

# CMR Policy Analysis: The Report of the Defense Task Force on Sexual Harassment & Violence at the Military Service Academies

## Introduction:

The mission of the service academies is to educate and train military officers, most of whom will have the responsibility to lead others in the nation's wars, and to teach others over a lifetime. To produce officers worthy of that trust, the service academies must establish and enforce standards of personal conduct that are higher than most civilian colleges and universities.

The Report of the Defense Task Force on Sexual Harassment & Violence at the Military Service Academies (and an earlier report on the Air Force Academy) address problems of serious concern. This Report is flawed, however, because its presumptions, findings, recommendations and tone are somewhat skewed by an over-representation of civilian "victim advocate" groups.<sup>1</sup>

The opinions of such groups should be heard, but some leaders who have been quoted frequently since the beginning of the Air Force Academy scandal in 2003 have shown inadequate knowledge of the military justice system and the various forms of punishment for misconduct available under the Uniform Code of Military Justice (UCMJ). Others have routinely accepted one-sided victims' complaints as absolute truth, confused allegations with substantiated crimes, essentially excused women of the consequences of their own high-risk behavior, and demanded punishment even when alleged victims do not report offenses to responsible authorities.<sup>2</sup>

The Military Academy at West Point and the Naval Academy at Annapolis have been more successful than the Air Force Academy at Colorado Springs in deterring sexual harassment and abuse.<sup>3</sup> Recommendations in this Task Force Report nevertheless are more radical than those made by the 2003 Panel to Review Misconduct Allegations at the Air Force Academy. Some recommendations are worthwhile, but many should be viewed with caution or rejected.

### *Office of the Victim Advocate*

The Report states that the "remaining task" of the Joint Task Force on Sexual Assault Prevention and Response (JTF-SAPR), in addition to issuing a Defense Department Directive on this subject, is to "*establish a permanent office within the office of the Secretary of Defense.*" (p. 5) The Secretary of Defense should decline, without apology, to set up a new bureaucracy to deal with problems that are essentially local in nature.

A long list of officials, Boards, and Commissions have studied and reported on sexual misconduct problems in recent years. The responsibility to implement useful recommendations is already assigned to the office of the Under Secretary of Defense for Personnel and Readiness, Dr. David Chu.

Congress passed legislation several years ago that authorizes local level victims advocates and counseling services at all military institutions. At the service academies these resources, as listed in this Report, are extensive and widely publicized. The Defense Department

does not need an “Office of the Victim Advocate” (OVA) in the Pentagon, which is likely to become an unaccountable bureaucratic boondoggle that constantly generates negative publicity, and causes interference in unresolved, emotionally charged cases that are demoralizing to all.

- Among other things, this office is supposed to provide regular reports on incidents of sexual misconduct. If numbers of complaints go down, the OVA will insist that women are still afraid to come forward. But if the number of complaints increases, the office will insist on even more staff and money to continue its work.
- For the Department of Defense, this is a lose-lose situation. As was the case with news stories about this and previous official reports on this subject, news is *always* portrayed as a black eye for the military.<sup>4</sup>
- Regardless of original intent, such an office quickly would become a tax-funded power base for advocates to lobby for controversial goals, including ill-advised legislative changes that are promoted in the Task Force Report.
- Since the Report pointed to women’s exemption from land combat as a cause of resentment against women, it is reasonable to expect that OVA officials would push for elimination of women’s remaining exemptions from land combat as one way to “solve” the problem, regardless of the legal and military consequences.
- Amnesty International and the civilian advocacy group Miles Foundation demanded a \$10 million appropriation to set up an “Office of the Victim Advocate” (OVA) in the Pentagon, ostensibly to fight sexual harassment/assault in the military, but also to advance several controversial, internationalist social goals.<sup>5</sup>

An OVA in the Pentagon could also disrupt military operations by causing political interference and second-guessing of decisions made by officers in the chain of command.

