

This was the story that ended my New Yorker career. The reason: I didn't interview Donald Rumsfeld. Not that I didn't try, of course. But I was reporting this at the time Rumsfeld was being driven out as Secretary of Defense, and he wasn't eager to speak with anybody. When I suggested we hold the story a few weeks and try Rumsfeld again, I was told, no, David doesn't like the story. A few days later he called and fired me.

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The court martial that convened on November 14 in a long, sunlit courtroom at Andrews Air Force Base, just east of Washington, D.C., was extraordinary in that it came to trial at all. The defendant, Major Vincent Pacella, was as close to royalty as can be found in the United States Air Force.¹ As a pilot in the same Andrews-based wing responsible for Air Force One, he flew the likes of First Lady Laura Bush and Secretary of State Condoleezza Rice² around the globe in

¹ That Pacella had one of the most enviable jobs in the Air Force comes from Air Force LTC David Holmen, who served as the bailiff in this case and is also a pilot in the 99th. Holmen can be reached through Capt. Herb McConnell, PAO for the 99th, 301-981-4825 cell: 202-409-8106 or herbert.mcconnell@andrews.af.mil

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Gulfstream executive jets.³ While many Air Force pilots endure months away from home, living at dusty airfields in Turkey or Guam, and sometimes suffer the terror of enemy fire, Pacella and his crew, on missions, lived in the same luxurious hotels as their passengers.⁴ Now he sat at a government-issue, rosewood-veneer defense table, a beribboned blue dress uniform stiff over his broad chest and shoulders. Kojak-bald with a strong cleft chin, he appeared relaxed and confident, head high, contemplating the junior officers of the legal corps, filing in to learn from his trial.

Pacella may not have been aware, as he'd jetted hither and yon, of a paroxysm of soul-searching underway in the Defense Department. In the midst of a war not going well, more dependent than ever on recruitment and retention of women, and shaken by scandal and pressure from Congress, the Pentagon was engaging in a crash program to reverse generations of institutional sexism. Emboldened by new procedures, two women under Pacella's command had taken the unusual step of formally charging their superior officer with indecent sexual assault and rape.

Pacella sat between two young female Air Force attorneys, leaning left and right as they whispered to him. Despite the gravity of the charges, he'd chosen not to spend his own money on a civilian

³ File "99th Airlift Squadron"

⁴ this came out in trial testimony

attorney. The jury box was also empty at Pacella's request; a brother officer, serving as judge, would alone decide his fate. The first witness, an olive-skinned flight technical sergeant named Leah Visintine⁵, wore studious glasses, short black braids, and a steady determination not to make eye contact with Pacella. Under questioning from the male captain serving as prosecutor, she told her story with the high-chinned precision of a combat pilot debriefing a bombing run:

On her first mission as flight attendant, November 21, 2005, Visintine served Acting Deputy Secretary of Defense Gordon England⁶ on an official trip to Hawaii. Pacella was co-pilot. Crew members are told to stick together as much as possible on missions, for safety, and on the morning of their arrival, Visintine joined the rest of them beside the pool at the lavish beachside resort where they and England were staying. Security protocol also requires the use of first-names only while on missions, which tends to blur the lines between ranks. "We were all drinking," Visintine told the prosecutor. "I remember more rounds coming. I remember Major Pacella telling the waitress to come immediately back with another round, after the one she'd just dropped off." Next thing she knew, Visintine was in the hot tub next to the pool, alone with Pacella. He pressed against her lewdly, she said,

⁵ Technical Sergeant Leah Visintine, who gives permission for her name to be used. (see file "Leah Visintine") Leah.Visintine@andrews.af.mil

⁶ file "Gordon England"

reaching into her bathing suit and calling her a "sexy Italian bitch." She got away, but at dinner with the others that evening, Pacella kept grabbing her leg, and later he pounded on her room door, which she kept locked. The next morning, he urged her to walk with him on the beach, and the disparity in their ranks became a factor; a major is nine pay grades above a technical sergeant.⁷ "If he'd been of similar rank, would you have had an option?" the prosecutor asked. "I don't think I would have gone," Visintine said. During the walk, she said, Pacella told her of "all the places he goes, all the great places" she would get to go if she stayed in his good graces.

Visintine initially didn't file a complaint. She spoke briefly to her instructor about it, "but I felt a little blown off," she said. She didn't want to jeopardize a comfortable career as a flight attendant in a prestigious unit. "If pilots didn't like you because they'd heard about something you'd done, you wouldn't fly."

