

## DEOMI News Highlights

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DEOMI News Highlights is a weekly compilation of published items and commentary with a focus on equal opportunity, equal employment opportunity, diversity, culture, and human relations issues. DEOMI News Highlights is also a management tool intended to serve the informational needs of equity professionals and senior DOD officials in the continuing assessment of defense policies, programs, and actions. Further reproduction or redistribution for private use or gain is subject to original copyright restrictions.

### **AF intern: ‘I have never felt less disabled’ [Michele Eaton, *AF.mil*, 26 September 2013]**

- Air Force intern Natalie LaBayen was awarded, earlier this year, the Department of Defense Judith C. Gilliom Award at the 2013 Workforce Recruitment Program awards ceremony for her work in the Air Force Diversity office at the Pentagon.
- A senior at George Washington University, LaBayen was diagnosed with an autoimmune disease in 2011. LaBayen said the Air Force has given her an outlet to showcase how a disabled person can be more than an inspiration to someone, but can be a productive member of a team.
- The WRP is a recruitment and referral program that connects federal and private sector employers nationwide with disabled college students and recent graduates. Since the program’s expansion in 1995, more than 6,000 students and recent graduates have received temporary and permanent employment opportunities.

[AF intern: ‘I have never felt less disabled’](#)

### **Harassment Based on Perceived Sexual Orientation [*FEDweek*, 16 October 2013]**

- In Appeal No. 0120131136 (August 13, 2013), the EEOC found that a federal agent’s claim of harassment based on his perceived sexual orientation was a claim based on the perception that he did not conform to gender stereotypes of masculinity, and therefore stated a viable claim under Title VII.
- This case is a significant finding by the EEOC because it reaffirms the commission’s position that it has jurisdiction over claims of gender stereotyping and perceived sexual orientation discrimination under Title VII’s prohibition against sex discrimination.
- As the commission stated, while Title VII does not explicitly include sexual orientation as a basis for protection under the law, the law’s broad prohibition of discrimination on the basis of sex offers coverage in certain circumstances.

[Harassment Based on Perceived Sexual Orientation](#)

### **Women to be assigned to fast-attack submarines by January 2015 [Jennifer Hlad, *Stars and Stripes*, 16 October 2013]**

- The USS Virginia and the USS Minnesota will be the first two gender-integrated fast-attack submarines, the Navy announced Tuesday.
- Six women—four nuclear-trained officers and two supply corps officers—will report to the subs by January 2015, after completing the nuclear submarine training pipeline, according to the Navy.
- Women are already serving aboard the ballistic missile subs the USS Wyoming, USS Louisiana, and USS Maine, and the guided missile subs USS Florida, USS Georgia, and USS Ohio.

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# Culture

# **U.S. Officers Attend South Korean Military Training Course**

**By Walter T. Ham IV, U.S. 8th Army**

**Defense.gov, October 15, 2013**

SEOUL, South Korea— The Korean National Defense University here welcomed American military officers to its first combined training course in September.

The week-long Combined Operations Training Course brought together South Korean and U.S. military officers to address security issues and learn more about the U.S.-South Korea alliance.

“We all began to better understand and respect the variety of perspectives in our group,” said U.S. Army Maj. Lisa Livingood, an 8th Army planner who attended the inaugural combined course. “It is the only course in my career where I have studied in equal numbers with allies.”

Livingood said the combined course covered a wide variety of topics, including Korean history, the history of the U.S.-South Korea alliance and South Korean military command structures.

According to Livingood, the students visited the world’s most heavily armed border.

“We traveled into the [Korean] Demilitarized Zone to learn about its structure, the role of the United Nations Military Armistice Commission and the functioning of a front fence line ROK guard post,” said Livingood, who grew up in Frankfurt, Germany.

The course is one of many initiatives designed to enhance the alliance that has defended South Korea for more than 60 years. South Korean Army noncommissioned officers also train together with U.S. Army NCOs at the Wightman NCO Academy at Camp Jackson, South Korea.

Livingood said she would recommend the course to anyone interested in learning more about the alliance and the role it plays in deterring aggression on the Korean Peninsula and maintaining stability in the Asia-Pacific region.

The 8th Army planner added that the course enabled the U.S. military officers to bond with their host-nation allies.

“The course promoted camaraderie between the U.S. students, the ROK students and across national lines,” Livingood said.

# **Discrimination**

## Harassment Based on Perceived Sexual Orientation

FEDweek, October 16, 2013

In Appeal No.0120131136 (August 13, 2013), the EEOC found that a federal agent's claim of harassment based on his perceived sexual orientation was a claim based on the perception that he did not conform to gender stereotypes of masculinity, and therefore stated a viable claim under Title VII. The agent alleged that he was repeatedly subjected to harassment by his coworkers who used derogatory terms; told him he was going to be fired because of his sexual orientation; and told him he was unwelcome and that he should find another job. He alleged that his coworkers did not want to work with him, avoided him at work, and excluded him from work assignments and trips.

The complainant also alleged that when he reported the harassing incidents to his supervisor, nothing was done. He alleged that after complaining about the harassment, management subjected his work to increased scrutiny. After he filed his formal EEO complaint, the harassment by managers and coworkers against him increased. Information regarding his EEO complaint was passed around to other agents who made fun of him for filing the complaint, a derogatory term was written on his gun bag, and sexually explicit gay and lesbian magazines were placed in his rental car while he was on travel status.

The EEOC found that he was harassed on the basis of his sex and that he was harassed in reprisal for his protected EEO activity. The EEOC also found that he had been ostracized by his supervisors and coworkers and that his work was subjected to stricter scrutiny by his supervisors than the work of other employees. Additionally, the EEOC found that the agency was vicariously liable for the harassment because, despite his complaints, the supervisors failed to take appropriate action to stop the harassment and did not exercise reasonable care to prevent or correct the harassing behavior.

The EEOC ordered the agency to take immediate and effective measures to insure that all discriminatory and retaliatory conduct directed at him cease, and ordered the agency to place him on a different work team with coworkers and supervisors who were not involved in the discriminatory conduct. Additionally, the EEOC ordered the agency to "strongly consider taking appropriate disciplinary action against the coworkers and supervisors" involved in creating the hostile work environment. Finally, the EEOC ordered the agency to conduct a supplemental investigation on the issue of the complainant's entitlement to compensatory damages.

This case is a significant finding by the EEOC because it reaffirms the Commission's position that it has jurisdiction over claims of gender stereotyping and perceived sexual orientation discrimination under Title VII's prohibition against sex discrimination. As the Commission stated, while Title VII does not explicitly include sexual orientation as a basis for protection under the law, the law's broad prohibition of discrimination on the basis of sex offers coverage in certain circumstances.

*\* This information is provided by the attorneys at Passman & Kaplan, P.C., a law firm dedicated to the representation of federal employees worldwide. For more information on Passman & Kaplan, P.C., go to <http://www.passmanandkaplan.com>*

# Diversity

## AF intern: 'I have never felt less disabled'

By Michele Eaton, Air Force Equal Opportunity Office / Published September 26, 2013

WASHINGTON (AFNS) --

Natalie LaBayen may look fine on the outside, but inside, a battle wages.