- The presumption that any accusation of harassment or assault is true and unchallengeable could lead Pentagon officials to intervene in far-away “he said, she said” disputes. Field commanders’ fear of being second-guessed by Washington officials could skew their decisions on individual cases. Some might feel compelled to remove key personnel prematurely, regardless of the military consequences.
- Civilian involvement in the military justice system would undermine morale by increasing political pressure for punishment of prominent people, regardless of guilt.<sup>6</sup> It could also lead to command interference that causes some cases to be thrown out, due to violations of due process rights. This happened with several cases related to the Tailhook scandal, leading to criticism that “no one” had been punished.<sup>7</sup>

### ***Methodology***

The Task Force used standard methods of research, but failed to seek the views of women and men who are skeptical of the type of victimology advocated by some “experts” in the field.

- The Task Force should have specifically invited the views of male midshipmen and cadets who have been wrongly accused of misconduct without substantiation, or their legal counsel. The panel also should have sought the views of experienced investigators who are skilled in distinguishing genuine charges from ones that are unfounded or self-serving.<sup>8</sup>
- Unsubstantiated or exaggerated allegations have been known to destroy careers.<sup>9</sup> A five-year survey of sexual assault in the U.S. Army found that reports of sexual abuse that proved to be “unfounded” after investigation tripled from 48 to 157 between 1999 and 2003. No explanation for the increase was given.<sup>10</sup>
- Every alleged offender is innocent until proven guilty, but some believe that guilt is directly proportional to the seriousness of the charge. This attitude is demoralizing to all, and sometimes extremely so.<sup>11</sup>
- Unsubstantiated or recanted accusations sometimes occur for a variety of reasons. These include remorse after an impulsive sexual encounter, an attempt to escape accountability for behavior that violates Academy rules, jealousy, the desire for attention, or revenge when a romantic relationship goes sour.<sup>12</sup> The services do not need officers who have engaged in sexual abuse or rape. Nor do they need officers known to have made false accusations that unjustly destroyed the careers of others.

### ***Service Academy Culture***

The panel correctly places responsibility for preventing bad behavior on cadets and midshipmen themselves, but follows that laudable statement with an unsupported assertion: Due to the minority status of women at the Academies, some communities “*do not value women as highly as men,*” and this is a major cause of sexual harassment and assault. (p. ES-1)

The Task Force blames incidents of harassment on women’s “exclusion” (a.k.a., exemption) from combat specialties, and the existence of different standards to allow for physical differences. These assumptions should be questioned for several reasons:

- With the exception of a brief footnote citing undocumented focus group conversations with persons talking about the attitudes of their peers, the Report cites no support for the statement that women are undervalued at the Academies because they are exempt from direct ground combat. (pp. ES-1, 8, & fn 21)
- The Report’s recommended remedy for these perceived problems is an anachronistic call for gender-based admission and promotion quotas, in order to provide more female “role-models” in key admissions, faculty hiring and promotion boards. (p. 23)
- The Report mentions “current service operational constraints” as a factor that might limit the percentage of gender integration beyond 15-17%, but presents no evidence to support the panel’s assumption that greater numbers of women would improve their acceptance. (If that is the case, why not call for 50-50 representation?)

- Since the Task Force identifies as a factor increasing the likelihood of harassing behavior, it is reasonable to expect a the Pentagon OVA would use its position to advocate repeal of all women’s exemptions from land combat units, Special Operations Forces, and submarines—particularly when gender-based recruiting quotas create an over-supply of female officers.
- The Navy is reducing its number of ships and personnel, and the greatest need in the Army, Navy, and Marine Corps is for male officers to lead reorganized land combat infantry/armor battalions, Special Operations Forces and Navy SEALs. Since gender quotas almost always involve “adjustments” in standards to meet the politically mandated goal, implementation of the Task Force’s recommendations might *increase* tensions between male and female midshipmen and cadets, instead of reducing them.
- It would not be helpful to create new perceptions of favoritism for women at the academies. Studies done by the General Accounting Office in 1991 and 1994 found that complaints about double standards favoring women were the second-most common form of “sexual harassment” at all of the service academies. (p. 3)