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Excessive drinking, pressure from a superior, fear of losing good assignments, the possibility of ostracization, feeling "a little blown off" – Visintine's testimony was a catalog of the reasons why servicewomen remain vulnerable to sexual assault. Nearly a third of female veterans report having suffered a rape or attempted rape

⁷ file "Air Force ranks"

during their service⁸ -- a rate two to three times higher than among civilians.⁹ (Eight percent of servicepeople who allege sexual assault are men.¹⁰) Every few years, one service branch or another is embarrassed by reports of unpunished rapes and harassment, and just as regularly the Pentagon promises to fix the problem. Yet the Pentagon and the country it serves seem as flummoxed now by the nexus of sexuality and military service as when Bill Clinton's attempt to recruit gays ended his administration's honeymoon in 1993. Americans haven't even made up their minds about women's place in the military. The candidacy of James Webb, running for the United States Senate from Virginia, was nearly derailed last September¹¹ by an article he'd written twenty-seven years earlier, in which he argued against sending women into combat: "I have never met a woman whom I would trust to provide men with combat leadership," Webb wrote in *Washingtonian* magazine in 1979, when the Naval Academy was about to graduate its first women midshipmen.¹² Female Academy graduates excoriated Webb, saying the article had "infected the brigade with divisive anger," and had been "brandished repeatedly" by

⁸ file "thirty percent raped"

⁹ see the studies sited at the top of the file "rate of rape"

¹⁰ Dr. Kaye Whitley, Acting Director, Sexual Assault Prevention and Response Office, Kaye.whitley@wso.whs.mil or 703-696-9422

¹¹ 2006

¹² file "Webb's 1979 article"

men who “quoted and used it as an excuse to mistreat us.”¹³ The article’s comments about women – Webb’s crass assertion that the overwhelmingly male Academy was “a horny woman’s dream” -- drew fire for days. Webb ultimately won the race, though not without a lot of awkward backpedaling.¹⁴

Overlooked in the brouhaha was what Webb had written, in the same article, about men who wage war. “We became vicious and aggressive and debased, and reveled in it,” he wrote of his time as a Marine platoon leader in Vietnam. “I once woke up in the middle of the night to sounds of one of my machine gunners stabbing an already-dead enemy soldier, emptying his fear and frustrations into the corpse’s chest. Our mission,” he wrote, “was organized mayhem.”¹⁵

The Pentagon can’t afford to look too closely at what combat does to men. So it substitutes a perpetually inconclusive debate about women and combat, and tinkers endlessly with its rulebook in an effort to protect servicewomen from the aggression on which its mission depends. Neither endeavor is trivial. Thirty-four years into the all-volunteer service, the Pentagon depends on making women feel valued and safe in the ranks. Women comprised less than two percent of the services when the draft ended in 1973; ¹⁶ today, they constitute

¹³ file “Webb article in WashPost”

¹⁴ file “Webb sorry for 1979 article”

¹⁵ file “Webb's 1979 article”

¹⁶ file “women in military 1980-1990”

fifteen percent.¹⁷ Because they are still barred from such direct-combat units as infantry, artillery, armor, special forces, and submarines, they are fast approaching a majority in the areas where they are allowed to serve. Almost half of the Army's lawyers and more than a third of those working in finance are women.¹⁸ And though they are excluded from combat units, servicewomen are still being shot at. In Iraq, they are needed wherever soldiers and marines might have to frisk Muslim women, which is everywhere. They make up sixteen percent of Army military police, who run convoys and are often in the thickest fighting, and nineteen percent of Army Intelligence personnel, who also are frequently "downrange," as the Army puts it.¹⁹ Women fly fighter jets and serve on surface warships. As of December 2, sixty had died fighting in Iraq and another ten in Afghanistan.²⁰ On December 6, Marine Major Megan McClung, age thirty-four, died in Anbar province.²¹ **[note to Emily: we'll update the above numbers at press time.]**

To this day, men complain that women don't have to do as many pushups, march as far, or carry as much on their backs as men. When they debate whether women should be admitted into "combat arms,"

¹⁷ Dr. Kaye Whitley, Acting Director, Sexual Assault Prevention and Response Office, Kaye.whitley@wso.whs.mil, 703-696-9422

¹⁸ file "Army, re women"

¹⁹ file "Army, re women"

²⁰ file "Female deaths in OIF/OEF"

²¹ paper copy of Army Times, December 25, 2006

they worry about women cracking under the horror of battle, or leaving wounded men on the battlefield because they're not strong enough to carry them off. And when men are not worrying about how women might perform, they worry about their own behavior in the presence of women -- whether they will over-protect women to the detriment of the mission; whether catering to feminine sensibilities will weaken their aggressive spirit; whether the mingling of young, healthy men and women under stressful situations in close quarters and exotic locales, especially when some hold life-and-death power over others, is an inherent threat to discipline; whether training women to kill will debase society as a whole.

