

**Statement of General Mark A. Welsh III, USAF
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**Sexual Assault in the Military
Senate Armed Services Committee
*June 4, 2013***

Sexual assault and unprofessional relationships are unacceptable, they have no place in our Air Force, and their prevalence undermines the mission effectiveness of our great Service. The United States Air Force cannot and will not tolerate such behavior, and as I have done since becoming Air Force Chief of Staff, I will continue to pursue an organizational environment free from sexual harassment, disrespect, and the crime of sexual assault.

As an Air Force, we have worked hard to disseminate the message that it is every Airman's responsibility to ensure unit climates are free from harassment and disrespect. You are either part of the solution or part of the problem; there is no neutral position. That message starts at the top, and it is my responsibility to ensure that the Air Force family welcomes new Airmen into a safe, respectful, and professional environment; that new Airmen are taught standards of behavior and discipline; that unit commanders enforce and live by those standards; and that if sexual misconduct occurs, victims are treated with compassionate care, they feel confident to report the incident without fear of retaliation or reprisal, and that alleged perpetrators are given a fair and impartial forum and held accountable if proven guilty. Nothing saddens me more than knowing this cancer exists in our ranks, and that victimized Airmen, on possibly the worst day of their lives, sometimes feel they cannot receive compassionate, capable support from our Air Force. This is an issue I work every day to remedy, primarily through those installation- and unit-level commanders who are so critical to good military order, discipline, and morale, and who must be personally involved in establishing the proper organizational climate and character.

Since very early in my tenure as Air Force Chief of Staff, I have emphasized this issue to multiple echelons of Air Force leadership, and to our Airmen themselves. Every Air Force four-star general received my guidance during our CORONA Fall conference in early October 2012. Secretary Donley, then-Chief Master Sergeant of the Air Force Roy, and I issued a joint letter to Airmen on November 15, 2012, expressing clear and unambiguous direction to the force, urging them to become personally involved in driving sexual misconduct from our ranks. We brought all 164 Air Force wing commanders—those most influential in shaping our Air Force environment and climate at the installation level—to Washington on November 28, 2012, to receive not only my personal perspective on this issue, but also to encourage meaningful dialogue and explore significant policy options for the future.

Following the wing commander conference, installation leadership conducted an Air Force-wide health and welfare inspection during the first two weeks of December 2012 designed to eliminate environments conducive to sexual harassment or unprofessional relationships, both possible leading indicators of sexual misconduct. Over 32,000 findings were reported by wing commanders at over 100 installations, with 85 percent of the findings comprised of “inappropriate” items like unsuitable calendars and magazines displayed in public areas. About two percent of the findings were pornographic in nature. All reported items were removed, but more importantly, Airmen and their commanders received a clear message of non-tolerance for sexually-charged environments.

I issued a January 2, 2013, “CSAF Letter to Airmen” reinforcing the message that images, songs, stories, or so-called “traditions” that are obscene, vulgar, or that denigrate or fail to show proper respect to ALL Airmen, are not part of our heritage and will not be accepted as part of our culture. They are not things we value, and they ultimately degrade mission effectiveness and hurt unit morale. Disrespectful, sexually-charged atmospheres foster a “permissive environment” for sexual predators, allowing them to pursue their criminal acts more easily. By reaffirming respect and professionalism within workplace environments, we took an important step toward eliminating environments conducive to sexual misconduct. We must continue to aggressively pursue that goal.

We have made progress in the Basic Military Training (BMT) environment as well. General Edward Rice, Commander of Air Education and Training Command (AETC), has continued to investigate thoroughly all allegations of misconduct, to hold perpetrators of misconduct accountable, to care for victims of misconduct, and to fix the problems that led to the misconduct. Providing a safe and professional training environment to our Nation’s sons and daughters who choose to become Airmen is a sacred responsibility. We have worked hard to restore the trust of the American public while also honoring the selfless service of the great majority of our military training instructors (MTIs) who exemplify the highest adherence to our core values of *Integrity, Service, and Excellence*.

The Air Force does not prejudge the accused—every Airman under investigation is presumed innocent until and unless proven guilty. The Air Force has completed 19 courts-martial cases related to the BMT investigation, with all but one resulting in a conviction.¹ Three MTIs received non-judicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ) for violation of the AETC policy against unprofessional relationships. The unprofessional relationships were all consensual relationships with students in technical training status: one involved social media contact only, one involved a non-sexual relationship with a student, and the third involved a sexual relationship with a student who had graduated from technical training.