### ***Confidentiality - Counseling***

The Task Force Report correctly asserts that confidentiality, referring to privileged communications between complainants and specified care providers and counselors, is a complicated matter. It also notes that limited confidentiality is already available prior to a decision to prosecute an alleged offender. The Report nevertheless recommends passage of a new law creating special privileges not just for health care providers, but also for “victim advocates.” (pp. ES-2, 14, 26)

This recommendation is overly simplistic and focused on only the first two of three “stakeholders” in a triangle of interests. The three are:

1. Complainants alleging harassment or assault;
2. Commanders who need to know about incidents of misconduct
3. Alleged offenders, whose rights of due process must be protected to achieve justice

Congress should reject proposed legislation guaranteeing confidentiality to victim advocates. There is no need to codify policies that are already available under certain circumstances.<sup>13</sup> Matters can be confidential during early stages, but once charges are filed and someone’s career and/or liberty are at stake, confidentiality should end. If the accusation is true, it should be provable without providing special rules that do not apply in other cases.

Commanders have the responsibility to evaluate the readiness/competence of all personnel at all times. Withholding information due to potential embarrassment of complainants could interfere with this command responsibility, as well as discovery proceedings and rights of due process when disciplinary proceedings begin.

## ***Confidentiality – Disciplinary Hearings***

The Task Force Report recommends that Article 32 of the UCMJ be amended to permit commanders to close the proceedings “*to protect the privacy of victims and alleged offenders.*” (pp. ES-2, 33) Although the recommendation appears to be even handed, in actual practice it would violate the rights of anyone accused of misconduct. The recommendation also conflicts with a clear legal precedent upholding the right of persons accused to have an open hearing:

- In 1998 the Court of Appeals for the Armed Forces, in *ABC Inc v. Powell*, ruled that proceedings must be open unless there is a compelling need to close them. The petition to that Court was part of the highly publicized prosecution of Army Sgt. Maj. Gene McKinney for sexual misconduct.
- Advocates for five complainant witnesses argued that a closed hearing would make it easier for the women to testify against Sgt. Maj. McKinney. The Court concluded that fear of embarrassment by adult females was not a good enough reason to close Article 32 hearings. Despite intense media interest that largely prejudged the defendant’s guilt, McKinney was acquitted on 18 of 19 charges.<sup>14</sup>

## ***“Victims” Rights***

The Task Force correctly recommends that persons who want to report misconduct or assault should be informed of their rights and the various resources available to them. The Report also should have noted that every person accused of misconduct is entitled to the presumption of innocence. The presumptive designation “victim,” without the modifier “alleged,” is a loaded word. Its constant use colors the Report’s findings and recommendations.

The Report is replete with references to a long list of officials and institutions that are available for the support of the (alleged) victims. (pp. 11-13)

- At the Naval Academy, these include: Chaplains, Psychotherapists, Medical Staff and Family Support Counselors, military and civilian “Victims Advocates,” the Sexual Harassment, Misconduct and Assault Prevention and Response Program Office, the Sexual Assault & Victim Intervention (SAVI) Program, the Command Managed Equal Opportunity (CMEO) Program for training midshipmen on sexual harassment issues, Company Officers and Senior Enlisted Leaders, plus the Office of the Staff Judge Advocate, which provides counsel and prosecutors on campus.
- The U.S. Military Academy provides all of the above resources with slightly different names, such as the Simon Center for the Professional Military Ethic (SCPME), the Cadet Health Promotion and Wellness Council (CHPWC), and the Respect Program Advisory council (RPAC), established in 1992.
- The Air Force Academy has a similar array of services, and institutions such as the Center for Character Development (CCD) and Cadets Advocating Sexual Integrity and Education (CASIE). These organizations have established relationships with

several civilian hospitals, crisis centers and law enforcement agencies. Supervising these institutions at each Academy are the Boards of Visitors, the Superintendents, and other officials who are accountable for disciplinary actions.