"Un-American, un-Christian, and immoral," is how R. Cort Kirkwood, a former member of the Presidential Commission on the Assignment of Women in the Armed Forces, characterized women warriors in a 2003 essay. "Turning a woman into the kind of person who views such gore without blinking an eye, or who participates in the wanton killing war requires, is a step down to pagan barbarism and cultural suicide."²²

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Hostility toward the encroachment of women into the sanctum of arms has often played out as institutional callousness toward sexual

²² file "Kirkwood ("immoral")"

violence. In 1984, as the percentage of women in the military was climbing out of single digits, the Military Court of Appeals dismissed a lawsuit against the Army brought by a woman soldier who had been brutally gang-raped. The Army cannot be held liable, the court ruled in *Buckmiller v. United States*, for something that happens "incident to service."²³ Shortly after the 1991 Gulf War, the public was shocked to learn that a group of high-ranking women Navy pilots – soaring emblems of the new military – had been groped and abused at the annual "Tailhook" aviators' convention. While many officers had their careers damaged or ruined by administrative action – and the Secretary of the Navy resigned -- nobody was court martialed.²⁴ Three years after Tailhook the General Accounting Office reported that women students at all three service academies were being systematically harassed,²⁵ and not long after that, rape scandals erupted at the Aberdeen Proving Grounds and other bases. But during the nineties -- which President Clinton liked to call "the longest peacetime expansion in our history"²⁶ -- neither Congress, the Pentagon, nor the public paid much sustained attention to the plight of servicewomen.

Then, as the country grew anxious about the prospect of war with

²³ file "NY Times on Buckmiller case"

²⁴ file "Tailhook results"

²⁵ file "Congressional Hearings Report 2004"

²⁶ [tk]

Iraq in early 2003, KMGH, a Denver television station, aired a series about women cadets who were raped at the Air Force Academy in Colorado Springs and brushed off when they complained to their commanders. Worse, several were punished or drummed out of the academy altogether, while their attackers went free.²⁷ Senator Wayne Allard of Colorado, a conservative Republican and member of the Armed Services Committee, demanded an investigation,²⁸ but within weeks, the Iraq war started, and grim news about the military was drowned out by a "Mission Accomplished" fanfare.

Not until February 2004, when the insurgency was in full flower and the war was starting to feel like a bloody slog, did Secretary of Defense Donald Rumsfeld order a review of Pentagon sexual assault policies.²⁹ Congress finally held hearings, too, though it wasn't the powerful Armed Services Committee that called them, but the Congressional Women's Caucus, which lacks subpoena power. Even without subpoenas, the hearings were electrifying, especially to a public beginning to have doubts about the ability of its military to win in Iraq. The most riveting witness was Army Captain Jennifer Machmer, who told of a sergeant under her command who spoke obsessively of both raping and fragging her; of abuse by a chaplain to

²⁷ file "AF investigates academy charges"

²⁸ file "AF investigates academy charges"

²⁹ file "DoD task force on rape victims"

whom she had gone for marital counseling; of rape by another sergeant, and Machmer's own punishment for reporting it -- a charge of conduct unbecoming an officer. Machmer was ejected from the military, while her rapist received no punishment at all. "The revictimization throughout this whole process is amazing," she told the caucus. "Every time you turn around you are revictimized or retraumatized."³⁰ The hearings also revealed an inherent conflict of interest in military justice. Neither an independent prosecutor nor a grand jury decides whether a criminal case should go forward; the commanding officer of the accused decides. Commanders who don't want a rape on their unit's record can decide it didn't happen, and sometimes the attacker is the commander himself. The caucus heard about one soldier who "salutes her rapist every day."³¹ As for Rumsfeld's order to review sexual assault policies, Representative Carolyn Maloney, Democrat of Long Island, held out little hope that anything significant would come of it. "I am aware of at least eighteen studies that have been done over the past sixteen years, investigating the problem of sexual misconduct in the military," she said. "But we have seen little evidence that these studies have translated into any concrete improvement."³²

³⁰ file "Congressional Hearings Report 2004"

³¹ file "Congressional Hearings Report 2004"

³² file "Congressional Hearings Report 2004" page 14

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The Pentagon is as dreary inside as a five-sided mausoleum. Its endless fluorescent-lit hallways -- painted so flat that the walls seem to absorb light -- are lined with display cases of weapons, heroic paintings of horrific carnage, and portraits of rock-faced generals and former secretaries of war. Threading these gloomy corridors is a regiment of balding middle-managers in colonel's uniforms; lantern-jawed civilians slung with indecipherable I.D. cards; and the occasional bewildered-looking soldier in worn desert camouflage. So it's a little surprising, after navigating Corridor Two to the E-Ring and homing in on Room 4E235, to find Claudia Bayliff, who, with a fluffy mane of naturally gray hair, a beaded necklace, and dangling purple earrings, looks like the "typical liberal Democrat peacenik" that she says she is.

