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Statement by:

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June 3, 2004

Good morning, and thank you to the members of the House Armed Services Committee's Subcommittee on Total Force for inviting me to join you today.

My name is Scott Berkowitz and I am the founder and president of the Rape, Abuse & Incest National Network, or RAINN. RAINN is the nation's largest anti-sexual assault organization and founded and operates the National Sexual Assault Hotline. The hotline is a partnership of 1,100 local rape crisis centers across the U.S., and helps more than 120,000 victims each year. Since its inception in 1994, the hotline has helped more than 750,000 victims of sexual assault, with calls to the hotline increasing every year. Each year, RAINN also educates more than 120 million Americans about sexual assault, and we work closely with federal agencies, the military, Congress and the administration to improve services to victims and ensure rapists are brought to justice.

I am here today to share with you our response to the Department of Defense task force on sexual assault. For the past 10 years, RAINN has worked to educate the public about sexual assault, prevent sexual assault, help victims and ensure that rapists are brought to justice. While most of our efforts have focused on the civilian sector, much of what we have learned about what works—and what doesn't—applies as well to the military.

Despite the good work of more than a dozen Defense Department task forces and panels, sexual assaults in our armed forces continue to this day. Exacerbating the problem, victims continue to avoid reporting their attacks and are not receiving help because of legitimate confidentiality concerns.

As I will discuss in a little more detail in a moment, we believe that to adequately address these issues, we must take a number of immediate steps. We must strengthen on-base services and responses; provide alternative, confidential off-base services to victims; fix procedural, definitional and command issues that impede prosecution; and implement effective prevention and education programs to reduce the number of soldiers harmed by sexual assault.

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We are presenting a set of thirteen specific recommendations in these subject areas for your consideration as Congress and the Department of Defense work to solve this ongoing problem.

The Problem

Before I address our specific recommendations, I want to talk briefly about the nature of the problem. We all take great pride in the fact that the United States Military is the best-trained and best-equipped fighting force in the history of the world. Our men and women in uniform are given the greatest armaments and most advanced technologies available to win wars and safeguard our freedoms. And we provide our soldiers with the best training we can create to preserve and protect life and limb.

However, while we do everything possible to limit harm on the battlefield, we do relatively little to keep soldiers safe in the barracks.

In talking about our proposed solutions, I’d like to make two things clear. First, I’m not here to bash the military or excoriate it for this problem. The problems it faces are, in fact, quite similar to those faced by large colleges and universities. It is unfortunate, but, for the moment, true: Where there are many thousands of young, single people, there are surely a large number of rape victims. While there’s no question military culture is unique—and presents unusual challenges to providing services for victims – that unique culture itself is not the cause of the sexual assault problem. The military does not have a “rape culture,” as some have charged, and the vast, overwhelming majority of those in uniform are just as appalled by the acts of a few rapists as are we. In fact, it is the tremendous discipline and leadership inherent in the military culture, and the great character of most service members, that gives us such hope that we can improve the situation.

For many years, the Department of Defense has worked to investigate, evaluate and mitigate this problem of sexual assault within the ranks. More than a dozen commissions have been convened to discuss and find solutions to the problem. Now, the Task Force on Care for Victims of Sexual Assaults has presented us with a new analysis of the problem, its latest findings and a fresh set of recommendations to review and consider on this important issue. Like some of its predecessors, this most recent task force is made up of some very thoughtful and well-intentioned leaders, and, like some of its predecessors, it has shown a good understanding of the issue and proposed a number of reforms that will help address the problem.

We believe that the task force addressed the points it was charged to address. In light of the scope and mission of the task force, we believe that the panel did a commendable job and feel

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that its work is a good first step and a good catalyst as we move forward in addressing this important issue. But we also believe that after more than a dozen task forces and panels, it is time for more than findings and recommendations. It is time for action.

The report from the task force provides us with 35 findings on the effectiveness of Defense Department policies and programs. These findings indicate that the military has done some good work in the area of sexual assault prevention, education and response.

