On Monday, December 17, 2007, LCpl Lauterbach failed to report to work. Her leadership begins to inquire as to her whereabouts by calling her cell phone. Sgt Durham physically arrives at her work section and provides the note to her leadership. Sgt Durham also provides information that LCpl Lauterbach appears to have taken some clothing, personal hygiene items, and her car with her. The command takes the extraordinary step of sending representatives to her residence to check to see if she is there. They knock on the door of Sgt Durham's residence with no response. LCpl Lauterbach's vehicle is not there. LCpl Lauterbach is entered into the administrative system in an Unauthorized Absence status. There is an elevated concern for her welfare because of the advanced stage of pregnancy. The command requests permission to list LCpl Lauterbach as a deserter in order to release a DD553 to apprehend her. This was an extraordinary step taken in hope of having her returned so the command could ensure she was receiving the proper medical care. Basically, with a DD553, federal resources could be used to assist in locating her.

On Tuesday, December 18, 2007, the section OIC calls LCpl Lauterbach's Mother to notify her of her daughter's absence. Mother states she spoke to Sgt Durham on December 14th, at which time he notified her of LCpl Lauterbach's absence. Mother also states she last spoke to her daughter on December 14th. The section OIC asks Mother about LCpl Lauterbach's whereabouts and possible reasons for leaving. Mother stated she didn't know where she was and didn't have reasons why she may have left. Mother files a Missing Persons Report locally in Ohio. Command receives information regarding the MPR on December 27th.

Command determines LCpl Lauterbach has voluntarily placed herself in an Unauthorized Absence status. The determination is based on the note left behind and some personal items taken to include her car.

On Wednesday, December 19th, 2007, Ohio authorities contacted local law enforcement authorities here in Onslow County about the Missing Persons Report. Onslow County Sheriff's Office notifies the Naval Criminal Investigative Service of the MPR. The notification went to the Onslow County Sheriff's Office as LCpl Lauterbach's residence falls within County jurisdiction. The command is not notified of the MPR until December 27th.

On Thursday, December 20th, 2007, Sgt Durham contacts section OIC informing him that he will be leaving on December 28th for training in California and that access to the residence would be difficult after that date. LCpl Lauterbach's cell phone is found along Highway 24 in Jacksonville, NC. The phone was used to make several calls by stranded motorist, one of which was LCpl Lauterbach's sister, who requests that the individual turn the phone into the police. The command is notified about the cell phone recovery and the circumstance surrounding the recovery on January 9th.

On Friday, December 21st, 2007, the Christmas Holiday liberty period begins.

On Monday, December 24th, 2007, an unidentified male withdraws \$400 from Lauterbach's account. Location is Western Blvd, Jacksonville. The command is notified on January 9th.

On Wednesday, December 26th, 2007, LCpl Lauterbach does not attend a scheduled OB appointment at the Naval Hospital, Camp Lejeune. Command is not aware of this until January 9th. The Christmas Holiday liberty period ends at 6 o'clock in the evening.

On Thursday, December 27th, 2007, LCpl Lauterbach's leadership contact mother for any updates she may have on her daughter's whereabouts. Mother states she has had no contact with her daughter since December 14th. Mother also states that she has filed a Missing Person Report (MPR) with Onslow County Sheriff's Office. Onslow County Sheriff's Office contacts LCpl Lauterbach's OIC and confirms that the MPR exists. Detective also asks for LCpl Lauterbach's vehicle description and asks whether her OIC believed she left of her own free will. This was the command's first contact with OCSD concerning LCpl Lauterbach. Command is notified by NCIS that authorities from Vandalia, OH contacted Onslow County Sheriff's Office concerning MPR that was originally filed by mother in Ohio.

On December 28, 2007, as Sgt Durham is about to depart for training in California, and with Sgt Durham's permission, the command inventories and boxes LCpl Lauterbach's personal belongings at the residence in order to secure her property. The New Year's Holiday liberty period begins at noon.

On Wednesday, January 2nd, 2008, the New Year's Holiday liberty period expires at 6 o'clock in the evening.

On Thursday, January 3rd, 2008, the command turns in LCpl Lauterbach's inventoried gear to the supply warehouse. Supply re-inventories the gear and reports no discrepancies from the original inventory sheets.

On January 4th, 2008, the required 10-day letter is sent to LCpl Lauterbach's family. The letter is delayed a few days due to the holiday period; however, the command has been in previous contact with LCpl Lauterbach's mother.