A senior at George Washington University and intern with the Air Force, LaBayen was diagnosed with an autoimmune disease in 2011, an ailment that some days leaves this 23-year old in severe pain.

Basically, an autoimmune disease develops when the immune system sees healthy body cells as foreign and attacks them. Depending on the type, the disease can affect the body in many ways.

Daily pain is one of them. Emotional strain is another.

Since being diagnosed, LaBayen said confidence is tough to feel some days, but she's not at all shy about her ailment. Sharing, she said, actually helps her deal with it.

"As a disabled student, especially one who only recently (became) ill, confidence is sometimes hard to muster," she said. "You are frequently told how 'inspiring' you are while not being given opportunities to act on it."

LaBayen said the Air Force did the exact opposite, giving her an outlet to showcase how a disabled person can be more than an inspiration to someone, but can be a productive member of a team.

She was so productive that earlier this year LaBayen was awarded the Department of Defense Judith C.

Gilliom Award at the 2013 Workforce Recruitment Program awards ceremony for her work in the Air Force Diversity office at the Pentagon.



*Air Force intern Natalie Labayen poses with her supervisor, Dr. Jarris Taylor, who's the Deputy Assistant Secretary of the Air Force for the Strategic Diversity Integration office, Sept. 13, 2013 in the Pentagon. Labayen recently won a Department of Defense award for her significant contributions in the Air Force Strategic Diversity Integration Office. Labayen, who has an autoimmune disease, won the Judith C. Gilliom Award, presented by the Workforce Recruitment Program Award Ceremony Aug 2. (U.S. Air Force photo/Staff Sgt. David Salanitri).*

Her boss, Dr. Jarris L. Taylor, Jr., heads the service's effort to improve diversity and further an environment of dignity, inclusion, and respect in the workplace.

With that charge, it seems LaBayen landed in the right place.

"In giving me creative and organizational control over my own projects, Dr. Taylor allowed me to grow and to actually feel valuable and appreciated for the outcome I produced," she said. "Thanks to my amazing mother, my career advisor at the George Washington University,

<http://www.af.mil/News/ArticleDisplay/tabid/223/Article/467214/af-intern-i-have-never-felt-less-disabled.aspx>

and the [Workforce Recruitment Program] family, I was able to see myself as me again, and not as a ‘disability.’ In fact, I have never felt less disabled.”

The WRP is a recruitment and referral program that connects federal and private sector employers nationwide with disabled college students and recent graduates. Since the program's expansion in 1995, more than 6,000 students and recent graduates have received temporary and permanent employment opportunities.

“(This program) is an opportunity to directly contribute to the nation’s efforts and our Air Force diversity priorities to institutionalize, attract, recruit, develop, and retain a highly qualified diverse and inclusive total force,” Taylor said. “My vision is that the Air Force becomes the preeminent employer of choice. By highlighting our various diversity and inclusion outreach programs and initiatives, such as the WRP, we must continue to communicate that diversity is a military necessity.”

For the 2014 WRP, interviews will be held this fall. Qualified students can obtain interviews by working with their college’s career advisors. For more information, candidates and hiring managers can visit <http://www.wrp.gov/> or email questions to <mailto:ability@osd.mil>.

*Staff Sgt. David Salanitri and Joel Fortner of the Air Force Public Affairs Agency Operating Location – Pentagon contributed to this story.*

# Face of Defense: Female Army Mechanic Paves Way for Others

By Army Sgt. Thomas Duval, 3rd Brigade Combat Team, 1st Infantry Division  
Defense.gov, Oct. 15, 2013

FORT KNOX, Ky.,— Silhouetted by the shadow of a 38,000-pound M978A2 military fuel truck, Army Spc. Tiffany Willand is a long way from home.



Army Spc. Tiffany Willand, light-wheeled mechanic serving with the 1st Infantry Division's 3rd Infantry Brigade Combat Team, mounts a tire on a M978A2 Army fuel truck at the Mansfield Motor Pool at Fort Knox, Ky, Oct. 3, 2013. Willand is helping pave the way for future women aspiring to be military mechanics. U.S. Army photo

Once a city girl from Tacoma, Wash., Willand is now a light-wheeled mechanic assigned to the 3rd Infantry Brigade Combat Team, 1st Infantry Division here. As a mechanic with the 201st Brigade Support Battalion, 3rd IBCT, Willand is one of a dozen soldiers who specialize in servicing, repairing and maintaining more than 400 pieces of rolling equipment ranging from Humvees to generators.

Through hard work and dedication, Willand is helping lead the way for future females aspiring to be mechanics in the Army. "Most people are surprised when they find out we have a female working as a female mechanic that can hold her own," said Army Staff Sgt. Timbya Whitted, senior floor mechanic for Company B, 201st BSB. "Willand is one of the best soldiers that I have turning wrenches, and among the best that I have worked with."

Since arriving to the unit, Willand has earned the respect of her fellow soldiers. "Specialist Willand knows her job inside and out, and can keep pace with all of the other soldiers," Whitted said. "She is our battle buddy-in-arms, and I wouldn't trade her for the world." "There is a good chance she might know more about vehicles than me," said Army Spc. Demetrius Griffin, a fellow light-wheeled mechanic assigned to Willand's unit.

Although her work ethic has won the support of her battle buddies it wasn't always easy to come by. After graduating high school, Willand's career path wasn't in line with what her family had in mind. It took a lot of back-and-forth talking, she said, but once everyone understood how she felt about joining the military, they were OK with her decision. Her family just didn't want her to deploy to a bad place, Willand said. "When I talk to them now they still worry, but I remind them that someone has to fight for the right of freedom and liberty," she said.

Like most soldiers, fighting for that freedom means sacrificing much more than just time. In addition to working long hours, Willand has traded in many luxuries like manicures, pedicures and fancy clothes for greased-stained gloves and oily coveralls.

"I enjoy being a female mechanic," Willand said. "I see it as an honor and privilege to serve alongside my male counterparts even if it means I have to get a little dirty sometimes."

With the supply of Army vehicles needing serviced in high demand, Willand's days working underneath warfighting equipment are far from over. "I plan on making the Army a career, and if I stay a mechanic I want to learn all there is to know about all military vehicles and maybe even go warrant officer," she said.

Regardless of where she finds herself in the future, Willand plans to inspire as many young females as she can while wearing the Army uniform. "I want to let young females thinking about joining the Army know - don't limit yourself, always push yourself and always prove you can do anything you put your mind to," Willand said.

# Women to be assigned to fast-attack submarines by January 2015

By Jennifer Hlad

Stars and Stripes, October 16, 2013

The USS Virginia and the USS Minnesota will be the first two gender-integrated fast-attack submarines, the Navy announced Tuesday.



*The Virginia-class attack submarine USS Virginia departs Naval Submarine Base New London for a six-month deployment in August, 2013. Jason J. Perry/U.S. Navy*

Six women — four nuclear-trained officers and two supply corps officers — will report to the subs by January 2015, after completing the nuclear submarine training pipeline, according to the Navy.