- At the federal level, DoD Directives 1030.1 and 1030.2 guarantee seven major rights to persons who decide to pursue legal remedies, including full consultation and information as legal proceedings progress.
- In addition to all of the above, the Task Force recommends the designation of a Sexual Assault Response Coordinator (SARC), plus a Victim Witness Coordinator (different from the Victim Advocate) at each Academy. (p. 27)

Some advocates claim that any action that holds an (alleged) victim accountable for her own violation of personal conduct rules amounts to “retaliation.” This implies that the complainant should not be held accountable for her own high-risk behavior.

- The Task Force is to be commended for not endorsing the concept of “blanket amnesty” for complainants. (pp. 28-29) Such a policy would create a perverse incentive for women involved in personal misconduct to make false allegations of abuse or rape in order to escape accountability for their own actions.
- The Task Force does endorse postponement of discipline while investigation of the accused offender is pending, which makes sense in some cases. Investigations should be conducted with sensitivity for the personal feelings of the complainant, combined with full protection of the rights of the accused.

### ***Alleged Offender Rights***

The Report recommends that education programs should “*avoid categorically stereotyping men as perpetrators and women as victims*”—a comment reported to have come up in focus group discussions at the Naval Academy. (pp. 38-39) That stereotype, unfortunately, is reinforced by the obvious imbalance between extensive resources available for persons alleging misconduct (listed above) and minimal support systems available for those accused.

- Legal representation is essential to assure due process, but the Report indicates that there is only one advisor available for this purpose on the Naval Academy campus. At West Point, legal help is six hours away, at Fort Drum, NY. The Task Force only recommends that the West Point advisor be available on campus. (pp. 15, 34)
- Sexual abuse and personal misconduct are evidence of poor character. False or exaggerated accusations against others, which are not uncommon, demonstrate a lack of integrity.<sup>15</sup> Both infractions violate the Uniform Code of Military Justice and the service academies’ Codes of Honor.
- On page 34 the Task Force Report mentions two incidents of fraudulent reporting out of 85 cases, but downplays the problem by claiming that an unspecified number of

allegations were recanted because the (alleged) victims did not want to endure the investigative and judicial process.

- Footnote 137 reports that a DoD Inspector General survey in 2004 found that 43.2% of males and 36.8% of female midshipmen considered fraudulent reporting to be a large or very large problem. Comparable figures at West Point were 17.3% for men and 17% for women. The Task Force Report downplayed these figures and apparently did not investigate why these perceptions persist. Nor did the Report recommend accountability for persons who make unfounded allegations.
- To the contrary, the Task Force Report recommends mandatory training to teach investigators and prosecutors to “*take their focus off of the victim’s behavior and place it on the defendant’s behavior.*” (p. 32) It recommends courses on how to identify predatory behavior, but not on techniques useful in recognizing when an accusation is not credible.
- Some male cadets and midshipmen avoid female classmates in order to avoid the experiences of others whose careers were ruined due to relationships with women that led to charges of sexual misconduct. The result is that some women feel “shunned.”
- Some service academy investigations have been hampered because allegations of abuse were filed weeks or even years after the fact. The Task Force Report should have recommended that complaints must be filed within a reasonable length of time.

### ***Recommended Changes in the UCMJ***

The Report makes the unsupported and overstated assertion that the Academies did not hold alleged offenders “accountable” over the past ten years. This reflects apparent civilian misunderstandings of the nature of the UCMJ and non-judicial punishment.<sup>16</sup>

- Some people believe any sort of punishment short of court martial and conviction amounts to no punishment at all. To the contrary, military people are routinely punished for improper behavior that would not be considered a crime in civilian life.
- These include regulations forbidding senior/subordinate fraternization, on-campus drinking and sexual activity, failure to obey orders, and “conduct unbecoming an officer”—a punishable offense that has no counterpart in civilian codes of law.