However, the report’s findings also indicate some definite and serious shortcomings in Defense Department policies and programs related to sexual assault, including: a lack of concentration on the issue of sexual assault in military training and education; a lack of focus on sexual assault in military policies and standards, as opposed to sexual harassment; a lack of guidance, resources and training for commanders and chaplains who work to respond to and prevent sexual assaults; a lack of guidance, standards and resources in the provision of services to victims both on base and in theatre; an incomplete Department-wide definition of and policy and protocol on sexual assault; and a lack of confidential health and counseling services for victims. In most respects, we agree with the Task Force’s findings.

The report offers nine broad recommendations, and the immediate actions called for are small, incremental steps, including actions like holding summits and convening more panel discussions. Near-term actions likewise call for development of policies and guidelines, rather than the development of victim service resources or training for commanders, chaplains or dedicated volunteer victim advocates. The only specific near-term action items are updating information and communication sources and establishing a single point of contact for sexual assault policy. While some of these procedural steps are valuable and important, I fear that the lack of immediate action items will be an excuse for bureaucratic inertia, allowing the services to continue studying the problem indefinitely. By now, we have studied quite enough. Now, it is time to implement.

Based on our experiences at RAINN and our work with and on behalf of victims of sexual assault, we believe that there are a number of programs and policies that the Department of Defense should implement in both the short and long term.

We should start by applying some important lessons we have learned in the civilian world. Lesson One: Victims who receive prompt, quality, confidential crisis counseling return to full strength more quickly, and are ultimately more likely to report their attack to law enforcement officials. Lesson Two: More reports to law enforcement means more prosecutions. Lesson Three: More prosecutions lead to fewer sexual assaults. Lesson Four: Well-designed prevention and education

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programs will lead to even fewer sexual assaults. In addition, we have learned that sexual assault and domestic violence are not the same and cannot be treated or addressed in the same manner.

In the civilian world, rape is down by half since 1993 while reporting of rape is up by half and prosecution of rape cases is increasing. Adopting these ideas and learning from these lessons could lead to the same positive results in the military.

RAINN’s Recommendations

Our recommendations fall into three categories: training and education to prevent sexual assaults; victim services; and criminal procedure.

Sexual Assault Prevention: Training and Education

Our work in the civilian world shows that prevention and education programs can and do sometimes work. We train our soldiers in many areas, and with strong direction from senior officials, a consistent and effective prevention program could be implemented across each service.

By working with civilian experts and maximizing existing resources, such a program can be implemented for relatively little expense. Key elements of such programs include safety training, social norms instruction, peer education programs, general awareness education, an examination of definitions and attitudes, and, crucially, repetitive messaging.

The best place to start is with implementing a concerted effort to educate military personnel about sexual assault, protocols for handling incidents, and victim options and resources.

We recommend 5 types of immediate, specialized training. First responders must be trained to properly deal with victims and aggressively prosecute cases. The chain of command must be educated about procedural issues and generally about the issue of sexual assault, so that officers understand the problem and are equipped with the knowledge necessary to demand compliance. We must train civilian counselors in the nuances of military culture and procedure, so that they can provide quality, confidential services to victims and encourage reporting of attacks. And, we must train the troops, repeatedly, on proper behavior, preventing sexual assault, and services available for victims.

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1. *We recommend regular, comprehensive training for all incoming troops — as well as ongoing training for all members of the military — on sexual assault prevention, education, and prosecution.*

Such training should focus on education and prevention and should include:

- Safety strategies and personal protection information;
- Communication strategies;
- Understanding what rape is and what it isn’t;
- What to do if you or a friend is raped;
- Information on support services and how to access them;
- Information on victims’ rights;
- Information on punishments for sexual assault, with an emphasis on communicating that there will be no tolerance for sexual violence in our armed forces;
- How to report situations that are creating an environment conducive to sexual assault or are creating a risk of sexual assault;
- Social norms messaging; and
- Consistent repetition of these messages and information.

Military personnel who are taught by civilian sexual assault experts should execute training of troops. In addition, leadership involvement in this training is vital in order to reinforce the military’s top-down commitment to ending sexual assault.

Training of troops that includes communication of the military’s commitment to zero tolerance for sexual violence in our armed forces — and consistent communication of the rules, definitions, protocols, and penalties involved with this issue — will help to create an environment where education can take hold and this training can make headway in the fight to rid our military of sexual violence.