Women are already serving aboard the ballistic missile subs the USS Wyoming, USS Louisiana and USS Maine, and the guided missile subs USS Florida, USS Georgia and USS Ohio.

The Navy in 2010 officially changed the policy that had previously prohibited women from serving aboard submarines. Since then, 43 women have been integrated into the sub force.

“Female officers serving aboard Virginia-class submarines is the next natural step to more fully integrate women into the submarine force,” Navy Secretary Ray Mabus said in a written statement. “There are many extremely talented and capable women with a desire to succeed in this field and the submarine force will be stronger because of their efforts.”

In an all-hands call last week, Chief of Naval Operations Jonathan Greenert told sailors that the Navy will lay out a plan by May 2015 for integrating enlisted women into the submarine force. It is important to add female officers first, he said, so that younger sailors will have role models at sea.

“But the fact of the matter is, we’re going to do this,” he said.

Vice Adm. Michael Conner, commander of Navy submarine forces, said he plans to integrate two more fast-attack submarines in fiscal 2016. Virginia and Minnesota are both home-ported in Groton, Conn., so he said he plans to choose two Pacific Fleet submarines home-ported in Pearl Harbor, Hawaii, in early 2014.

In May 2012, some of the first women to serve aboard U.S. submarines said the transition was going smoothly. “At first, the guys were a little more timid just because they hadn’t worked with females on a day-to-day basis, but after a week they warmed up and were just like brothers and sisters fighting for the bathroom, to get in in the morning,” Lt. Britta Christianson said then. “We’re all sailors, if I’m on a surface ship or a submarine.”

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**SEE ALSO:**

[Navy names first 2 attack subs to receive female officers](#) [Sam Fellman, *The Navy Times*, 15 October 2013]

# **Human Relations**

## Arlington relaxes policy to allow small mementos in Section 60

Carlos Bongioanni

Stars and Stripes, October 16, 2013



*Vice President Joe Biden talks to a visitor at Arlington National Cemetery's Section 60 in Arlington, Virginia, Nov. 11, 2010.*

*David Lienemann/Official White House photo*

ARLINGTON, Va. — Arlington National Cemetery is relaxing its policies to allow family members of those buried in its section for those who died in Iraq and Afghanistan to leave behind small mementos and photos to honor those soldiers, a spokeswoman said Wednesday.

Section 60 is the part of the cemetery that is home to most of those killed in recent fighting.

Families in that section had been leaving stones, photos and other mementos at their loved ones' gravesites, even though cemetery policy strictly regulates such impromptu memorials.

Responding to complaints, cemetery staff cleaned out some of those memorials recently. Then families who had left the mementos complained about their removal.

Patrick Hallinan is the executive director of the Army National Military Cemeteries and Arlington National Cemetery. He met with Section 60 families Oct. 6 and worked out a compromise that will allow displays through the fall and winter months when the grass doesn't need cut often, said cemetery spokeswoman Jennifer Lynch.

Officials emphasized that items that are unsightly, anything affixed headstones, dangerous items such as tobacco, alcohol, ammunition and glass, as well as any item that might pose a risk to workers or visitors.

Lynch said the cemetery will review its regulations and policies to see whether long-term accommodation can be made.

Officials said small mementos will be permitted. Photos will be allowed but cannot be taped to headstones, Lynch said.

## Soldiers pay tribute to fallen sailor from their native Guam

By Kevin Lilley, Staff writer

Navy Times, October 12, 2013

A marker with simple black lettering had been placed on the side of a medical facility in Afghanistan, meant to preserve the memory of a fallen Navy corpsman killed in August 2008.

But by 2013, few service members at Camp Stone, Afghanistan, knew the story behind the “Carbullido Troop Medical Clinic”: How Hospital Corpsman 2nd Class (FMF) Anthony Carbullido had been assigned to an Army unit in western Afghanistan; how his tour reportedly was supposed to come to an end in July but was extended twice through the end of August; and how he died when his convoy vehicle struck an improvised explosive device in Sangatesh.

Flags on Carbullido’s home of Guam flew at half-staff after news of his death reached the island. Guam’s delegate in the House of Representatives, Madeleine Bordallo, entered his story into the Congressional Record, calling him “a hero who made the ultimate sacrifice for our freedom.”



*Side-by-side signs: Left, the original marker honoring Hospital Corpsman 2nd Class (FMF) Anthony Carbullido at a medical facility at Camp Stone, Afghanistan. Right, a new sign designed by Guam National Guardsmen earlier this year, paying tribute to his island home and his naval career. (Sgt. Eddie Siguenza/Army National Guard)*

But the Guam-based soldiers of Delta Company, 1st Battalion, 294th Infantry Regiment, who arrived at

Camp Stone in May didn’t know the story, either. However, they knew the name. “ ‘Carbullido’ is a common name on Guam,” Staff Sgt. Peter San Nicolas said in a Guam Army National Guard news release. “We checked the medics, and nobody there had any history of the [troop medical clinic]. There was no picture of Carbullido, just a sign. “Once we knew he was from Guam, we took it upon ourselves to do something better for him.”

A rededication was in order. The unit built a new 3-by-3-foot sign packed with symbolism — an anchor, a caduceus and a background honoring Carbullido’s island home, including a border sporting the colors of Guam’s flag. Delta Company members reached out to Carbullido’s family, and they didn’t have to reach far — 1st Sgt. John Carbullido was stationed at Kandahar Airfield, southeast of Camp Stone. He and HM2 Carbullido were first cousins, according to the release. The first sergeant was heading home to Guam — escorting the body of a fallen soldier — when his cousin died.

“When I first heard of this, it ripped me apart,” he said in the news release. “Just knowing that he was still young ... and that he had a family that will grieve for the rest of their lives was hard to understand. “On behalf of Tony Boy’s family, I appreciate the time and effort Delta soldiers took to honor him.”

The sign was unveiled at a July rededication ceremony, where the soldiers from Guam honored the sailor they’d never met in a land 5,000 miles from their common home. It included an original song from Guam native Sgt. 1st Class Dan Pocaigue. The title: “So Far Away.”

# Miscellaneous

## **Marines limiting alcohol sale to curb irresponsible drinking**

**By Matthew M. Burke**

**Stars and Stripes, October 15, 2013**

SASEBO NAVAL BASE, Japan — The Marines have announced new alcohol restrictions for Marine Corps Exchange stores around the world aimed at curbing irresponsible drinking.

The new policy bans the sale of liquor at Marine Marts adjacent to barracks, limits the floor space used for alcohol to 10 percent, and cuts the hours that alcohol can be sold to 8 a.m.-10 p.m., according to a copy of the policy laid out by Marine Corps commandant Gen. James Amos in August.

Facilities outside the United States will be evaluated on a case-by-case basis consistent with existing ration programs and applicable Status of Forces Agreements, Marine officials said. Stores have until the end of November to comply. “The culture is changing toward more responsible, low-risk drinking,” Resilience Education manager Robin Schoolfield said in a Marines statement. “Between these policy changes and prevention efforts, I think a message is being sent across all ranks that we must have responsible drinking behavior.”