Bayliff is a little surprised herself. She moved to the liberal Elysium of Boulder, Colorado, in 1979 to earn a law degree at the University of Colorado, and stayed on to agitate for women's rights. For eighteen years she traveled the country, often under the auspices of the National Organization for Women, educating judges, prosecutors, universities, and corporations about sexual violence. She worked with prosecutors on the Kobe Bryant rape case -- which she called, "the most blatant example of justice for sale I've ever seen" -- and consulted for the University of Colorado when its football team

was accused in 2003 of procuring women students for players and condoning rape. "The stonewalling!" Bayliff said. "The president of the university, Betsy Hoffman, going on national television calling the victims liars, saying the c-word is a term of endearment!" In October 2003, the Air Force Academy -- recovering from the scandal -- invited Bayliff and several colleagues to Colorado Springs to knock some sensitivity into three hundred and fifty officers. "To say there was trepidation is an understatement," Bayliff said. "But the top leaders -- including the generals -- they listened, they stayed for the whole thing. A lot of times when you do this you get hostile questions. A lot of denial. We were astonished by how sincere everybody seemed to be."

When the Air Force, as part of Rumsfeld's initiative, created a Sexual Prevention and Response Program in May 2005, Bayliff applied to run it. "What hooked me on this job is that the Air Force said, 'we have a problem, it's our responsibility, and we need to do something,'" she said. "I have never seen an institutional response like this. I'm not going to tell you there's no resistance. There's resistance everywhere. But what has really been surprising, given someone with my background, is the level of support from the leadership."

After a career of watching people in the civilian world drift away from uncomfortable sexual assault training sessions, Bayliff now has an audience whom she can order to sit down and listen. Part of her

program is a candid and graphic forty-minute film made by the Air Force in 2005, deconstructing the lead-up to the rape of a female airman, a drama which bears an eerie resemblance to the events recounted at Major Pacella's court martial. (Friends are drinking, a woman gets plastered, a predator swoops in, friends do nothing.) The film includes a scowl-at-the-camera lecture by then-Air Force Chief of Staff, four-star General John P. Jumper, saying sexual assault "puts the mission at risk" and will not be tolerated. "Traditional protection is all about stranger rape, the guy with the ski mask and the knife," said Bayliff. "It's about whistles, or teaching women the 'right' things to do. But you can avoid drinking, you can never go to someone's apartment alone, and you can still get raped. I'm trying to shift prevention away from the potential victims to the ones who have the potential to prevent it – bystanders and facilitators." The Defense Department has so far compelled almost half a million people in all four services to watch the film³³ – including, ironically, Major Pacella.³⁴

If there are advantages to doing this work in the military, Bayliff still finds the culture alien and troubling. A Navy study found that more than a third of female Navy recruits reported having been raped before

³³ Claudia Bayliff, Chief of Air Force Sexual Assault Prevention and Response Program, 703-697-2039 or cbayliff@comcast.net

³⁴ Capt. Herb McConnell, PAO for the 99th, 301-981-4825 cell: 202-409-8106 or herbert.mcconnell@andrews.af.mil. Also, see the answer to question 1 in the file "Air Force Rape Case PAO"

joining up.³⁵ Bayliff doesn't know if the military is somehow particularly attractive to women who have been raped – “Are they looking for safety?” she asked – or if the type of woman who'd join the military is also the type who'd be more candid about her past. The same study also found an unusually high percentage of male recruits reporting that they had participated in at least one rape, which raises similarly disturbing questions.³⁶ “Rape has been an issue in war throughout history,” she said. “I can tell you that doing non-violence work in the military, during wartime, is very tough.”³⁷

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Kaye Whitley, a blonde, brisk, fifty-four-year-old civilian with a PhD in counseling, was until recently³⁸ the person in Rumsfeld's office whom family members called if a relative in the military was reported captured or missing. Last May, Whitley became acting director of Rumsfeld's new Sexual Assault Prevention and Response Office, doing for the Defense Department as a whole what Bayliff does for the Air Force. Her office is not in the Pentagon, but in a concrete-and-glass warren of office buildings in a far-flung Virginia suburb. On taking the job, Whitley found that rape is as difficult to prosecute in the military

³⁵ compare to the rates in the national violence against women study and the national women study cited at the top of the file “rate of rape”

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³⁷ Claudia Bayliff, Chief of Air Force Sexual Assault Prevention and Response Program, 703-697-2039 or cbayliff@comcast.net

³⁸ 2006

as in the civilian world. Of the almost twenty-four hundred sexual assaults reported in the military in 2005, only seventy-nine – three percent -- resulted in court martial,³⁹ about the same rate as among civilians.⁴⁰ She took the view, though, that military rape was a national-security issue. The trick to getting Rumsfeld's attention, she said, was framing rape not as peripheral but as central to the military mission: If a woman is raped and a commander does nothing about it, the morale of the unit suffers. "The way we sold this to the SecDef was as a readiness issue," she said. "If an assault occurs in a unit, it can affect their mission. If you're in Iraq and your unit isn't cohesive, it's life or death."⁴¹ What makes military culture different from civilian culture – besides the sacrifice of personal freedom and the willingness to die -- is the subjugation of personal ambition to the welfare of the group, the obligation to look out for one's buddies. Every service has a variant of the line in the Army's Soldier's Creed that says, "I will never leave a fallen comrade."⁴² Marines talk of "never letting a fellow marine down;"⁴³ in the Air Force, it's "protect your wingman."⁴⁴ In the "Black Hawk Down" incident in Somalia in 1993, most American

³⁹ file "Sex assault report in 2006"

⁴⁰ file "3 percent of civilian rape cases tried"

⁴¹ Dr. Kaye Whitley, Acting Director, Sexual Assault Prevention and Repsonse Office, Kaye.whitley@wso.whs.mil or 703-696-9422.

