

Lieutenant General Richard C. Harding
The Judge Advocate General
United States Air Force

Statement to the United States Commission on Civil Rights
11 Jan 2013

Opening

Mister Chairman and members of the Commission, thank you for the opportunity to speak to you today about sexual assault prevention and response within the Air Force. This topic is extremely important to us. We are fully committed to supporting victims of sexual assault, while we do everything humanly possible to eradicate this crime from our service.

Our Secretary, the Honorable Michael Donley, and our Chief of Staff, General Mark Welsh, are fully committed to eliminating sexual assault within our ranks. They have made their position clear. They and other senior leaders in the Air Force have zero tolerance for this offense. Our goal is to drive the rate of sexual assault in the Air Force to zero. One sexual assault is one too many.

We believe that preventing sexual assault begins at the time of accession for each Airman, when they join our ranks and become part of our Air Force family. At that time, they must enter a mission-focused work environment, one that emphasizes respect, trust and professionalism and reflects our core values of integrity first, service before self, and excellence in all we do. We believe that our sexual assault challenge, like all challenges we have faced in the past and will face in the future, will be overcome by staying rooted to our core values – integrity, service, and excellence—and acting on those values.

Employing our core values of integrity first, service before self, and excellence in all we do combined with the Department of Defense's guidance, we developed a comprehensive approach to combating sexual assault with five lines of effort: *Personal Leadership, Climate and Environment, Community Leadership, Victim Response, Holding Offenders Accountable.*

While we are actively engaged in improving our efforts in all five lines of effort, I would like to discuss our efforts with regard to work environments, accountability and victim services, fields of practice where I have devoted much attention and dedication in my role as the Air Force Judge Advocate General. This is by no means a comprehensive list of everything the Air Force is doing to combat this

problem; however, these examples also demonstrate our senior leaders' tireless resolve to do everything possible to combat sexual assault in the Air Force.

Worldwide Wing Commander Meeting and Inspection

Our core values demand that we maintain and sustain an environment of mutual respect. The Air Force succeeds because of the professionalism and discipline of our Airmen. Every Airman is critically important, and everyone deserves to be treated with respect. Anything less marginalizes great Airmen, degrades mission effectiveness, and hurts unit morale and readiness.

In November, our Chief of Staff brought together Air Force wing commanders -- more than 160 senior colonels or one-star generals -- for an unprecedented day-long face-to-face conversation about leadership. One of the primary topics he discussed at length was sexual assault prevention and response. As far as I am aware, this is the first time all wing commanders have met in a single place at a single time with the Chief of Staff of the Air Force on any topic. It was an extremely candid discussion. The Chief stressed to them that as wing commanders -- as leaders -- they must directly and aggressively address this issue. His message was clear— we must redouble our efforts to combat sexual assault, and we need to start by assuring our work environments reflect respect for all Airmen.

As part of this meeting, the Chief announced a Health and Welfare Inspection across the Air Force to reinforce expectations for the workplace environment, to correct deficiencies, to remove inappropriate materials, and to deter conditions that may be detrimental to good order and discipline. Stated another way, it was a “reset” of sorts to ensure that Air Force workplaces were free of offensive materials that might breed a lack of respect among Airmen.

Senior Trial and Defense Counsel

Ensuring and maintaining appropriate work environments is only one initiative. We also have improved the staffing and training of our prosecutors and defense counsel, who litigate sexual assault cases.

For more than 40 years the Air Force has staffed and fielded specially trained, senior trial counsel, who litigate our most demanding cases. Sexual assault cases fall into this category and traditionally have been tried by Air Force senior trial counsel. That said, in an effort to bolster an already strong and mature program, we recently designated eight of these senior trial counsel as special victims' trial counsel and are focusing their practice on sexual assault prosecutions. Since April

of last year, these attorneys have prosecuted more than 45 sexual assault cases and participated in over 40 Article 32 sexual assault hearings. These JAGs have also received specialized training on complex legal issues that arise in prosecuting sexual assault cases.