The policy is designed to discourage excessive drinking by removing some of the convenience in procuring alcohol, Camp Lejeune substance abuse control officer Staff Sgt. Stephen Prince said in the statement. In addition to the restrictions, Amos directed the Semper Fit and Exchange Services Division to continue to work with Corps leadership to educate Marines about the misuse and abuse of alcohol.

Out of the 120 Marine Corps Exchange facilities, 11 Marine Marts -- including Stone Bay, French Creek and Marine Corps Air Station New River -- will have to remove liquor from their shelves. Another 11, including Camp Lejeune’s Tarawa Terrace, Midway Park and Berkley Manor stores, will have to cut the floor space dedicated to booze sales, according to the statement and Semper Fit and Exchange Services Division spokesman Bryan Driver.

The Northside Marine Mart at Marine Corps Air Station Iwakuni, on the mainland Japanese island of Honshu, will do away with liquor and reduce floor space. Marine officials in Okinawa, home to a large contingent of U.S. Marines, said no decisions had been made there so far.

Officials said that while the policy won’t eradicate unhealthy drinking behavior entirely, they hope it will deglamorize the use of alcohol to some extent and help Marines realize how much they are drinking. “Marines will be more conscious of how much they drink,” Schoolfield said. “They have to plan how much they want to drink ahead of time. They won’t be able to walk over in the middle of the night to buy alcohol.”

The new policy is being implemented in support of the Secretary of Navy’s 21st Century Sailor and Marine initiative in addition to Marine Corps behavioral health, sexual assault prevention and health promotion initiatives, the statement said. “It’s not the end-all-be-all, but there’s no question about it, it will have a positive impact on Marines,” Prince said.

## Obama presents Afghan war vet with Medal of Honor

By Darlene Superville, Associated Press

Yahoo News, October 15, 2013 6:12 PM

WASHINGTON (AP) — Four years after risking his life in Afghanistan, William D. Swenson solemnly received the Medal of Honor on Tuesday in a case of battlefield bravery with some odd twists: The young Army captain questioned the judgment of his superiors, and the paperwork nominating him for the award was lost. He left the military two years ago but wants to return to active duty, a rare move for a medal recipient.

The nation's highest military honor — a sky blue ribbon and medal — was clasped around Swenson's neck by President Barack Obama at the White House. The president described how Swenson repeatedly exposed himself to enemy fire to recover fallen comrades and help save others during a battle against Taliban insurgents in the Ganjgal valley near the Pakistan border on Sept. 8, 2009. The fight claimed five Americans, 10 Afghan army troops and an interpreter.



*President Barack Obama awards the Medal of Honor to former Army Capt. William D. Swenson of Seattle, Wash., during a ceremony in the East Room at the White House in Washington, Tuesday, Oct. 15, 2013. Swenson was being awarded the Medal of Honor for his actions in a lengthy battle against the Taliban insurgents in the Ganjgal valley near the Pakistan border on Sept. 8, 2009, which claimed the lives of five Americans, 10 Afghan army troops and an interpreter. (AP Photo/Pablo Martinez Monsivais)*

Swenson is the second Medal of Honor recipient from that fight, just the second time in half a century that the medal has been awarded to two survivors of the same battle, Obama said. Two years ago, Obama presented the Medal of Honor to Marine Cpl. Dakota Meyer for heroic actions in the 2009 fight.

Obama noted that although America's highest military honor has been bestowed nearly 3,500 times, never before had the public been able to see any of the bravery it was designed to recognize. Video taken by the medevac crew's helmet cameras shows Swenson delivering a severely wounded soldier to the helicopter and kissing him on the head before returning to the heat of battle.

"A simple act of compassion and loyalty to a brother in arms," Obama said at the East Room ceremony attended by Swenson's parents, Julia and Carl, along with Vice President Joe Biden, first lady Michelle Obama, Defense Secretary Chuck Hagel and others.

<http://news.yahoo.com/obama-presents-afghan-war-vet-medal-honor-183607537--politics.html>

Swenson also invited some of the Army soldiers and Marines who fought alongside him, and survivors of the five Americans.

Swenson, 34, of Seattle has been unemployed since leaving the military in February 2011. He has requested to return to active duty, rare for a Medal of Honor recipient, and his request is being reviewed, Army spokesman George Wright said.

A sober Swenson said the medal didn't belong to him alone. "This award was earned with a team, a team of our finest. This medal represents them. It represents us," he said in a brief statement afterward. He declined to answer questions.

Swenson was a trainer and adviser embedded with the Afghan Border Police Mentor Team in support of 1st Battalion, 32nd Infantry Regiment, 3rd Brigade Combat Team, 10th Mountain Division when dozens of Taliban insurgents ambushed him and his team that September morning as they headed on foot to meet with village elders in rural Ganjgal in Kunar Province in northeastern Afghanistan.

Under a barrage of rocket-propelled grenades and mortar and machine-gun fire, Swenson returned fire before risking his life to help evacuate a wounded comrade, Army Sgt. Kenneth W. Westbrook, 41, of Shiprock, N.M. Westbrook later died from his wounds.

Swenson then made several trips to pick up injured Afghan soldiers and the fallen Americans, first by driving an unarmored Ford Ranger truck into battle and then grabbing a Humvee when the pickup gave out. He finally climbed into a second Humvee with a crew that included Meyer to retrieve the other fallen Americans.

Obama said Swenson is a "pretty low key guy" who would prefer a Pacific Northwest mountain trail surrounded by cedar trees to White House pomp. But, perhaps alluding to the partisan budget dispute gripping Washington, he said: "I think our nation needs this ceremony today."

Swenson complained to military leaders after the fight that many of his calls for help were rejected by superior officers. After an investigation, two Army officers were reprimanded for being "inadequate and ineffective" and for "contributing directly to the loss of life."

Swenson was first nominated for the award in 2009 but the paperwork was lost. It was resubmitted in 2011.

Swenson is the sixth living recipient of the Medal of Honor for actions in Iraq or Afghanistan, and the first army officer so decorated since the Vietnam War, the Army said. Swenson's previous military honors include a Purple Heart and a Bronze Star Medal.

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Associated Press writers Lolita C. Baldor and Nedra Pickler contributed to this report.

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Online:

Swenson Medal of Honor: <http://www.army.mil/medalofhonor/swenson>

Helmet video of Swenson: <http://www.youtube.com/watch?v=en1ZHMANDkg>

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**SEE ALSO:**

[Army Alters MoH Process after Swenson Controversy](#) [Richard Sisk, *Military.com*, 17 October 2013]

[Army promises changes after botching Capt. Will Swenson's Medal of Honor nomination](#) [Dan Lamothe, *The Army Times*, 16 October 2013]

[Hagel apologizes for delay in Swenson's Medal of Honor](#) [Lolita Baldor (AP), *Stars and Stripes*, 16 October 2013]

[Medal of Honor recipient asks to return to duty](#) [Lolita Baldor (AP), *The Air Force Times*, 16 October 2013]

[Medal of Honor winner: jobless and struggling with horrors of war](#) [Anna Mulrine, *The Christian Science Monitor*, 15 October 2013]

## Ohio subdivision for WWII black vets seeks historic places listing

By Andrew Welshhuggins, The Associated Press  
Army Times, October 13, 2013

COLUMBUS, OHIO — A Columbus subdivision built and marketed exclusively to returning black veterans of World War II is under consideration for placement on the National Register of Historic Places.