¹ The case of the sole exception is still open as the Air Force has appealed a judge’s evidentiary ruling.

There are eight more trials scheduled, and three other instructors are under investigation.

We have identified and cared for a total of 63 trainees and technical school students involved at Joint Base San Antonio-Lackland. Twelve are victims of sexual assault, 40 were allegedly involved in an unprofessional relationship with an instructor involving physical contact, and 11 were allegedly involved in an unprofessional relationship with an instructor involving no physical contact.² The vast majority of the misconduct allegations—51 of 63 affected trainees and students—fall into the category of unlawful consensual “unprofessional relationships” as defined by AETC policy. All 63 Airmen have been contacted and offered support from base agencies under the Air Force’s Sexual Assault Prevention and Response (SAPR) program, as well as other support services such as legal assistance. Sixty-one have accepted some level of Air Force support, including 11 who have been assigned victim advocates at their request, and 24 who have requested and been assigned Special Victims’ Counsel (SVC). The Air Force will continue to provide this support to all future victims identified as a result of the ongoing BMT investigations. The mending of the BMT environment at Lackland AFB has taken time, but due process and the deliberative nature of an effective investigation required it. I am grateful for the tremendous progress General Rice and his team have achieved, and I am confident that the Air Force is firmly on the path to restoring the high levels of professional conduct that we demand of ourselves, that the BMT environment requires, that our trainees deserve, and that the American people expect.

Sexual Assault Prevention and Response in the Air Force

A 2010 Gallup survey revealed that since joining the Air Force, 19 percent of women and two percent of men experienced some degree of sexual assault. For 3.4 percent of women and 0.5 percent of men, those assaults had occurred in the 12 months preceding the survey. Of those, only about 17 percent of the women and six percent of the men reported the incident. We expect to conduct another Gallup study later this year to gauge shifts from this baseline data. The Air Force recorded 614 reports of sexual assault in fiscal year 2011; in fiscal year 2012, the figure rose about 29 percent to 790.³ These sexual assaults, as reported in the fiscal year 2012 Department of Defense (DoD) Annual Report on Sexual Assault in the Military, range from inappropriate sexual touching to rape. Other figures suggest a strong tendency to under-report, and even more disturbing is that within the Air Force, fellow Airmen commit the majority of these crimes—brothers- and sisters-in-arms who should be protecting and looking out for one another. Calling these numbers unacceptable does not do the victims justice—in truth, these numbers are appalling!

² Eight of the 11 unprofessional relationships not involving physical contact were via social media and/or telephone only.

³ 449 unrestricted reports, 399 restricted reports, of which 58 converted to unrestricted.

The 2010 and 2012 Workplace and Gender Relations surveys provide insight as to why victims of sexual assault often do not report the assault. Results from both years show that “they did not want anyone to know” (70%); “they felt uncomfortable making a report” (66%); and “they did not think their report would be kept confidential” (51%), are the top three barriers to reporting. Victims of sexual misconduct often attach undeserved feelings of shame to the incident that discourage them from sharing their experiences with fellow Airmen, family, or their chain-of-command. Some victims fear reprisal or retaliation from the alleged perpetrator or their friends or their chain of command, while others do not wish to re-live the experience through the multiple “re-tellings” of the event that an in-depth investigation requires. With minor offenses, Airmen often feel that the incident was not sufficiently egregious to merit a formal report. Despite the existing tendency to under-report, I believe that increased attention to this issue, educational efforts to ensure every Airman knows exactly what constitutes sexual assault in the military, and generating trust in the many elements of the victim support apparatus are part of the required solution going forward.

Once a victim does report, there are many avenues of support and legal guidance available. The Air Force process, from initial incident report through case disposition, is very similar to that of the other military Services. A sexual assault victim may initiate either a restricted or an unrestricted report of sexual assault. A victim may only initiate a restricted report if they voice their initial claim to a Sexual Assault Response Coordinator (SARC), a Victim Advocate (VA), or a medical professional. For restricted reports, the victim’s identity and/or identifying information is not provided to anyone in the supervisory chain or to law enforcement.