The panel nevertheless makes a sweeping recommendation for statutory changes to reflect the “full range of sexual misconduct.” (p. 31) New legislation will not add to mandates already present in the academies’ Codes of Honor, or law and regulations already in effect, except to create new criminals whose guilt would be no less difficult to prove.

- In many cases of alleged assault at the Air Force Academy, as examined in excruciating detail by a 2003 Air Force Working Group, many prosecutions for rape were not conducted because there was insufficient evidence. It does not benefit

anyone to pursue a weak or questionable case that is sure to be dismissed by jury members who take their job, and instructions from a judge, seriously.

- The threshold of proof of forcible rape is justifiably high, since persons convicted are subject to severe penalties and the official designation of “sex offender” for life. Reasonable doubts are inherent in “he said, she said” situations, especially when illegal drinking by underage midshipmen and cadets elevates the risk of misconduct.
- The demand for new legislation sometimes reflects misimpressions about alleged offenses. Inaccurate news reports frequently describe all forms of sexual misconduct, ranging from inappropriate jokes to rape, as always credible and equally egregious. Comparatively minor incidents do not justify new legislation.<sup>17</sup>

### ***Training and Education - Physical Differences***

The Task Force suggests that male cadets and midshipmen might be more supportive of female classmates if they were educated on the rationale for gender-normed standards. (p. 39) Classes would have to indoctrinate acceptance of different physical standards and other gender specific allowances that are obvious at the academies and other officer training centers.

- A research project done at the Naval Academy in 1998 (one of many) reported that in military related training, women are nine times more prone to knee ligament injury than men, and the higher level of risk exists throughout a military career.<sup>18</sup>
- At the Marine Corps Officer Candidate School at Quantico, the tallest obstacle course bars are two feet higher for men than bars on the nearby course for women. Small wooden “assist” sticks nailed to the support posts help women to tackle the elevated bars. Female trainees also benefit from flat “assist” boards nailed about 12” from the bottom of obstacle course climbing walls that test upper body strength.<sup>19</sup>
- In the OCS Combat Readiness Test, men and women do the same CRT events, but with different time requirements. Even with these and other allowances, in the second OCS class of 2005, the attrition rate for women was 30%, compared to 8.3% for the men. Of the candidates who graduated, 48% of the females failed the CRT event, compared to 5% of the males. Results like this, which are not unusual, undermine theories of gender “equality” in physical training.

“Success” in this education effort also would require mandatory doublethink: i.e., belief in the idea that special treatment for women is the same as equal treatment. But the enormous physical demands associated with deliberate offensive action in Army and Marine direct ground combat units, or even in surface warfare emergencies such as the attacks on the Navy ships *Stark* and *Cole*, cannot be modified. There is no gender-norming on the battlefield.

### ***Training and Education – Sexual Harassment and Assault***

The Task Force Report recommends that several sexual harassment and assault (SH&A) classes at the academies be a) Mandatory; b) Scheduled in “prime time” usually devoted to academic subjects; and c) Graded for inclusion in calculations for class ranking. Implementation of these recommendations, which seem unnecessary given the availability of a wide array of academy Values, Ethics, and other SH&A education programs, reflect skewed priorities that could reach the point of diminishing returns.