2. *We recommend regular, comprehensive training on sexual assault prevention, education and prosecution for the military personnel who will train new and incoming troops.*

This training, provided by civilian sexual assault experts, should include all issues of sexual assault prevention and education, including communication, personal safety and responsibility, consent issues, alcohol use, and a full understanding of what rape is and isn’t under military code.

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These experts should also be available on an ongoing basis to provide assistance and answer questions from trainers, and should provide regular refresher training.

- 3. We recommend regular, comprehensive chain of command training on issues involving sexual assault and the military command structure.*

Chain of command training should focus on effective oversight of the sexual assault reporting, service, and prevention programs and protocols. Training should include information on communication of priorities and zero tolerance, as well as rumor control and handling breaks in confidentiality.

Commanders — who, within the military’s structure, must deal with charges and cases of sexual assault — must be trained and educated about sexual assault, on dealing with victims, and on the military’s procedures and practices for handling cases of sexual assault. These training sessions must occur on an ongoing basis in light of the regular rotation of military leadership.

- 4. We recommend regular, comprehensive training for First Responders on their role in the response, investigation and prosecution process involving sexual assault.*

First responder training should include CID, legal and medical personnel, victim advocates and chaplains. This training should include information on how to respond to the special needs and outlook of victims of sexual assault, ways to address the victim while aiding in the success of the investigation, and the importance of the role the first responder plays in the recovery of the victim.

While there are currently medical and mental health professionals deployed in theater, they are not specifically trained to provide the specialized help needed by sexual assault victims. Chaplains — considered to be an option for service members who want confidentiality — must also receive training and education about sexual assault if they are to be promoted as advocates and counselors to victims of sexual assault. We must also provide special training for those investigating charges and cases of sexual assault in the military.

In addition, the military should undertake the recruitment and training of volunteer victim advocates. Despite Congressional intent, many units are still without trained victim advocates, and many trained victim advocates are not deployable — their expertise and assistance stops at the base gate. These victim advocates should be trained to work within the military’s system for dealing with sexual assaults and should be included in the overall protocol regarding sexual



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assault. These victim advocates should be part of each unit, ensuring a trained advocate would be available to victims in theatre.

- 5. We recommend the production and distribution of standardized and regularly updated training and educational materials for use by the military.*

In addition to a concerted and regular training program, standardized and regularly updated training materials, as well as an interactive website with the most up-to-date information for victims, commanders and service providers, would provide accurate, easily accessible information for members of the military on base as well as those deployed throughout the world. Such a website would highlight military-based resources as well as community-based resources functioning around military installations that would benefit victims and their families.

- 6. We recommend the creation and implementation of an educational outreach campaign focused on members of the military addressing issues of sexual assault.*

As part of this comprehensive training program, the military must engage with civilian experts to create and implement on-base and in-theatre publicity and outreach campaigns. This outreach program would focus on sexual assault prevention and education. Social norms messages must be developed through research but would likely include consent, communication, victim services, and prosecution. The outreach and publicity campaigns will include posters, flyers, newsletters, and media outreach efforts.

By working with civilian experts and maximizing existing resources, such a program can be implemented for relatively little expense. In fact, several of RAINN’s affiliate centers have developed prevention and training programs, in cooperation with their local military bases, that could be adapted for national use.

For example, in the Las Vegas Area Community Action Against Rape is working with Nellis Air Force Base staff to create a model program that trains First Sergeants and military advocates on responding to sexual assaults. They also conduct outreach and prevention programs on base and have revised their hotline and hospital response protocols to include providing military victims with detailed information about their options on base, including reporting and prosecution. Another key element to the success of this program is the creation of a Sexual Assault Response Team — or SART — to respond to sexual assaults. The team consists of medical and legal personnel as well as military advocates (service members who are trained to provide peer support to victims of sexual assault). All members of the SART who provide services to victims of sexual

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assault are specifically trained in dealing with this issue. The Secretary of the Air Force and the Department of Defense have reviewed the program and it is referenced in the last DOD report.