Once the victim makes his/her initial report to a SARC, VA, or medical professional, the victim’s reporting options are fully explained and a personal victim advocate (VA) is appointed, if desired. In the Air Force, SARCs are government civilians or officers, located at every Air Force installation, with a full-time responsibility to handle sexual assault response. Victim advocates are trained volunteers who work with victims on a part-time basis.

If the victim’s initial report is to a supervisor, commander, or law enforcement official, the report must be initiated as an unrestricted report, and must be investigated by law enforcement. If the victim tells a friend who tells a supervisor, commander, or law enforcement, this is considered an unrestricted report of sexual assault and must be investigated by law enforcement. If law enforcement responds to a scene involving allegations of sexual assault, the Air Force Office of Special Investigations (AFOSI) is notified immediately, and the base defense operations center will enter a sanitized entry into the law enforcement blotter, a controlled document with very limited distribution, that captures chronologically all security forces activities. The blotter entry does not include personally-identifying information for either the victim or the alleged offender, but it will identify who was notified of the incident, particularly AFOSI and the chains of command of all parties involved. AFOSI will notify the SARC, who will then engage the

victim to offer support. There is no requirement for victims to report a sexual assault to their supervisor or commander personally.

DoD regulations require the SARC to provide the installation commander with information on unrestricted and restricted reports of sexual assault within 24 hours,⁴ and all sexual assault reports, both restricted or unrestricted, route through the installation SARC and the vice wing commander to the installation command post within 48 hours of notification. If the report is unrestricted, only the victim's duty status (military or civilian) is included; if restricted, only the fact that a report has been filed is forwarded. Installation command posts forward operations reports up the chain of command, through their respective major command (MAJCOM) commanders, to Air Force headquarters. These reports are forwarded to me on a weekly basis. For unrestricted reports, the victim's commander is notified as soon as possible, either by the SARC, the unit first sergeant, or medical personnel. Upon initiating an investigation, AFOSI also provides memoranda to the unit commanders of all subjects involved, alerting them to the investigation.

From the moment an alleged assault becomes known, the SARC informs the victim of all available support services, including counseling, a safe place to stay, access to a special victims' counsel (SVC) and the confidentiality associated with sexual assault forensic examinations (SAFEs). AFOSI will offer a victim a SAFE if circumstances warrant, and, if conducted, accepts custody of the SAFE kit from the issuing military treatment facility or local community hospital. The SARC arranges a follow-up meeting with the victim the morning after any alleged sexual assault.

AFOSI works closely with the prosecutors from the Staff Judge Advocate's (SJA's) office as they conduct and complete the investigation. Commanders are required to provide victims who file unrestricted reports monthly updates on the status of investigative, medical, legal, or command proceedings until final disposition.⁵ The SARC, VA, and SVC—if requested—maintain contact with the victim throughout the investigation. AFOSI is not permitted to “unfound” an allegation of sexual assault after an investigation. AFOSI must, in all cases, provide their report to the alleged offender's commander for disposition after every sexual assault investigation. The AFOSI reports include a narrative of all of the investigation's steps, a description of all the available evidence, and a copy of all witness statements. SJAs use the same investigative report to provide commanders appropriate disposition recommendations. Since recent Secretary of Defense-directed legal reforms have withheld initial disposition authority for sexual assault cases from commanders who are not a special court-martial convening authority with the rank of at least O-6 (typically Air Force wing commanders), the squadron commander no longer has the authority to issue initial disposition decisions. The squadron commander, an O-4 or O-5 typically with 12 to 16 years of service, now

⁴ DoDI 6495.02, Enclosure 5, para. 3(g)(2).

⁵ DoDI 6495.02, Enclosure 5, para. 3(g)(2).

sends the case materials to the special court-martial convening authority with his or her own disposition recommendation. If the special court-martial convening authority accepts the recommendation, he or she may elect to take action at their level, or they may return the case to the squadron commander for disposition. If the special court-martial convening authority disagrees with the recommendation, he or she may still take action at their level, or forward the case to the general court-martial convening authority for disposition. Throughout the process, the legal office—through the victim and witness assistance program—consults with the victim and obtains his or her input on whether to prefer charges, or to accept the accused's discharge or resignation in lieu of court-martial. In over 99 percent of all Air Force cases where an SJA recommended a court-martial, the convening authority's disposition decision followed the SJA advice. Also, Air Force prosecution and conviction rates for sexual assault have been very similar to national averages.⁶