The 1½-story mostly brick homes tucked between a railroad, Interstate 70 and busy city streets are small by today's standards. But they represented opportunity for vets at a time when neighborhoods permitting blacks were limited even in the northern city. Newly built houses blacks could buy were virtually nonexistent.

“Hanford Village illustrates the limits and struggle that African Americans engaged in related to their rights as citizens in a segregated environment,” according to the application pending with the National Register, a division of the National Park Service.

The Ohio Historic Sites Preservation Advisory Board approved the nomination to the register last month. The Ohio Historical Society will send in the nomination once the government shutdown ends. A decision is required in 45 days. Most nominations that reach this level are approved, said Susan Tietz, the historical society's National Register and Survey Manager.

Inclusion on the register doesn't affect property rights or require anything of homeowners, but it is an important source of pride and recognition, Tietz said.

Hanford Village was a predominantly black community when the subdivision was built. It's known formally as the George Washington Carver Addition but universally referred to as “the new village.” Among the development's early residents were some Tuskegee Airmen stationed at a nearby Army Air Force base.

“Hanford Village was a family,” said Henry Bowden, 88, who still lives in the house he moved into in the 1940s and where he and his wife raised four sons and a daughter. “All of us cared about one another.” “Everybody knew everybody,” recalled Oneita Streets, 92, who grew up in the old village and was forced to move in the 1960s when construction of I-70 destroyed large swaths of Hanford.

In its day, the subdivision was seen as a way to ease housing shortages for returning black veterans. But it had a troubled start: Prejudice prevented its construction as war-time housing. After the war, white residents opposed to expanding black housing in Columbus remained against it. Some civil rights groups also opposed it, fearing it would lead to further segregation in the city.

Other historically black developments from the same era already on the National Register include Mayfair Mansions in Washington, D.C., and the Carverdale Addition in Oklahoma City. A historical marker sits on the edge of the veterans' subdivision with a brief description of the village's history.

Former residents say the National Register designation will help further preserve the community. “It's a way of life that, if not told, will go forgotten,” said Henry Bowden's son, Hank.

<http://www.cnn.com/2013/10/15/us/scotus-affirmative-action/>

## Supreme Court tackles new affirmative action case

By Bill Mears, CNN Supreme Court Producer

CNN.com, October 15, 2013

Washington (CNN) -- The Supreme Court's conservative majority appeared to look favorably on Michigan's voter-approved law that bans use of racial criteria in college admissions. An hour of oral arguments Tuesday afternoon raised anew thorny, unresolved questions over race and remedies.

The justices are being asked to decide the constitutionality of a 2006 referendum that prohibits race- and sex-based discrimination or preferential treatment in public university admission decisions. That ban was written into the state's constitution.

The high court appeared to divide along ideological lines over whether the law has the effect of restructuring the political process to make it harder for minority groups to enact policies benefiting them, in possible violation of the 14th Amendment. "It seems the goal posts keep changing every few years for minorities," said Justice Sonia Sotomayor, over efforts to blunt or eliminate affirmative action. "You could say that the whole point of something like the Equal Protection Clause is to take race off the table," said Chief Justice John Roberts. "Is it unreasonable for the state to say, race is a lightning rod?"

The high court just 16 weeks ago affirmed the use of race at the University of Texas, but made it harder for institutions to justify such policies to achieve diversity. In that dispute, a white student said the college's existing affirmative action policy violated her "equal protection" rights, while civil rights supporters of such programs claim Michigan's ban also has the same effect.

A federal appeals court last year concluded the affirmative action ban, which Michigan voters passed in a 2006 referendum, violated the U.S. Constitution's equal protection guarantees. It was the latest step in a legal and political battle over whether state colleges can use race and gender as a factor in choosing which students to admit.

The law was passed seven years ago with support of 58% of voters. It was added to the state's constitution, and bars publicly funded colleges from granting "preferential treatment to any individual or group on the basis of race, sex, color, ethnicity or national origin."

That prompted a series of lawsuits and appeals from a coalition of civil rights groups and University of Michigan faculty and students, who counter the law actually burdens state residents, denying them the opportunity to persuade state and college officials that classroom and workplace diversity remains a necessary government role.

Michigan voters approved the ban after the U.S. Supreme Court ruled in 2003 that while state universities could use race as a factor in choosing which students to admit, they could not make race the determining factor in deciding whether applicants are accepted.

Outside the court Tuesday, several hundred supporters of the By Any Means Necessary coalition favoring affirmative action rallied outside the court.

"They say Jim Crow. We say hell no," said BAMN attorney Shanta Driver, who addressed the cheering crowd through a megaphone. "We won't accept the new Jim Crow." Many of the marchers were bused in from the University of Michigan. The intense arguments in the courtroom were equally passionate.

John Bursch, the state's solicitor general, cited competing statistics that minority enrollment at the university has not gone down since the measure was passed. Civil rights groups dispute those figures and say other states have seen fewer African-American and Hispanic students attending highly competitive schools, especially in graduate level fields like law, medicine, and science. "It's a forward-looking action, not a backward-looking action, to remedy past discrimination," Bursch said of the voter-approved Proposal 2. "There are other things that the University of Michigan could be doing to achieve diversity in race-neutral ways."

<http://www.cnn.com/2013/10/15/us/scotus-affirmative-action/>

Sotomayor appeared skeptical. "Busing could be viewed, and was viewed, to benefit only one group. It was a preference for blacks to get into better schools. That's the way the case was pitched, that was its justification, to integrate the society," she said. "Affirmative action has the same gain. We've said that in (the Texas case decided in June), it should be to diversify the population, so it favors diversity as opposed to desegregation."

But the toughest questions came from the conservative bloc. Justice Anthony Kennedy and Samuel Alito repeatedly questioned whether judicial respect for the political process would give voters the ultimate power to block race preferences, or whether such admission criteria should be made by the school itself. "Why is the faculty administration, a faculty decision, any less outcome determinative than what the voters would say?" asked Kennedy

Justice Antonin Scalia said the Equal Protection Clause can be interpreted broadly. "We've held that the 14th Amendment protects all races," he told BAMN's Driver, making her case. "You say now that we have to proceed as though its purpose is not to protect whites, only to protect minorities?"

Driver: Equal protection is "a measure in which the question of discrimination is determined not just by those who have privilege in this society, but by those minorities that are oppressed, be they religious or racial-- they need protection from a more privileged majority."

Scalia: "And unless that exists, the 14th Amendment is not violated-- is that right? So if you have a banding together of various minority groups who discriminate against whites, that's okay? Do you have any case of ours that propounds that view of the 14th Amendment, that it protects only minorities? Any case?"