⁴² File "military creeds"

⁴³ tougher to document, though one hears it often from marines. "fellow marine example" is one example.

⁴⁴ File "Protect your wingman"

soldiers were shot while trying to reach dead and wounded comrades. That bond of trust – what the military calls “unit cohesion” – is the reason the Pentagon gives for resisting the admission of homosexuals.⁴⁵

Under the reforms that Whitley manages in the aftermath of Rumsfeld’s review, whenever a known sexual assault victim leaves the military, for whatever reason, a general, admiral, or wing commander outside of the victim’s chain of command reviews the case.⁴⁶ But the most controversial change is a mechanism called “restricted reporting.” The peculiarities of command have traditionally made reporting a rape particularly hard in the military. Commanders insist on knowing everything about the people under their command, so while civilian rape victims can seek medical care and quietly leave it at that (and most do), rape victims in the military, until recently, didn’t have that option. Their doctors were required to report the crime to the commanding officer, who might decide to press charges against the victim’s wishes, or worse, to punish the victim for behavior that accompanied the rape (underage drinking; curfew violation; or fraternization, which is improper social contact between people of different rank). Like Machmer, women who reported being raped

⁴⁵ File “gays and unit cohesion”

⁴⁶ Dr. Kaye Whitley, Acting Director, Sexual Assault Prevention and Response Office, Kaye.whitley@wso.whs.mil or 703-696-9422.

frequently found themselves hounded out of the military. Under the “restricted reporting” rule, soldiers who have been raped can go to their unit’s full-time Sexual Assault Response Coordinator, or SARC – another recent Pentagon innovation – and receive medical and psychological treatment without triggering a criminal investigation. The commander is told an incident took place, but is given no names and is forbidden from trying to find out. (A victim who wants the attacker punished can still file an “unrestricted” report, in which case the commanding officer gets details.) Commanders instinctively recoil from restricted reporting. Whitley introduced me to retired Air Force Colonel Steven Wagoner, who works in the Pentagon as a civilian. With his white hair, gray suit, and flat Kansas accent, Wagoner could pass for a rural primary-school principal, but for the ribbon indicating a Bronze Star in his buttonhole. “As a commander, I had a hard time reconciling restricted reporting when I first heard about it,” he said. “I wanted to know everything. Then the light bulb came on one day for me. What won me over was: if the women aren’t reporting the rape, it’s something I wouldn’t know about anyway. With restricted reporting I’ve lost nothing. What I’ve gained is the ability to help one of my airmen through a crisis. And hopefully by doing so, we’ll get her to a point where she is able and willing to come forward.”⁴⁷

⁴⁷ Steven Wagoner can be reached through Capt. David Small, Secretary of the Air

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After Technical Sergeant Visintine testified against Pacella, a pretty, solidly built woman with a halo of brunette hair took the stand. She, too, was a flight attendant in Pacella's unit. She told the prosecutor that she had served aboard a flight that Pacella piloted, in May 2006, to the Middle East, Turkey, and Italy. At dinner the first evening, near their first-class hotel in Rome, she drank two glasses of wine. At a nearby café, she drank three more, and back at the hotel bar, more wine still. On the witness stand, her eyes began shifting toward Pacella, who sat with his hands folded, watching her without expression. Her breathing became audible, and she started to cry. "The next thing I remember is waking up in Major Pacella's bedroom. I didn't know where I was."

The flight attendant went immediately to her unit's SARC and filed a restricted report. She later decided to speak with her commander, and eventually filed a criminal complaint. Visintine, hearing of it, filed her own. When I recounted this to Claudia Bayliff, her face lit up. "It's just what we want to hear," she said. In 2005, the year that restricted reporting began, the twenty-four hundred attacks servicepeople reported represented a forty percent increase over the year before. The increase is good news, Pentagon officials believe,

because they assume not more attacks but more victims getting help. Most of the increase was in restricted reports, but subsequently a quarter of those victims, like the flight attendant, changed their reporting to unrestricted. "We think it's because we gave the victims a climate of confidence, and time to compose themselves," Whitley said.