Despite the progress we have made in the Air Force, more must be done. The Air Force has partnered with the Office of the Secretary of Defense (OSD) to conduct a top-to-bottom review of current SAPR training requirements to determine their sufficiency and effectiveness. Secretary Hagel has further directed that all Services re-train and re-certify their respective SARCs and VAs, and the Air Force is in the process of doing so. Furthermore, in accordance with the fiscal year 2012 National Defense Authorization Act (NDAA), all of our over 3,100 volunteer victim advocates have been informed of the certification required to serve victims after October 1, 2013, and we are on track to hire and place a full-time, fully certified victim advocate at every installation by October 1, 2013.

In coordination with OSD, the Air Force has implemented a special victims' capability comprised of investigators and attorneys equipped with specialized training in sexual assault cases. This special victims unit (SVU) possesses advanced training in sexual assault investigation and litigation, and is qualified to handle the most difficult sexual assault cases. Twenty-four AFOSI agents, whose sole purpose is to investigate sexual assault crimes, serve in this capacity, and nine of our most experienced senior trial counsel (STC) also contribute to the SVU. All told, 48 AFOSI agents and 24 trial counsel have jointly attended the Federal Law Enforcement Training Center's sex crimes investigation training program this fiscal year. This summer, additional AFOSI agents and trial counsel will attend an advanced sexual assault litigation course at the Air Force JAG school.

In January, the Air Force also stood up the SVC program—separate and distinct from SVU—as a pilot program for DoD. SVCs are providing comprehensive and compassionate legal representation to victims, and in a few short months the program has already made a profound difference for our victims and our Air Force. To date,

⁶ Rape, Abuse, and Incent National Network (RAINN) nationally-tracked prosecution and conviction rates are 26% and 56% respectively. Using the RAINN model to calculate the numbers, USAF prosecution rates were 24% and conviction rates were 57% for FY12.

these attorneys are zealously representing over 300 clients in various stages of the investigatory and adjudicatory phases of their cases. Feedback from those who have received SVC services has been very positive and extremely encouraging. A report on the pilot program's performance, due to OSD on November 1, 2013, will likely affirm these initial impressions.

To sustain and capitalize upon this momentum, I directed a complete review of manpower and resource requirements pertaining to the Air Force SAPR program which identified a shortfall of 224 SARC, VA, and SVC positions across the enterprise. We will work to fill those billets immediately, prioritizing the installation-level first. We will also continue to expedite base transfer requests for all Air Force sexual assault victims. We approved all 46 expedited transfer requests over the past year, to include both permanent change-of-station and local installation reassignments.

Secretary Donley and I also recently approved realignment of the SAPR office within the Air Force headquarters hierarchy. The expanded office will be led by a General Officer reporting directly to the Vice Chief of Staff of the Air Force. We will also infuse the office with a significant increase in dedicated manpower and expertise, to include recruiting outside experts in this field to advise and assist our efforts as full-time teammates. The revised SAPR office will be better equipped to execute our comprehensive approach to combating sexual assault along five lines of effort: *Personal Leadership, Climate and Environment, Community Leadership, Victim Response, and Holding Offenders Accountable*.

UCMJ and the Commander

Since becoming the Air Force Chief of Staff, I have worked hard to combat sexual assault within our ranks. I know our commanders and supervisors truly care for their Airmen, and appreciate the tremendous sacrifices they and their families make every day in service to our Nation. I recognize that the American people send the U.S. military their very best to serve, and that we have been entrusted by the families of every Airman with the care of their sons and daughters. I take this responsibility very seriously, and have shared my thoughts on this subject with Airmen at every level of our Air Force.

Airmen should have no doubt about who will hold them accountable for mission performance and adherence to standards. Airmen expect their commander to define the mission, ensure readiness, and hold accountable other Airmen who fail to meet their responsibilities or live up to our standards of conduct. The commander must have both the responsibility and the authority to address issues that affect the good order and discipline of their unit. Military units reflect the character, demeanor, and priorities of their commanders. Commanders having the authority to hold Airmen criminally accountable for misconduct in-garrison is crucial to building combat-ready, disciplined units. And in a deployed environment, where lives are in immediate and proximate

danger, the importance of unit cohesion driven by a commander's ability to maintain order, discipline, morale, and to hold Airmen accountable cannot be overstated.