"No case of yours," admitted Driver.

Outside the court, the law's supporters were optimistic the court would find in their favor.

Prop 2 "embodies the fundamental premise of what America is all about: equal opportunity under the law," said Bill Schuette, Michigan's attorney general. "Entrance to our great universities must be based upon merit."

The referendum effort was led by Jennifer Gratz, who was at the center of the decade-old high court case. As a white student, she was put on the waiting list for undergraduate admission to the state's largest university. She eventually attended another school, and became the lead plaintiff in a subsequent discrimination lawsuit. After the Supreme Court's 2003 decision, she began a public campaign to end racial preferences in admissions.

"This will be an important day in the fight for true equality," said Gratz, who is now CEO of the XIV Foundation, which advocates for "equal treatment." "How the court rules in this case will have national importance, determining whether or not citizens have the right to choose equality over discrimination."

The Michigan ban also prohibits the state from considering race and gender in public hiring and public contracting decisions. But the current high court case deals only with the college admissions portion. Efforts over decades to create a diverse classroom have been controversial.

The Brown v. Board of Education high court ruling in 1954 ended segregation of public schools, but sparked nationwide protests and disobedience by states that initially refused to integrate.

In the 1978 Bakke case, the justices ruled universities have a compelling state interest in promoting diversity, and that allows for the use of affirmative action. That issue involved a discrimination claim by a white man denied admission to law school. The referendum issue has been around at least since 1996, when California voters endorsed Proposition 209, which bans use of race, sex, or ethnic background by state agencies in areas of education, and government hiring and contracts. Six other states now have similar laws, and others may follow suit, depending on how the high court rules.

The high court under Chief Justice John Roberts has made the issue a key part of its docket in recent years, and it could serve as a major legacy of the current conservative majority. The debate in recent years is whether and when affirmative action programs -- while constitutionally permissible now -- would eventually have to be phased out as the goal of obtaining diversity is met.

<http://www.cnn.com/2013/10/15/us/scotus-affirmative-action/>

Now-retired Justice Sandra Day O'Connor -- who wrote the key ruling a decade ago in the initial Michigan cases -- said, "The court expects that 25 years from now, the use of racial preferences will no longer be necessary to further the interest approved today." The justices are now being asked once again to decide whether Michigan's current policy in this case meets that legal and social test.

Justice Elena Kagan will not hear this petition, leaving the possibility of a 4-4 high court tie and no important precedent being established.

The case is *Schuette v. Coalition to Defend Affirmative Action, Integration & Immigrant Rights, and Fight for Equality by Any Means Necessary* (12-682). A written ruling could come as late as June.

## Veterans are flocking to college as wars wind down

By Kevin Freking, The Associated Press

Air Force Times, Oct. 17, 2013

TOLEDO, OHIO — Adam Fisher isn't your typical college freshman.

At 25, he's older than most of his classmates. He's married, too. And while most of his fellow students spent the past couple years in high school, Fisher was dodging bullets and roadside bombs in Iraq and Afghanistan. Now a civilian, Fisher is trying to make the transition from the battlefields to the classrooms of the University of Toledo. About two months into a new mission, he is far from alone.

Some 1 million veterans and their dependents have enrolled in U.S. colleges and universities over the past four years, according to the Department of Veterans Affairs. This influx of veterans has come with the drawdown of U.S. forces in Iraq and Afghanistan and more generous financial incentives that generally cover a veteran's tuition, housing and books.

Many veterans face an array of challenges in making the transition to college life.

Some are medical. Fisher, who heard the screams of a soldier burning to death and had a buddy die in his arms, participates in group therapy for post-traumatic stress disorder. He also has some hearing loss. "It's hard for me to be around so many people," he said. "I don't like it. It makes me feel very uncomfortable." Other challenges are academic. Veterans often have to sharpen their math, reading and study skills after being away from school for so long.

They face cultural hurdles, too. While many other freshmen are testing their independence after moving away from home for the first time, some of the veterans back in school are supporting a family, working evenings and weekends. Veterans also must navigate the VA bureaucracy to ensure that their tuition and other aid, such as housing or disability benefits, are paid on time.

Now, increasing numbers of colleges and universities are taking concrete steps to help them make the transition, the University of Toledo among them. Nearly 400 veterans, including Fisher, are attending class this fall at the school. The president, Lloyd Jacobs, a former Marine, said they "bring strength to our culture, bring strength to our university that's unparalleled."

The American Council on Education says about 71 percent of some 700 colleges and universities responding to a recent survey had an office or department dedicated exclusively to serving veterans. Before the Post-9/11 GI Bill kicked in, a 2009 survey put that percentage at 49 percent. About two-thirds had clubs or organizations composed of veterans, double from the 2009 survey.

Student Veterans of America, a coalition of student veterans on college campuses around the world, has branched out from fewer than 20 campuses to more than 880 in recent years. Michael Dakduk, the group's outgoing executive director, said colleges have adjusted to the wave of veterans by hiring people exclusively to serve them and their dependents.

Schools also are establishing peer mentoring and tutoring programs. The extra resources give veterans the sense they don't have to face the challenges of college life on their own, he said. The VA has placed counselors on 92 college campuses. The counselors connect students to local VA medical care and help them apply for other benefits.

About 500 veterans attend school at Florida State University, an increase of about 40 percent from the previous fall. The school offers a class just for veterans called "strategies for veteran success." It's designed to boost their confidence and allows them to meet other veterans. The university holds a job fair for all students, but opens it up a day early for veterans on campus. It also allows students to defer many expenses, such as their books and meal plan, because of the time it takes to get VA payments processed. Officials at Florida State and Toledo say they hope other students will learn from the veterans.

"They bring life experiences, they bring leadership skills, they bring discipline, they bring a maturity to the campus," said Reinhart Lerch, communications director for Florida State's student veterans center, which

<http://www.airforcetimes.com/article/20131017/NEWS/310170023/Veterans-flocking-college-wars-wind-down>

opened in 2011. Toledo also opened its veterans' center in 2011. It's basically a one-stop clearinghouse for veterans or their dependents. At Toledo, they have a go-to person in military liaison Haraz Ghanbari, a lieutenant in the Navy Reserve.

When Mick Grantham, 43, enrolled at Toledo after back and neck problems forced him out of the Army, he plowed through his savings waiting for his disability benefits to kick in. Ghanbari arranged for the local American Legion to provide Grantham with a \$500 grant. He pointed Grantham to a job opening with the university's grounds crew. He also nominated Grantham to be honored as the hero of the game at a recent Toledo football game.

Grantham is an example of the age and cultural divide that some student veterans face. He strongly believes his time in Afghanistan served an important purpose, and it has bothered him to hear some of the younger students criticize the war during his government studies class. "I told them, 'You know, I lost nine friends. I've lost two since I've been home. Those guys didn't complain. We did our job. You can't tell me there's no reason for us to be there.'"