- Male midshipmen and cadets who are more interested in learning core military subjects may not appreciate the elevation of such classes to the same importance as electrical engineering, especially if grades affect class standing.
- Accomplished female cadets and midshipmen may not appreciate relentless “special” programs that imply that women are helpless creatures who don’t know how to deal with men. They are also likely to be annoyed by mandatory programs that involve self-conscious displays, lecture series, readings and theater performances to address the “*equal importance of men and women to mission accomplishment.*” (p. 38)
- An example of such a program occurred on August 26, 2005, when members of the 1<sup>st</sup> Cavalry Division at Fort Hood TX were required to attend a “Women’s Equality Day” observance that included overdone, eye-rolling material.<sup>20</sup>
- The Task Force further recommends a “variety of instructional methods,” to include even more sensitivity/diversity training conducted by the Defense Equal Opportunity Management Institute (DEOMI), and by outside speakers or consultants on “gender violence-related topics.” At a time when other military communities are being downsized, this amounts to a jobs program for DEOMI, which has been known to conduct controversial presentations.<sup>21</sup>
- It is not clear what the Task Force means in saying that such programs are “*remiss in not acknowledging current youth culture, trends, and social norms.*” (p. 39) Instead of spending time studying popular culture, instructors should stress the academies’ Codes of Honor. People who do not lie, cheat, or steal will not engage in sexual misconduct, which involves infractions of all three prohibitions.
- There is a cultural contradiction in opposing violence against women, but condoning violence against military women, as long as it happens in aggressive “warrior” training or at the hands of the enemy.

### ***Prevention***

The Report rightly mentions casual attitudes toward sex and alcohol as factors that contribute to “*poor judgment, lowered inhibitions, and increased aggression and/or vulnerability to sexual assault.*” More involvement by Tactical Noncommissioned Officers and Senior Enlisted Leaders, particularly during evening and weekend hours, could be helpful in reducing the illegal use of alcohol and other high-risk behaviors. To be effective, however, such plans must involve firm enforcement of rules against alcohol and sexual encounters on campus.

The Report asserts that “*the majority of sexual assaults at both Academies involve alcohol to some degree,*” but proposals to address this factor are less than adequate. (pp. 8, 24)

- Footnote 25 reports that of the sexual cases reviewed by the Task Force, alcohol was involved in 58% of Military Academy cases and 57% of Naval Academy cases.
- Despite years of negative publicity about the Air Force Academy, alcohol offenses there have jumped 57 percent since the fall of 2003.<sup>22</sup>

### ***Coordination Between Military and Civilian Communities***

Coordination with civilian authorities is a useful idea, but the sole emphasis on *victim* support could result in officials taking sides in complex, unresolved proceedings.

The Task Force recommends the training of civilians to counsel (alleged) victims, but this is not the role of the military. It would be problematic to give civilians semi-official status, and to extend to them special privileges that could undermine the due process rights of midshipmen and cadets accused of misconduct. Most civilians are not familiar with the need to avoid command interference in disciplinary proceedings.

### ***Conclusion***

The Task Force Report correctly observes that sexual harassment and assault is not a “fix and forget” problem. Human relationships are far more complicated than that. It does not follow, however, that all of the panel’s recommendations, including new legislation, are necessary or justified.

It is possible that the Academies’ unbalanced emphasis on the rights of (alleged) victims only, with little apparent concern for persons faced with serious charges, is in itself creating an atmosphere of tension that more of the same would make worse. Given the findings of the GAO in 1994 and 1995, which found that complaints about double standards are the second-most common form of reported harassment, this possibility is more plausible than the theory that gender quotas and even more special treatment and will somehow correct the problem.

The extraordinary mission of the service academies should not be undermined by the theories of professional victimologists, whose philosophy suggests that women are always right and men are always wrong. The truth is that neither gender is perfect. Personnel policies must recognize the existence of human failings, and take realistic steps to encourage discipline, rather than indiscipline.

\* \* \* \* \*

*The Center for Military Readiness is an independent public policy organization that specializes in military personnel policies. Information about this and related issues of concern to CMR is available at [www.cmrlink.org](http://www.cmrlink.org).*

## Endnotes:

---

<sup>1</sup> The panel's present or former military members include Co-Chair Vice Adm. Gerald Howing, Chief of Naval Personnel, Col. Sharon K. G. Dunbar, USAF, Brig. Gen. Gina S. Farrisee, USA, Navy Chief of Chaplains Rear Adm. Louis V. Iasielo, Sgt. Maj. Alford L. McMichael, USMC, Maj. Gen. Michael J. Nardotti, USA (Ret.), and Brig. Gen. Jariisse Sanborn, USAFA. Civilians include Co-Chair Delilah Rumburg, Executive Director PA Coalition Against Rape, Anita Carpenter, CEO, Indiana Coalition Against Sexual Assault, Vera Mikula, St. Mary's High School Counselor, Dr. Laura L. Miller, RAND Social Scientist, and Diane M. Stuart, Director, Department of Justice Office on Violence Against Women.