LCpl Lauterbach's Mother contacts Company 1stSgt. The section OIC is made aware of the phone call to the Company 1stSgt and calls Mrs. Lauterbach. Mother asks if the command has done anything additional to find LCpl Lauterbach. According to the section OIC, the mother's concern had clearly intensified. Mother states to the Section OIC that she is coming to Camp Lejeune on Monday, January 7th, to meet with the command and will be bringing her brother. The section OIC plans to meet her at the gate at 9:45 on Monday, January 7th, to assist her with her visit. Section OIC plans to escort her to the workspaces to meet with the leadership. The mother gives no indication during this phone call that outside law enforcement would be involved or that she thought foul play was the reason for her daughter's absence. NCIS receives a call from LCpl Lauterbach's Mother. NCIS receives specifics from LCpl Lauterbach's Mother they

previously did not have. Examples include specifics of LCpl Lauterbach's cell phone recovery.

At this point, the commander has no reason to believe LCpl Lauterbach is not voluntarily UA. There is no evidence she has been the victim of foul play, and though her mother's concern has intensified, there is still no indication that something has happened to LCpl Lauterbach. The command still has not received any information concerning recovery of her cell phone, or of the suspicious activity on her ATM account. Cpl Laurean has not been implicated in the absence in any way.

On Monday, January 7, 2008, LCpl Lauterbach's mother and uncle arrive at Camp Lejeune earlier than expected accompanied by an Onslow County Sheriff's Office Detective and ask for a meeting with NCIS and the command. Regimental legal officer attends the meeting once the request was sent via the proper protocol. This is the first indication to the command that foul play may be suspected in her absence. During the afternoon, LCpl Lauterbach's section SNCOIC calls the Camp Lejeune Naval Hospital to ask if she had attended her December 26th OB appointment. Through either a mistake or confusion, the SNCOIC is told she had attended the appointment. The correct information regarding her attendance at the November 26th appointment and failure to attend the December 26th appointment was not received until January 9th.

On Tuesday, January 8, 2008, the company commander re-issues a written Military Protective Order effective through March 28th. There was a lapse in MPO coverage between December 24th and January 7th due to an administrative oversight during the holiday period. At one o'clock, Cpl Laurean's OIC accompanies Cpl Laurean to NCIS to speak with Onslow County Sheriff's Office. He is questioned as a possible witness, not a suspect. He was not provided his Miranda warnings. There's no information provided to the command to implicate Cpl Laurean in LCpl Lauterbach's absence. Cpl Laurean requests time during the workday to meet with his civilian attorneys at their office. His OIC approves the request.

On Wednesday, January 9, 2008, Cpl Laurean is out of the office all day with his civilian attorneys but maintains phone contact with OIC. Cpl Laurean requests additional time off to meet with his civilian attorneys. His OIC approves the request. Evidence previously not provided to the command is available. However, most of this evidence still points to LCpl Lauterbach going UA. Cpl Laurean's requests to meet with his lawyers does not raise concerns as he is also under investigation for the alleged rape. Additionally, Cpl Laurean maintains contact with his OIC throughout the day by phone. There has been no request from law enforcement agencies to detain or otherwise restrict Cpl Laurean.

As the situation developed and information was provided by investigators, all indications led the command to believe LCpl Lauterbach had voluntarily placed herself in an unauthorized absence status.

On Thursday, January 10th, 2008, LCpl Lauterbach's personal possessions are turned over to NCIS for delivery to Onslow County Sheriff's Office. Cpl Laurean is out of his

work section all day but maintains phone contact with his OIC throughout the day. That evening, Cpl Laurean informs his OIC of a possible appointment with his attorneys on Friday morning. Cpl Laurean is directed to call at 7:30 in the morning to confirm the appointment or to be at his work space at 7:30 if he does not have an appointment. At two o'clock, the Onslow County Sheriff holds a press conference where he, the head of the lead investigating agency, implies anticipation of a positive outcome to the case. Additionally, he makes an on-camera plea for LCpl Lauterbach to return. The Onslow County Sheriff names Sgt Durham as a "person of interest" and tells the media the Marine Corps is returning him from California to Onslow County so he can interview Sgt Durham.

On Friday, January 11, 2008, Cpl Laurean fails to report to work and fails to call his OIC. His section makes several attempts to contact him by phone with no response. Cpl Laurean is reported UA. The morning reports in the media indicate there will be an announcement of a positive break in the case at a noon press conference. The command receives information regarding a note in the possession of Cpl Laurean's spouse that will have a significant bearing on the case. The announcement is made that LCpl Lauterbach is believed to be dead and buried in Onslow County. Cpl Laurean is named a "person of interest" and the releasable information on Cpl Laurean is provided to the media to include a photograph.

At no point prior to Friday morning when information about the note was provided by Cpl Laurean's spouse, did the regimental commander or the NCIS investigators feel that LCpl Lauterbach was anything other than UA or have information that Cpl Laurean was involved in LCpl Lauterbach's absence in any way.