The VA is working with Student Veterans of America to study how well veterans fare upon returning to college. To date, there is little data on the issue. One study, conducted in 2009, just before the Post 9/11 GI Bill kicked in, found that veterans entering college in the 2003-04 school year were more likely to have left school without getting their degree or certificate. But the difference was narrow — 39.5 percent for veterans versus 35 percent for nonveterans. Veterans at Toledo said the transition always involves some adjustment.

John McCarter, 33, a former staff sergeant in the Army who left with a medical discharge after serving 13 years, said that memory loss is a problem. He has a traumatic brain injury and wears a hearing aid as a result of a roadside bomb that exploded under a vehicle he was riding in. "I usually have to write things down. If I don't write them down, I'm probably not going to remember it," said McCarter, who hopes to become a sports journalist.

While there are adjustments they've had to make, many veterans also believe their military service gives them an edge in the classroom. "I work 10 times harder than what I did in high school," said Fisher, who wants to get into the medical profession, perhaps as a pediatric nurse. "The Army gave me a sense of self-respect and confidence, and they really show you hard work does pay off."

# Misconduct

## Coast Guard cutter CO removed after reports of poor command climate

By Meghann Myers, Staff writer

The Navy Times, Oct. 15, 2013 - 03:52PM

The commander of an Alaska-based Coast Guard cutter has been temporarily relieved amid an investigation into command-climate issues, the service said Tuesday.

Lt. Cmdr. Fred Seaton, who had been in charge of the buoy tender Maple since June 2012, was reassigned Oct. 1 to Air Station Sitka because of a “loss of confidence” in his ability to command, Chief Public Affairs Specialist Kip Wadlow told Navy Times.



*Lt. Cmdr. Fred Seaton was removed from command of the Coast Guard buoy tender Maple amid an investigation into reports of a poor command climate. (Rachel Waldholz / KCAW News)*

The move is pending the results of the ongoing investigation; Wadlow could not elaborate on the nature of the probe, but he confirmed reports that Coast Guard District 17 launched an inquiry Sept. 20 after receiving reports of a poor command climate under Seaton.

On Sept. 26, the results of a preliminary investigation prompted district commander Rear Adm. Thomas Ostebo to temporarily relieve Seaton, Wadlow said.

“Coast Guard commanding officers have a responsibility to not only conduct operations in the field, but they’re also in charge of leading their crews in a professional manner,” Wadlow said, though he couldn’t offer specifics in Seaton’s case. “This includes creating a positive working environment where people can come into work, they can feel safe and they’re given opportunities to succeed and advance.”

Wadlow could not confirm whether Seaton had come under investigation or was subject to administrative intervention at any other point in his career.

“If that stuff did occur, it would be in someone’s personnel file and those are not releasable,” he said.

Lt. Raymond Reichl, Maple’s executive officer, has taken over for Seaton during the investigation. Wadlow could not give any details about how long it might take to complete.

“With all investigations, we want to be as thorough as possible to discover the facts that lead up to accusations of a poor command climate,” he said.

Maple is a 225-foot Juniper-class buoy tender covering 1,000 miles of waterways between Juneau and Ketchikan on the Alaska peninsula. The crew is charged with search and rescue, fisheries law enforcement, pollution response and navigation aid.

## Marine 4-star general offers powerful testimony in defense of accused officer

By Hope Hodge Seck, Staff writer

Marine Corps Times, Oct. 16, 2013

MARINE CORPS BASE QUANTICO, VA. — Marine Gen. John Kelly, the four-star head of U.S. Southern Command, testified during an administrative hearing here Wednesday that it is the battalion and unit leadership — not Capt. James Clement — who should answer for failing to properly supervise the scout snipers who made a video of themselves urinating on dead insurgents in Afghanistan.

Kelly testified for the defense before a board of three senior officers overseeing the hearing. They will determine whether Clement, who is accused of substandard performance and misconduct, keeps his military career or is thrown out of the Marine Corps.

As the executive officer of Kilo Company, 3rd Battalion, 2nd Marines, Clement was the senior officer on that July 2011 patrol and serving as a radio operator. He has maintained that he was neither aware of the urination video nor present when it was made. It was uploaded to YouTube several months later, creating tremendous backlash in the U.S. and Afghanistan, and prompting Marine Corps Commandant Gen. Jim Amos to tour the force imploring Marines to correct what he saw as a breakdown in discipline.

When the hearing began Tuesday, prosecutors argued it was Clement's duty to correct what they suggest was a rash of poor behavior by the sniper team. They pointed to other video clips shot during the patrol showing the snipers without all of their protective gear, the alleged negligent discharge of a grenade launcher, and what they say was indiscriminate fire on an unclear target.

Kelly, who commanded combat forces as a two-star general in Iraq, said he was aware of the battalion's reputation on that 2011 deployment. At that time, he was serving as the senior military adviser to then-Defense Secretary Leon Panetta. While the scout sniper platoon demonstrated tremendous success, the unit overall was perhaps not the most squared away, he suggested.

"I would say that it was a battalion that was, in my estimation, loose in the way it did business," Kelly said. "A lot of people doing great things but general confusion in how people were organized for combat."

Earlier Wednesday, attorneys for the government interviewed Capt. Rudyard Olmstead, who served as Kilo Company's commander during the battalion's deployment. Olmstead said he had observed one disciplinary concern with the scout sniper platoon: repeated uniform violations. While on their forward operating base, the men were known to walk around without shirts and without blousing their pants properly, he said, adding that the matter was addressed by their superiors but continued nonetheless. "I think we ultimately kind of gave up and said, 'Well, they're doing great stuff outside the wire,'" Olmstead said.

Kelly said these kinds of issues, particularly in a sniper unit that viewed itself as elite and special, spoke to the need for direct supervision by an officer. But in a legal brief submitted ahead of the hearing, Clement's attorneys indicated that no officers were assigned to lead them. Instead they were commanded by a staff sergeant who reported directly to battalion leadership. "No doubt about it, Marines will do anything we'll tell them to do. They'll take Iwo Jima, they'll blouse their trousers," Kelly said. But, "they have to be supervised."

Insignificant as it might seem, Kelly said a breakdown in discipline regarding something as basic as uniform standards could rapidly lead to significant problems. If those issues were not corrected, Kelly said, "it's a slippery slope to urinating on corpses, to raping women, to murdering kids." "You have to maintain that discipline," he said.

While testifying Wednesday, the battalion's commander during that deployment, Lt. Col. Christopher Dixon, said he repeatedly emphasized throughout the ranks the importance of taking a moral high road in combat. To that end, Dixon spearheaded what he called the "ethical warrior" program to encourage Marines to uphold their standards and professionalism within the fog of war and combat.

<http://www.marinecorpstimes.com/article/20131016/NEWS06/310160038/Marine-4-star-general-offers-powerful-testimony-defense-accused-officer>

Though Clement was on the 20-man patrol to man radio communications, multiple witnesses during the hearing confirmed that a noncommissioned officer, Sgt. Robert Richards, was the patrol's designated commander. Kelly said that he saw no reason, from extensive battlefield footage taken from a helmet camera over five hours during the patrol, that Clement should have stepped in to take it over. Clement "effectively communicated," the general said. "That's what his role was out there."