Similarly, in Texas, Families in Crisis is working with the nearby Fort Hood. At the request of the base commander, they recently conducted a special training for Forward Support Battalions before rotation into Iraq. The training educated personnel on how to respond to instances of sexual assault and focused on prevention, including exercises around consent issues.

And in San Antonio, the Rape Crisis Center has trained all Wing Commanders and First Sergeants at Lackland Air Force Base on providing services for victims of sexual assault, including an exploration of post-traumatic stress disorder. They have also provided education for all new recruits on avoiding sexual assault and conduct regular outreach on base. They also respond to hospitals on base to provide support services for military victims of sexual assault.

Victim Services

Today we are faced with the reality that there is no consistency or uniformity in the delivery of services to victims of sexual assault within each branch of the military, much less across services. Most importantly, there is also no confidentiality afforded to victims who want to seek help.

RAINN has two recommendations in the area of victim services.

- 1. We recommend that the Department of Defense contract with civilian experts to deliver confidential resources and services to victims of sexual assault.*

Most victims — civilian or military — are extremely reluctant to report their attack, discuss it or reach out for help. And most simply won’t report their attack without a guarantee of confidentiality. The task force’s own findings state that in seeking services to address and report a sexual assault “focus groups...expressed a preference to use outside sources, if available near the installation.” In the military, there is no confidentiality in the health services system, and in order to access services a victim must engage the chain of command. This system adds privacy and career worries to a list of concerns that, after a sexual assault, is already a mile long.

A confidential system for receiving services would allow victims to deal with their personal trauma, their physical wounds and their emotional scars on their own terms and without fear for their rank or their careers and without their peers, bunkmates and superiors necessarily knowing the circumstances.

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Victims who receive prompt, quality, confidential crisis counseling return to full strength more quickly, allowing them to fulfill their military and family responsibilities. In addition, victims who receive this confidential help are far more likely to report their attack to law enforcement officials.

We understand that allowing confidentiality of health and counseling services on base is quite controversial. Rather than fighting over the point, and recognizing that those opposed have legitimate concerns, we believe that it makes good sense to offer an off-base option to service members seeking confidential services related to sexual assault.

The most efficient approach is to take advantage of the many resources that already exist to take care of and advocate for sexual assault victims. Rape counseling services already exist in more than 1,100 communities — many located near military installations — and are accessible 24/7 through the National Sexual Assault Hotline. Hotline counselor training can be expanded to include specialized knowledge of the military and the unique needs of service members, and the National Sexual Assault Hotline can be expanded to handle the additional demand. These services can be accessed anywhere in the world, 24 hours a day, as long as the soldier has access to a telephone.

Similarly, the National Sexual Assault *Online* Hotline, a secure, real-time online counseling service now being developed in consultation with the Justice Department, can be expanded to offer services to military victims. These, too, would be available 24/7 from anywhere in the world, as long as the soldier has access to a computer.

- 2. We recommend training off-base civilian counselors to respond to the needs of military victims and assist in the navigation of the military system of prosecution.*

Rape crisis staff members now routinely play the role of victim advocate, guiding victims through the complex world of the civilian justice system.

RAINN has more than 10,000 trained, experienced counselors available to victims through our network of rape counseling centers. Counselors are trained and available to provide support and advice to victims who call the hotline, provide immediate crisis intervention after an attack, accompany victims to the hospital and police department, provide guidance on civil and criminal legal matters, act as liaison between victims and others that victims come in contact with, and provide up to 6-months of in-person counseling. In short, counselors oversee and assist in the victim’s process of healing and recovering from the attack and help them reintegrate back into work and family life.

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With proper training, they would be well equipped to play a similar role for military victims.

We understand that there are some concerns about the consistency of civilian services as well as concerns about service members paying for such services out of pocket. We believe that this is a minor hurdle that can be fixed by working closely with civilian agencies and organizations to ensure that consistent services are available to members of the military, that local counselors are trained specifically on working within the military system, and that free counseling sessions and advocacy services are available to those who need them and come off-base to obtain them.