We have a similar training program for senior defense counsel. It is important that our defense counsel be as well trained as our prosecutors. We must equally arm both the prosecution and defense with talent and training, in order to assure that in our system of criminal justice, the truth is never a casualty.

We are also working closely with the Air Force Office of Special Investigations on developing team teaching – developing courses where both special victims’ trial counsel and other senior trial counsel are trained shoulder-to-shoulder with criminal investigators. This will strengthen our sexual assault investigative efforts. As an example, this week three of our senior trial counsel are attending the Air Force Office of Special Investigation's Sexual Crimes Investigations Training Program to help strengthen our investigations into sexual assault, as well as instruct our special prosecutors in how sexual assault investigations often unfold. We are also finalizing a course where we will bring investigators, prosecutors and defense counsel together to focus on the legal issues surrounding investigations and trials. We are also enhancing the training we provide our victim and witness liaisons and paralegals to better support special victims’ teams.

Special Victims’ Counsel

Lastly, we have initiated a program that I believe is a positive and profound change in the way we approach sexual assault cases. Effective January 28th, we will begin a pilot program to provide Airmen, who report they are victims of sexual assault, with a personal attorney at Air Force expense. This new initiative, called the Special Victims’ Counsel Program, is unique among federal agencies in providing this support to victims of sexual assault. It will greatly improve the quality of support we provide victims of sexual assault.

From the last full year of sexual assault statistics, we noted that 96 victims, who originally agreed to participate in the prosecution of their alleged offender, changed their minds before trial and declined to cooperate with law enforcement personnel and the prosecution. These 96 victims represented 29 percent of our victims of sexual assault, who had filed an unrestricted report of sexual assault. I believe that, had these victims been represented by their own attorney, many of them would not have declined to cooperate in holding the offender accountable.

While our pilot program will likely increase prosecutions for sexual assault, make no mistake, its primary purpose is to give the best care to our people. Victim care is extremely important to the Air Force. Our Special Victims' Counsel will operate independently of the prosecution's chain of command, establish attorney-client relationships, and zealously advocate on their clients' behalf...thereby protecting victims' privacy and help preclude victims feeling re-victimized by having to endure alone a complex, exhausting and often confusing criminal justice process.

We are in the early stages of this program, and are excited about what the future holds. Last month we trained the first cadre of 60 military attorneys as special victims' counsel. Over the course of 3-days, these attorneys received in-depth training from experts in military justice, professional responsibility, legal ethics, and victims' rights. The training featured a recognized civilian expert on counsel for victims, Professor Meg Garvin, the Executive Director, National Crime Victims' Law Institute and Clinical Professor of Law in the Crime Victim Litigation Clinic at Lewis and Clark School of Law. Professor Garvin taught our JAGs lessons that she has learned in over a decade of experience in representing victims, providing valuable insights, recommendations, and practical tips to our new victims' counsel.

We are completing final preparations and training those Air Force professionals, who will interact with the Special Victims' Counsel, including our investigators and our Sexual Assault Response Coordinators, in time to begin this program 17 days from today.

The Special Victims' Counsel Program will help us give the best care of those who report being victimized by sexual assault. It is the right thing to do, and it will have a positive and profound impact.

Closing

The men and women, who raised their right hand with pride and volunteered to serve this great Nation, became more than just Airmen ... they became part of our Air Force Family. Therefore, we strongly believe that we have a sacred obligation to provide a work environment that welcomes and celebrates their diverse backgrounds and contributions, and emphasizes the Air Force core values of integrity, service, and excellence, without which respect, trust and professionalism cannot thrive.

While we have a long way to go in eradicating this crime from our ranks, we remain committed to a zero-tolerance approach and have taken key steps in strengthening accountability and victim care.

I look forward to answering your questions. Thank you.