I'd like to discuss briefly some specific information received by the command and when it was received:

- Information regarding a \$700 ATM withdrawal made on December 14th was provided to the command on January 9th.
- Information regarding the purchase of the Greyhound bus ticket to El Paso on December 15th was provided to the command on January 9th.
- Information regarding LCpl Lauterbach's cell phone being recovered and the circumstances of the recovery was provided to the command on January 9th.
- Information regarding an unidentified male withdrawing \$400 from LCpl Lauterbach's account on December 24th is provided on January 9th.
- Information regarding LCpl Lauterbach's vehicle being found near the Greyhound bus station in Jacksonville on January 7th was provided on January 9th.

At this point, Col Gary Sokoloski will provide a message from LtGen Keith Stalder, the commanding general of II Marine Expeditionary Force:

Ladies and Gentlemen, LtGen Stalder, Commanding General of II Marine Expeditionary Forces is not in the State today.

“I want to extend my deepest sympathies to Maria Lauterbach's family and friends. The loss of any Marine or sailor in combat, or garrison, is tragic and effects us all deeply – it effects members of this command, the Marine Corps Base, and our friends in the local civilian community – we all grieve.

I am satisfied with the actions of the commanders in this case. We followed applicable regulations and procedures with the information available to the commander. I am impressed with the level of cooperation between our County neighbors, Naval Criminal Investigative Service and the flow of information during this period of intensive investigative activity.

As I indicated to Sheriff Brown this past Sunday evening, I continue to pledge the MEF's full cooperation with Onslow County Sheriff's Office and the District Attorney, Mr. Dewey Hudson. Thank you for your attendance.”

We'll now take your questions.

April 21, 2008

ADVERTISING

Sending in the Marines (to Recruit Women)

By DOUGLAS QUENQUA

THE Marines are looking for a few good women.

Actually, they will take as many as they can get. Faced with the difficulty of recruiting during a long and unpopular war, the United States Marine Corps has started marketing itself to women in a concerted way for the first time. It is running ads in magazines like Shape, Self and Fitness, which appeal mainly to female readers, as well as through more mainstream outlets like "American Idol," where the message is a unisex one of patriotism rather than macho swagger.

The Marine Corps still runs its traditional ads — during National Basketball Association and National Hockey League games, and in magazines like Sports Illustrated and Men's Fitness — often showing male recruits parachuting from airplanes, wielding big guns, driving heavy tanks and stampeding across the ground.

But now it is also showing a softer side. In the latest campaign, a print ad shows a female marine striking a martial arts pose in front of a crowd of men who are looking up to her as their leader. The tag line: "There are no female marines. Only marines."

The campaign is a big departure for the Marine Corps, which started accepting women for clerical duties in 1918 but until last year advertised to them only fitfully. During World War II, the most memorable recruitment ads aimed at women came from the Army and the Navy.

In 1973, when the military dropped the draft in favor of a volunteer force, the Marines introduced its "few good men" slogan and ran at least one spot for women, reaching out to high school graduates and "college gals" with a brochure that had a picture of a flower on it.

In the 1990s, when the Marines Corps was having trouble reaching recruitment goals, it ran a scattering of ads in magazines like Seventeen and Sports Illustrated for Women, using tag lines like "You can look at models, or you can be one" and "Get a makeover that's more than skin deep." That outreach "wasn't as sophisticated as it is now," said Jay Cronin, management director of JWT, a unit of the WPP Group, which has been the Marine Corps' advertising

Exhibit 5

agency for more than 60 years.

Mr. Cronin said the current effort was much different because everyone involved took the time to “understand the psychographics,” that is, figuring out which women might actually want to join the military, and why. That is why the campaign aims at athletic women, not just all women graduating from high school, and the messages conveyed are much more egalitarian.

Although most combat jobs are off-limits to them, women make up 6.2 percent of the Marine Corps and go through the same basic training as men.

“We had never done much female outreach,” said Lt. Col. Mike Zelif, assistant chief of staff for marketing and advertising for the Marines Corps in Quantico, Va. “but there was an opportunity for us to go after the athletic, young woman who would be well suited to graduate from boot camp. We asked ourselves, ‘What can we do to get the message out to these young women?’ ”

Women are not the only ones being courted specifically. The Marines Corps is reaching out to Latinos with ads in La Raza newspaper that emphasize family and honor (“Each unit in the Corps is a family, and each member knows they never stand alone”), and to Arab-Americans with a message about nationality and identity (“I am American. I am Arab. I am a Marine ... I know where I stand”).

“We never used to have much of a targeting strategy — we were just looking for 18-24-year-old men” said Colonel Zelif. “Today, we are more niche than ever.”

Given the drumbeat of bad news from the lingering conflicts in Afghanistan and Iraq, where American military casualties recently topped 4,000, the sell can be a tough one. Sentiment against recruiting has flared on some campuses, as well as in Berkeley, Calif., where the City Council approved a measure in February asking Marine recruiters to vacate their downtown office.