<sup>2</sup> See statement of Christine Hansen, Executive Director, Miles Foundation, speaking at a joint news conference at the National Press Club in Washington D.C. on March 5, 2004.

<sup>3</sup> Robert Weller, AP, "Army, Navy Academies Have Avoided Sex Scandals." *Monterey Herald*, Mar. 30, 2003.

<sup>4</sup> Bradley Olson, *Baltimore Sun*, "Task Force Faults Academies for Harassment," Aug. 26, Steve Komorrow and Todd Plitt, *USA Today*, "Abuse Found in Military Schools," Aug. 26, Editorial, *Toledo Blade*, "Culture of Harassment," Jim Miklaszewski, "'Warrior Ethos' to Blame?" NBC News, Aug. 26.

<sup>5</sup> According to the Amnesty International news release, an OVA should be "*established within the Office of the Secretary of Defense, which would provide oversight, training and accountability to all branches of the armed forces and establish a privacy privilege for survivors [of violence against women.]*"

Together with Human Rights Watch, Amnesty International is a prime advocate of controversial globalist goals such as the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Rome Statute of the International Criminal Court (ICC). Amnesty International President William F. Schulz also called upon the Pentagon to "*must take seriously evidence suggesting that combat makes soldiers more aggressive.*"

<sup>6</sup> In the aftermath of the Navy's 1991 Tailhook scandal, the commander of the Blue Angels, Commander Robert Stumpf, was accused but cleared of wrongdoing at the Tailhook convention by a Navy Board of Review. His deserved promotion to Captain nevertheless was held up for more than a decade.

<sup>7</sup> Elaine Donnelly, "The Tailhook Scandals," *National Review*, Mar. 7, 1994, (posted on [www.cmrlink.org](http://www.cmrlink.org), under Issues/Social Policies), and Col. W. Hays Parks, USMCR (Ret.), "Tailhook, What Happened, Why & What's to be Learned, Naval Institute *Proceedings*, Sept. 1994.

<sup>8</sup> For example, Dr. Charles P. McDowell, Ph.D., Author of "False Allegations," *Forensic Science Digest*, 1981, and Eugene J. Kanin, Ph.D., Purdue University, author of "False Rape Allegations," *Archive of Sexual Behavior*, 1994.

<sup>9</sup> AP, "Male Academy Cadets Fear 'Witch Hunt'," *New York Times*, Apr. 2, 2003, and Robert F. Door, "Some Reported Academy Sex Assaults are Lies," *Air Force Times*, April 4.

<sup>10</sup> R. Jeffrey Smith, "Sexual Assaults in Army on Rise," *Washington Post*, June 3, 2004.

<sup>11</sup> Robert Weller, AP, *Rocky Mountain News*, Sept. 1, and KSDO-TV, Aug. 28. A senior Air Force Academy cadet reportedly tried to kill freshman cadet Nicholas Khan, who had accused the senior of coercing a female freshman into having sex. The senior cadet reportedly threw Kahn, who was in the process of reporting the alleged misconduct, out of a window. Kahn fell 30 feet and broke his back. The case is currently under review.

<sup>12</sup> Experts in the field include Dr. Charles P. McDowell, Ph.D., Author of "False Allegations," *Forensic Science Digest*, 1981, and Eugene J. Kanin, Ph.D. of Purdue University, author of "False Rape Allegations," *Archive of Sexual Behavior*, 1994.