Even with the recent changes, it's harder in the military than in some states to make a rape charge stick. Alcohol is the unindicted co-conspirator in almost all military sex assaults,⁴⁸ and, as in the Pacella case, the quantities consumed are breathtaking. Yet the rules about alcohol in the Air Force, at least, are surprisingly lax. Though Pacella and his crew were on a mission, and at any moment they might have been summoned to rev up the jet, no rule barred them from drinking themselves blind beside the pool. New Air Force "guidelines" suggest that crews drink no more than one drink an hour and no more than three a day, yet the only strict rule mandates that twelve hours elapse from "bottle to throttle."⁴⁹ Pacella was scheduled to fly forty-one hours after landing in Rome,⁵⁰ so legally, he and his crew could have stayed pickled for twenty-nine hours.

⁴⁸ Claudia Bayliff, Chief of Air Force Sexual Assault Prevention and Response Program, 703-697-2039 or cbayliff@comcast.net, and Dr. Kaye Whitley, Acting Director, Defense Department's Sexual Assault Prevention and Response Office, Kaye.whitley@wso.whs.mil or 703-696-9422

⁴⁹ file "Air Force alcohol policy." Also, see the answer to question 1 in the file "Air Force Rape Case PAO"

⁵⁰ Herb McConnell, PAO for the 99th, 301-981-4825 cell: 202-409-8106 or herbert.mcconnell@andrews.af.mil

The flight attendant's drinking blew her case. When she finished describing the rape, one of Pacella's attorneys, a young captain named Amy Jordan, stood and said, "You just finished telling us you don't remember anything after being in the hotel bar until you woke the next morning. So how do you know if you gave consent or not?" The flight attendant said nothing. "No further questions, your honor," Jordan said, and sat down. The flight attendant opened and closed her mouth, wide-eyed. Under the laws of nine states and the District of Columbia, a person who is drunk or on drugs cannot legally consent to sex, which would have rendered Jordan's point moot.⁵¹ On October 1, 2007, the Uniform Code of Military Justice will likewise void victim drunkenness as a defense.⁵²

Air Force Colonel W. Thomas Cumbie, a tall, thin lawyer with a deeply lined face and a soft, modest voice, took two days to hear Pacella's case. When the defense rested, he took a short break and returned to proclaim Pacella guilty of indecent sexual assault against Visintine, and not guilty of the other flight attendant's more serious charge of rape. Cumbie sentenced Pacella to ten months in jail and a reprimand. Pacella was blank-faced as Cumbie read the verdict; it was hard to tell, as he was led from the courtroom, whether he was in shock or denial, or simply braving the blow. An Air Force van took him

⁵¹ file "alcohol, drugs & rape laws"

⁵² file "Sexual Assault UCMJ Changes"

straight to a military jail in Quantico, Virginia. He is unlikely to get promoted again, which means he will have to retire from the military, but if he breaks no further laws, he will leave with an honorable discharge.⁵³

A few weeks after Cumbie announced the verdict, I received an email from Visintine. "The weaker side of my human nature was initially disappointed at the amount of time sentenced," she wrote. "After having the rationale behind the ruling explained to me, however, my disappointment was short lived. My leadership has treated me with the utmost respect. I never felt anything short of that during this whole process. From my first line supervisor to my squadron commander, I was given *all the time I needed* to deal with the heavy burden of my decision, emotionally and professionally. I most definitely intend to stay with the Air Force for as long as they have the need for me do to my job."⁵⁴

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The military is the last institution in America in which women are excluded from jobs because of their sex, so it is one of the hottest fronts in the struggle over women's rights. Elaine Donnelly takes the view that false accusations of rape and harassment are as serious a morale-buster as the crimes themselves, and that the Defense

⁵³ file "Air Force Rape Case PAO"

⁵⁴ file "Leah Visintine" (I changed some punctuation and capitalization, you'll notice.)

Department is creating a readiness problem by going overboard in its attempts to address the problem. A lean, dark-haired, raptor-intense woman of fifty, Donnelly runs a group called the Center for Military Readiness, whose board of directors reads like a who's-who of the anti-feminist movement of the past forty years: Phyllis Schlafly, who led the fight against the Equal Rights Amendment in the nineteen-seventies; Beverly LaHaye of Concerned Women for America, which vigils against the "Leftist Alliance Against the Family;" Katie O'Beirne, author of *Women Who Make the World Worse: and How Their Radical Feminist Assault Is Ruining Our Schools, Families, Military, and Sports;* and a cross section of high-profile conservatives, from *Washington Times* columnist Frank J. Gaffney Jr., who rails against James Baker's "Iraq Surrender Group," to former-Marxist-turned-anti-affirmative-action activist David Horowitz. Donnelly made a point, when we met in her Washington, D.C. office, of saying she doesn't agree with her board on everything. She served on Caspar Weinberger's advisory committee on servicewomen when he was Defense Secretary, and on President George H.W. Bush's Commission on the Assignment of Women in the Armed Forces, and tends to agree with Bob Stumpf, the commanding officer of the Navy's Blue Angels exhibition squadron, who complained seven years after Tailhook that the "emphasis has shifted dramatically from how to administer death and destruction to