Dana Balicki, national media coordinator for Code Pink, a women’s peace group, called the Marine campaign “just another example of potentially misleading tactics used to sell the war to young people, and especially young women.”

Talking specifically about the print ad that shows a woman in a leadership role, Ms. Balicki said, “She’s supposed to look like she’s being empowered, but she’s in a typical self-defense stance. After knowing the statistics and talking to women who have experienced sexual trauma or violence in the military, it’s hard to think of it as empowerment.”

As opposition against the war continues, Congress has ordered the Marines and the Army to augment their forces. All branches of the military have been reaching out to nontraditional audiences, but none have done so quite as emphatically as the Marine Corps, which is the fourth-largest of the five branches (the Coast Guard is the smallest). Its advertising budget is \$157.4 million this year, up from \$152.4 million in fiscal year 2007.

The ad featuring a woman commander is intended to appeal to young women who are weary of being separated from boys and men in sports and are eager to prove themselves on a larger stage, said Marshall Lauck, JWT's lead executive on the Marines account.

"The message is that the Marine Corps offers a unique opportunity to earn that title and be shoulder to shoulder with your male counterparts," Mr. Lauck said. "That's an important aspect for the young women seeking that challenge, women seeking an opportunity for a great and selfless endeavor."

The Marines also broke from tradition earlier this year by running a 60-second spot during several episodes of "American Idol." Titled "America's Marines," the ad featured marines standing in formation against various national landmarks. It was intended to appeal to a general audience, including parents and other people whom military recruiters refer to as "influencers."

That ad "helped us get that female audience that we're looking for," said Steve Harding, a partner at the Marine Corps' media agency, MindShare (which places ads), which is also part of WPP.

The effect of the publicity is difficult to measure. There has been a small increase in the number of female recruits — to 2,507 in 2007 from 2,320 in 2006 and 2,282 in 2005— but the Marine Corps says it is particularly pleased by the volume of responses to the campaign. The magazine ads include reply cards, and, Mr. Harding said, they yielded more than 1,044 "qualified leads" in 2007, though only two turned into enlistments.

One is Ana Castillo, a senior at William Chrisman High School in Independence, Mo., who mailed in a reply card last September after seeing an ad in a women's fitness magazine in the waiting room of a doctor's office. Her older brother is a Navy veteran, and while she had been seriously considering joining the military, the ad prompted her to take action.

Ms. Castillo seems to be precisely the kind of young woman being sought by the advertising. She plays soccer and softball at high school and says she is hungry to prove herself on more dangerous fields.

“The Marines are the toughest,” she said in a telephone interview. “They have the longest boot camp, the highest standards. The Marines want people to actually want to be in the Marines, not just be in it for the money.”

It was those traits that Ms. Castillo saw reflected in the magazine ad, as well as in the words of the recruiter who called her a week after she mailed the reply card. She will turn 18 on June 24 and plans to leave for boot camp on July 7, after her high school graduation.

While the Marines seem to be taking the lead, other branches of the military are increasing their niche efforts as well. The Navy, for example, has started using the Web to recruit women for nontraditional jobs like aviation mechanics, placing banner ads on portals like Yahoo and movie and video game Web sites.

“We did e-mail blasts to women only, and what we found was lots of women out there have an interest” in joining the Navy, but they did not know what jobs were available to them, said Kathleen Donald, an executive vice president and account director with Navy’s ad firm, Campbell-Ewald, a unit of the Interpublic Group of Companies.

Although military officials cite a number of reasons for their recruiting woes — high obesity rates in America, for example, and young people’s shifting attitudes toward military service — the fact is that the images from the battlefield are hard to counteract.

“We’re in the midst of a very difficult war, and the ground forces are taking a pounding,” said Loren Thompson, chief operating officer and military analyst at the Lexington Institute, a research firm.

“I think what the Marine Corps is finding is that even recruiting for a small force in the midst of an unpopular war is becoming something of a challenge,” he said. “They can no longer ignore people purely on the basis of demographic or inscriptive characteristics.”

Maj. Wes Hayes, a spokesman for the Marine Corps Recruiting Command, said in response to Mr. Thompson’s comment, “Look at our fiscal year missions. Since May 2005, we’ve met or exceeded our recruiting goals. Remember, recruiting is a marathon and not a sprint.”

Ms. Castillo said her parents needed some persuading to let her join, despite her brother’s experience in the Navy.

“My mom, well, I’m her little girl,” she said. “She wants me to go to school. My dad was proud. He wanted me to go into the military, but he wants me to go into the Air Force.”

Like anyone entering the Marine Corps today, Ms. Castillo is keenly aware of where she is probably headed. "I'm O.K. with it," she said. "If I get sent to Iraq, I'm going to be ready."

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