---

<sup>13</sup> This recommendation may be inspired by a situation involving Colorado rape counselor Jennifer Bier, who is fighting an arrest warrant issued in May 2005 after she refused to turn over her records in the pending court-martial of 1<sup>st</sup> Lt. Joseph Harding, who is alleged to have sexually assaulted two female cadets in 1999 and 2000. (*Air Force Times*, June 13)

<sup>14</sup> ABC, Inc.; Cable News Network, Inc. ("CNN") CBS Inc, Fox News Network, National Broadcasting Company, Inc, and The Washington Post, Petitioners, and Gene C. McKinney, Sergeant Major of the Army, Petitioner. U.S. Court of Appeals for the Armed Forces, Misc. Nos. 97-8023, 97-8024, decided Nov. 5, 1997. Excerpts of opinion:

“SMA McKinney's Article 32 hearing was ordered closed by Colonel Owen C. Powell, the special court-martial convening authority (SPCMCA), who appointed the Article 32 investigating officer...Colonel Powell gave the following reasons in support of ordering a closed hearing: (1) to maintain the integrity of the military justice system and ensure due process to SMA McKinney; (2) to prevent dissemination of evidence or testimony that would be admissible at an Article 32 investigation, but might not be admissible at trial, in order to prevent contamination of the "potential pool of panel members," and (3) to protect the alleged victims who would be testifying as witnesses against SMA McKinney, specifically to shield the alleged victims from possible news reports about anticipated attempts to delve into each woman's sexual history.

“...In *Hershey*, we recognized that "[u]ndeniably there is a certain amount of mortification imposed on victim-witnesses in sex cases, but that is a condition which cannot be eliminated from our judicial system." (emphasis added)...Every case that involves limiting access to the public must be decided on its own merits.”

<sup>15</sup> At the infamous 1991 Tailhook convention, then-Navy Ensign Beth Warnick accused three naval aviators of gang raping her, but later admitted she had lied. Warnick was never punished appropriately for this serious ethical violation, but the men she accused suffered severe career penalties. See *National Review* article footnoted above.

<sup>16</sup> Some sensational news reports about the 2003 Air Force Academy scandal created the impression that rapes and assaults were occurring constantly, and that anything short of successful prosecution by courts-martial constituted no punishment at all. A 2003 investigation by an Air Force Working Group, headed by Mary L. Walker, found that there had been 43 *allegations* of sexual assaults and rape that occurred over 10 years, and nearly all of the cases were handled properly. Punishments ranged from letters of censure to expulsion or imprisonment.

<sup>17</sup> See page 3, referring to studies done by the General Accounting Office (GAO) in January 1994 and 1995. Both of these surveys found that complaints about more serious incidents, such as unwanted sexual advances or pressures for dates by superiors, were quite rare, while derogatory comments, nicknames, and jokes were mentioned far more often at all the service academies.

<sup>18</sup> Memo from Staff Orthopaedic Surgeon, Naval Medical Clinic, Annapolis, to Superintendent, USNA, covering “Relative Gender Incidence of ACL Injury at the U.S. Naval Academy,” accepted for presentation at the Society of Military Orthopaedic Surgeons Annual Meeting, 7 December 1998.

<sup>19</sup> The 2005 OCS class started with 57 females and 114 males for a total of 171 candidates. Of that number 40 women graduated, 19 of whom had failed the Combat Readiness Test, compared to 5 of the men.

<sup>20</sup> Among other things, attendees witnessed a high-school type re-enactment of statements from several historic suffragists, plus a slide show, a poem, and the introduction of former Spec. Shoshana Johnson, one of three women captured in Iraq in March 2003. Ms. Johnson was presented with a gift and a saber, which she used to cut a cake.

<sup>21</sup> Matt Labash, “How the Military Indoctrinates Diversity, *Weekly Standard*, August 18, 1997.

<sup>22</sup> “Alcohol Abuse Up at Air Force Academy,” *Air Force Times*, Feb. 21.