the enemy, to how to 'get along,'" and that "warrior culture has been severely diluted."⁵⁵ Donnelly looks at the large number of rape and harassment accusations, and the small number of convictions, and concludes that the military's "willingness to believe every accusation is true" victimizes men and weakens the forces. Battlefield commanders, often in their thirties, balance an impossible matrix of tasks and responsibilities and have more to think about than giving one soldier, sailor, marine, or airman justice, Donnelly argues. If an accused rapist is the skilled leader of a unit about to go into combat, removing him, pending an investigation, may get people killed. "You have a huge array -- this office, that office -- to help anyone who feels she has been assaulted or harassed, or in any way negatively affected. Yet the accused has very little institutional support," she said. "Just as rape and sexual assault are a readiness issue, so are false accusations." She was suspicious, she said, of the flight attendant who accused Pacella of rape. "If a man is accused and acquitted, that should be *prima facie* evidence to open an investigation against the accuser."

Congress appropriated almost two million dollars in 2005 for an Office of Victim's Advocacy in the Defense Department to examine all sexual assault allegations and ensure that each was handled properly, free of command influence. Donnelly led the campaign against it, and

⁵⁵ file "Tailhook aftermath"

was able to convince Rumsfeld not to establish the office. "It's feminist pork," Donnelly said. "I call it the Office of Male Bashing."⁵⁶

[line break]

In her grunts-eye view of the war, *Love My Rifle More Than You: Young and Female in the U.S. Army*, Kayla Williams compares the Army to a fraternity. "Or a massive frat party," she writes. "With weapons. With girls there for the taking – at least some of the time. The guys are there for the taking, too. And we took. I took."⁵⁷ Williams was a twenty-eight year-old Army specialist and Arabic translator when she crossed into Iraq with a military intelligence company three days after the invasion in 2003. When we met for dinner in suburban Virginia in November, she was hurrying from classes at [tk], where she studies [tk]. Williams is short and blonde, with a delicate heart-shaped face and an intense, blue-eyed gaze. She ordered ravioli and a glass of wine and, slicing the air with a knifelike motion of her hand, cut through my attempts at delicacy. "The men constantly do disgusting things to each other. A guy bends down to pick something up and another guy grabs him and pretends to hump him," she said. "Do you know what teabagging is? It's when a guy's asleep and another guy will take out his balls and lay them on the sleeping guy's forehead." She lofted her eyes and took a sip of wine. "Now if they do

⁵⁶ Elaine Donnelly, 734-464-9430, 202-347-5333, or elaine_donnelly@sbcglobal.net

⁵⁷ *Love My Rifle More Than You* page 21

that to me, is that sexual harassment? Or is it sexual harassment if they don't? All I want to do is be part of the unit. If they treat me differently because I'm a woman, is that discrimination?" War is a rough milieu, she said, and women who complain about it aren't realistic. A woman in the Army is either a whore or a bitch, depending on whether she will sleep with the men around her, she said, and it is hard to say which role is more difficult. I asked her about a passage in her book in which she fought off a soldier who tried to rape her, and about her agonizing later as to whether to report it, because neither men nor women like "girls who file" complaints. Williams thought for a moment, dunking bread in a dish of olive oil, and finally said she was sorry she hadn't filed a formal report. Her attacker was transferred soon after – she still doesn't know whether it was because she'd mentioned the incident to her sergeant -- and spread salacious rumors about her. "Of course, I don't know if it would have been worse for me if I'd filed," she said. "That's the problem. Women don't know." Being older, college-educated, and divorced at the time she deployed, Williams said she was better able than most to handle herself over there. "A nineteen-year-old girl right out of high school? Never away from home before? Maybe a virgin? She has no idea. There are traps and minefields and lines you can't cross everywhere, and they're

invisible," she said. "If you can tell me where they are, you're a lot smarter than I am."⁵⁸

[line break]

The case of Suzanne Swift is a morass of invisible traps and minefields, and its meaning, from the point of view of military reform, is difficult to parse. Swift is a blonde twenty-two-year-old with swooping eyebrows and a round, pale face. She enlisted in the Army upon graduation from [tk] High School in Eugene, Oregon.⁵⁹ In exchange for a four-year commitment,⁶⁰ she got her choice of assignment: military police,⁶¹ which came with a two-thousand-dollar cash bonus,⁶² a commitment of forty thousand dollars toward college, and, she thought, a promise that she'd stay out of Iraq.⁶³ Six weeks after finishing training, in February 2004, Swift was on a plane to Kuwait with the 66th Military Police Company,⁶⁴ which was about a third female, and from there she was soon deployed to Karbala.⁶⁵ By early 2006, she was listed as deserter. What happened in between is, for want of a court martial, maddeningly hard to verify. Swift's allegations read like a primer on sexual abuse in the military: a