Some have voiced the concern that encouraging victims to get off-base help, outside the chain of command, will threaten troop safety by leaving dangerous criminals in the ranks. Unfortunately, that's true, as it is true of the current system. The problem is that there is no system that can ensure such safety or solve this issue. The best that can be done is to get as many victims as possible to report their attacks, so that prosecution can be pursued. And while it might seem counterintuitive, the fact is that victims are far more likely to report their attack if they have received the prompt, confidential counseling that is only available through civilian service providers. In other words, offering the confidential, off-base services to soldiers will lead to more criminals being identified, removed, prosecuted and punished, leaving the ranks a safer place.

Prosecution: Legalities and Procedure

Our experience and the work of many researchers shows that increasing reports of sexual assaults leads to more prosecutions, and more prosecutions, by preventing serial criminals from raping again and by deterring potential criminals, will lead quickly to fewer rapes. Again, this will require a sustained and vigorous commitment by commanders to fully investigate, prosecute and punish rapists.

RAINN has 4 recommendations in the area of prosecution:

1. *We recommend that the Department of Defense work to ensure that victims return to the military system to prosecute their offenders should they receive assistance from off-base services.*

While confidential, off-base alternatives to the military's very distinct and command-structure oriented system are vital for victims who would not otherwise get assistance or counseling, we must work to ensure that victims return to the system to prosecute their offenders. (Of course, this assumes that standard operating procedures change enough to make vigorous pursuit of

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rapists the rule rather than the exception.) The military must make a renewed commitment to prosecution, aided by off-base counselors who encourage victims to pursue justice through the military system.

- 2. We recommend that the Department of Defense adopt a clear, consistent and standardized definition of sexual assault.*

This definition must clearly distinguish sexual assault and sexual harassment, cannot be hindered by archaic definitions currently included in the UCMJ, and be comparable to federal law regarding definitions of rape and sexual assault.

In the military’s dictionary, sexual assault is currently lumped together with sexual harassment under the umbrella of “sexual misconduct.” And sexual assault is not currently a specific offense under UCMJ. This is telling, and allows some to dismiss complaints of sexual assault as not serious. This lack of clear definition — and linking of sexual assault and sexual harassment — allows some to group rape and sexual assault in with raunchy sex talk and unwanted sexual advances. It is another barrier to realizing and accepting the reality that the FBI ranks sexual assault as the second most violent crime, behind only murder.

No one would stand by and let hundreds of unsolved, unreported murders within the ranks of our military. No one would be content to study it for years and produce thousands of pages of recommendations and testimony. No, we would jump into action. We would put people in jail and make sure the whole world knew about it. We must learn to define and address sexual assault as it truly is — the most violent and traumatic crime that a victim will live to remember.

- 3. We recommend that the Department of Defense design and implement a Department-wide protocol for responding to incidents of sexual assault.*

This protocol must not only address the best method for guiding victims through the military’s command and control structure, it must also address how the privacy of the victim will be handled through the reporting and prosecution process. We recommend adding protections for victims of sexual violence similar to the protections available in civilian courts, including reforming the Manual for Courts-Martial to establish a rape shield and to provide adequate privacy protections. A re-definition of “need to know” as well as the possibility of utilizing non-disclosure statements with stiff penalties throughout the process are some ways to address this issue of privacy.

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4. *We recommend several changes regarding the prosecution of sexual assaults in the military based in part on prior reports, including the Cox Report.*

First, a change in authority over pretrial legal matters is recommended, with decisions on pretrial matters being placed within the authority of a military judge, not the convening authority. Also, we recommend the repeal of the rape and sodomy provisions of the UCMJ and the drafting of a new statute based on Title 18 of the United States Code.

Conclusion

In summary, the problem of sexual assault is not unique to the military. And, so, neither must the solutions be. To successfully combat this problem, we must improve services on base through comprehensive training regimens; provide soldiers with alternative, confidential services off base; implement effective prevention and education programs on every base; and back up all these efforts with changes in the prosecution protocol, personal commitment, by base commanders, to zero tolerance and routine prosecutions in cases of sexual assault. We believe the results of such efforts will be fewer sexual assaults, healthier and safer soldiers, and an improved public image of the greatest military the world has ever seen.

I appreciate your record of leadership in the fight against this tragic and violent problem, and I thank you for the opportunity to address you today.