There are many current legislative proposals that seek to alter the UCMJ, some in significant ways. The UCMJ traces its roots to the 1775 Articles of War, with 238 years of proven history and combat effectiveness behind it. During the intervening 238 years, this body of law—with commanders serving in a “gate-keeping” role over courts-martial—has ensured a well-disciplined military, one that has fought the Nation's wars and defended national interests extremely well. Bodies of law like the UCMJ can and should change over time, but any changes should be conducted prudently, deliberately, and with thoughtful consideration of unintentional second- and third-order effects.

Over the last five years, only one of 327 Air Force sexual assault findings resulted in a complete reversal of court martial findings by the convening authority with no follow-on disciplinary action—the *Wilkerson* case—which has served as the catalyst for recent calls for change. The current Article 60⁷ legislative proposal from the Secretary of Defense that places limits on commanders' authority to overturn any conviction represents a thoughtful and significant step in the right direction to limit commander authority appropriately.

I believe the decision to elevate court-martial initial disposition authority for sexual assault cases to the O-6 level will also produce significant results over time. The Air Force is already seeing significantly higher referral rates for sexual assault cases during fiscal year 2013 than in previous years. It will take time to assess fully the success of these changes. But to truly turn the corner on sexual assault, we must thoroughly consider every reasonable alternative in our effort to find the set of “game changers” that will lead to the elimination of this crime from our Air Force.

As we do so, it will be important for us to remember that commanders are also the key to permanent organizational and environmental change. From racial integration to the repeal of “don't ask, don't tell,” unit commanders have been absolutely essential to the acceptance of new policy and standards of conduct. The commander's strong and effective role throughout unit climate shifts is crucial—including the reaffirmation of environments free of sexual misconduct. Changing views on respect and dignity does not happen overnight and it requires consistent leadership focus. We must avoid creating an environment where commanders are less accountable for what happens in their individual units, stifling the very environmental shift we seek. The United States military takes pride in its “can-do” attitude, and we have led the way on a range of societal imperatives. We can, and will, do the same on sexual assault. If we are serious about change, we must reinforce to commanders that success depends on their sound judgment in all matters involving good order and discipline, not separate them from the problem.

⁷ Action by the convening authority.

Summary

Secretary Hagel said it clearly— sexual harassment and sexual assault in the military "are a profound betrayal of sacred oaths and sacred trusts; this scourge must be stamped out."⁸ The Air Force has made steady progress in sexual assault response, but preventing the crime itself remains the goal. Regardless of their background, once a young man or woman becomes an Airman, they are held to a higher standard, as service in the most capable military in the world demands. That unmatched capability requires adherence to a code of behavior that exceeds societal norms. The unit commander is the most visible champion and example of the norms we expect our people to meet, personifying expectations of discipline daily with his or her Airmen. Commanders knit combat units into an effective fighting force, and Airmen reflect the character and values of their commander—commanders are the key to promoting persistent, healthy environments of respect and dignity.

We swear an oath to uphold and defend our Constitution, and we willingly agree to lay down our lives in defense of the freedoms we all cherish. About one percent of Americans volunteer to serve their Nation in uniform, and as U.S. servicemen and women, we sacrifice a portion of our personal freedoms to bond effectively as a cohesive member of America's military team. Because of this, we must instill a climate of respect in every Air Force unit, and into the mind of every Airman. Every Airman must desire to do the right thing, to respect and look out for fellow Airmen, and to truly live by our core values of *Integrity First*, *Service Before Self*, and *Excellence in All We Do*. No one who truly lived those values would ever walk down a path that leads them to commit this terrible crime.

Americans hold their military to a high standard, and rightly so. Air Force leadership at every level has an obligation to protect and strengthen the force, and to be worthy of the confidence of our Airmen and the Nation we serve. We have a duty to live by our core values and to meet or exceed the high standards the American people expect of us. As Secretary Donley has stated, "this is family business," and as an Air Force family, we must do a better job of caring for one another. I will never stop spreading this message, and we will never slow down our efforts to ensure that victims receive the best, most capable, and most thoughtful care and advice possible. Until we succeed, I will do everything in my power to eradicate sexual assault from the ranks of the United States Air Force. Nothing else is acceptable.

⁸ Commencement address to 2013 graduating class at West Point, May 25, 2013.