⁵⁸ Kayla Williams, kayla_m_williams@hotmail.com or home 703-241-590, mobile (301-633-0509)

⁵⁹ paper file on Suzanne Swift, pages marked "birthdate" and "enlistment date"

⁶⁰ paper file on Suzanne Swift, page marked "college money, four years"

⁶¹ paper file on Suzanne Swift, page marked "military police"

⁶² paper file on Suzanne Swift, page marked "cash bonus"

⁶³ paper file on Suzanne Swift, page marked "college money, four years"

⁶⁴ paper file on Suzanne Swift, page marked "suzanne's statement"

⁶⁵ paper file on Suzanne Swift, page marked "suzanne's statement"

platoon sergeant during training who pressured her for sex; her terrified capitulation in Iraq to life as the "sex slave" of another sergeant;⁶⁶ depression, suicidal thoughts, and punishment with excessive physical exercise when she tried to end the relationship; harassment by yet another sergeant after her unit returned to Fort Lewis, Washington.⁶⁷ Swift's only formal complaint, against the last sergeant, written out in four pages of loopy girlish penmanship, resulted in no more than an official "admonishment" being added to his file.⁶⁸

On January 9, 2006, when Swift's unit got word that they were to redeploy to Iraq, Swift panicked and refused to go.⁶⁹ Her mother, a social worker named Sara Rich, hired a lawyer and a psychologist, who diagnosed post-traumatic stress disorder. The Army charged Swift with desertion, but waited four months to have her taken from her mother's house in handcuffs.⁷⁰ By this time, Swift's unit was back from Iraq, and after a few days in jail, she returned to Fort Lewis, with a job filing police reports,⁷¹ awaiting court martial. Only in her defense did she begin telling the Army the full story.

⁶⁶ Sara Rich, 541-953-4071 or sararich@mac.com

⁶⁷ paper file on Suzanne Swift, page marked "suzanne's statement"

⁶⁸ paper file on Suzanne Swift, page marked "handwriting"

⁶⁹ Sara Rich, 541-953-4071 or sararich@mac.com

⁷⁰ paper file on Suzanne Swift, page marked "deserter"

⁷¹ Sara Rich, 541-953-4071 or sararich@mac.com

The Army's investigative file runs about three hundred pages, including twenty-eight interviews. Only the charges against the sergeant who was admonished could be substantiated, the investigator found, though Swift's "emotional testimony was convincing."⁷² There was no proof of pressured sex, though an "improper relationship"⁷³ was evident.

I never got to meet Suzanne Swift. She had arranged to see me while on leave at her mother's house in December. "Her way of dealing with her P.T.S.D. is to pierce and tattoo every part of her body," Rich told me on the phone during that time. "She hung herself by the skin on her back the other day."⁷⁴ Two days before my trip to meet Swift, the Army offered her a remarkable deal. A deserter during wartime faces a maximum sentence of five years in prison, and a dishonorable discharge,⁷⁵ which follows a veteran like the mark of Cain, making schooling, jobs, and loans hard to get. Instead, the Army offered Swift thirty days in jail and a reduction of three pay grades to private, but also a move to another unit – away from past tormentors – and an opportunity to complete her last two years of service and receive an honorable discharge.⁷⁶ Swift went straight to a Navy brig north of

⁷² paper file on Suzanne Swift, page marked "no proof of pressure"

⁷³ paper file on Suzanne Swift, page marked "no proof of pressure"

⁷⁴ Sara Rich, 541-953-4071 or sararich@mac.com

⁷⁵ file "desertion punishment"

⁷⁶ Master Sergeant Yolanda Choates, Fort Lewis, PAO, yolanda.d.choates@us.army.mil. Also see file "Fort Lewis"

Seattle, where I wasn't allowed to visit. Rich was bitter that her daughter should receive any punishment for trauma related to slack policing of sexual harassment⁷⁷, but Swift's lawyer, Keith Scherer, of Chicago, thought the deal was a breakthrough. "It's a touchdown in the Superbowl," he said. "Whenever you negotiate with a commander, you have to give them an out. We weren't saying the senior leadership was turning its back on her, but that middle managers – the non-commissioned officers - were getting away with terrible behavior because they weren't policing each other. Once the general understood this, it was, 'let's save her career and get her in a safe place.'"⁷⁸

In her first two weeks of confinement, Swift was allowed one two-minute phone call to her mother. She spent Christmas alone in the brig.⁷⁹

--End--

⁷⁷ Sara Rich, 541-953-4071 or sararich@mac.com

⁷⁸ Keith Scherer 773-485-8882 or keith@gslattorneys.com

⁷⁹ Sara Rich, 541-953-4071 or sararich@mac.com