Col. Todd Desgrosseilliers, commanding officer of The Basic School, where Clement currently serves as a warfighting instructor, also spoke Wednesday in defense of the accused captain. Desgrosseilliers said Clement had distinguished himself at TBS, the Marine Corps' schoolhouse in Quantico for all new Marine officers, and was selected as one of the school's staff platoon commanders.

A former commanding officer of 3rd Battalion, 2nd Marines, Desgrosseilliers said he had also encountered disciplinary issues with scout snipers attached to the unit during a 2006 deployment to Iraq. They disobeyed orders and entered a local village to set up a hide site, causing a disturbance that led to a crowd of 300 Iraqis around the compound, he said. After that, Desgrosseilliers disbanded the platoon, he said.

Testifying in his own defense Tuesday, Clement said he had been absorbed in his duties as radio operator. As such, he said, he was not present for nor did he witness many of the incidents caught on video.

Clement's civilian attorney, John Dowd, also argued that the videos show an incomplete picture of what took place that day. He presented evidence to suggest the alleged negligent discharge could have been a misfire, and that snipers were authorized to remove their Kevlar helmets on specific occasions to help them shoot more accurately.

The patrol was viewed largely as a success: three insurgents were killed in an ambush early on, and intelligence obtained during the mission led to more enemy casualties. When Clement later viewed the footage, he said he was surprised by what he saw, including Richards' declaration, as the Marines fired from within an austere compound, that "for the next five minutes, every military-age male south is hostile."

"I felt that what I had seen in the videos was not what I remembered from the day," Clement said. "It was not in my memory at all."

As proceedings neared an end Wednesday, prosecutors unsuccessfully sought to call an unannounced witness to rebut testimony heard earlier: Lt. Gen. Steven Hummer, who carried out the Marine Corps' internal investigation after the urination video surfaced. The board members denied the request after Dowd objected.

In all, eight Marines faced disciplinary action in connection with the urination video. Richards, along with two staff sergeants, were taken to court-martial and demoted in rank.

Clement was the only officer to face criminal charges. But those charges were dropped suddenly in September, amid allegations that Amos and others close to him had attempted to manipulate the military justice system and ensure Marines would be punished for the video. Clement was ordered instead to appear before this administrative board.

Absent from Wednesday's testimony was any reference to the allegations of unlawful command influence that emerged earlier this year as Clement's case headed toward court-martial. His lawyers had suggested the Marine Corps attempted to block them from accessing key evidence, including witness statements from prior investigations into the events depicted in the YouTube video.

Clement's legal team later exposed evidence that Amos had stripped a three-star general of his authority to prosecute the accused Marines after the general refused to throw them out of the service as Amos desired.

The hearing continues Thursday with closing arguments. Following deliberation, the officers comprising the board will recommend whether Clement can stay in the Marine Corps.

The board members are: Col. Francis Donovan, director of the Expeditionary Warfare School in Quantico; Col. Harold Van Opdorp Jr., commanding officer of Quantico's Officer Candidate School; and Col. Calvert Worth Jr., director of Enlisted Professional Military Education for the Marine Corps.

# Navy releases September court-martial results

## Staff report

**The Navy Times, Oct. 16, 2013 - 05:59PM**

Keeping a pledge made [earlier this year](#) to improve “transparency” in the judicial system, the Navy on Wednesday released the results of all courts-martial from September.

The Navy does not release the names of those found not guilty. Cases are listed by region:

### Naval District Washington

- At a general court-martial in Washington, D.C., Cmdr. Arvis Owens was tried for violation of a lawful order, wrongful sexual contact, assault and conduct unbecoming an officer and a gentleman. On Sept. 13, the panel of members returned a verdict of guilty to the violation of a lawful general order, wrongful sexual contact and conduct unbecoming an officer and a gentleman and sentenced him to be dismissed from the service.
- At a general court-martial in Washington, Chief Operations Specialist Demetric Cobbins pleaded guilty to false official statement, assault, adultery, computer hacking, cyberstalking and depositing obscene material in the mail. On Sept. 25, the military judge sentenced him to be discharged with a bad-conduct discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1, and confinement for one year.
- At a special court-martial in Washington, Logistics Specialist 2nd Class Caesar Ulsano was tried for larceny. On Sept. 20, the panel of members returned a verdict of guilty and sentenced him to reduction in rank to paygrade E-1 and confinement for 120 days.

### Navy Region Mid-Atlantic

- At a general court-martial in Norfolk, Va., an E-4 was tried for sexual assault. On Sept. 10, the military judge returned a verdict of not guilty.
- At a general court-martial in Norfolk, Culinary Specialist Seaman Apprentice Darron D. Ward Jr. was tried for fleeing apprehension, rape, communicating a threat and assault consummated by a battery on a commissioned officer. On Sept. 13, the panel of members returned a verdict of guilty to fleeing apprehension, rape and communicating a threat. The panel sentenced him to be discharged with a dishonorable discharge and confinement for 933 days.
- At a general court-martial in Norfolk, an E-5 was tried for sexual assault. On Sept. 19, the panel of members returned a verdict of not guilty.
- At a general court-martial in Norfolk, Culinary Specialist Seaman Pierre Ville pleaded guilty to false official statement and not guilty to an additional false official statement and aggravated sexual assault. On Sept. 19, a panel of members returned a verdict of not guilty to the false official statement and aggravated sexual assault. For the guilty plea to false official statement, the panel sentenced him to confinement for 60 days.
- At a general court-martial in Norfolk, Quartermaster 3rd Class Christopher Doremus pleaded guilty to possession of child pornography. On Sept. 30, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1 and confinement for one year.
- At a special court-martial in Norfolk, Information Systems Technician Seaman Kevin D. Moore pleaded guilty to larceny and forgery. On Sept. 3, the military judge sentenced him to be discharged with a bad-conduct discharge, a \$5,000 fine and confinement for 10 months.
- At a special court-martial in Norfolk, Aviation Maintenance Administrationman 2nd Class Latron White pleaded guilty to drug use. On Sept. 17, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1 and confinement for five months.

## **Navy Region Southeast**

- At a general court-martial in Jacksonville, Fla., Hospitalman Timethian Grier pleaded guilty to abusive sexual contact and burglary. On Sept. 3, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-2 and confinement for six months.
- At a general court-martial in Mayport, Fla., Machinist's Mate 3rd Class Andrew Hasley was tried for sexual assault. On Sept. 20, a panel of members returned a verdict of guilty and sentenced him to be discharged with a dishonorable discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1 and confinement for three years.
- At a general court-martial in Jacksonville, Information Systems Technician 1st Class Brian Hatch pleaded guilty to possession of child pornography. On Sept. 25, the military judge sentenced him to be discharged with a dishonorable discharge, reduction in rank to paygrade E-3 and confinement for 18 months.
- At a special court-martial in Jacksonville, Culinary Specialist 2nd Class Lindell Turner pleaded guilty to violating a general order, use and possession of drugs, and assault with a deadly weapon. On Sept. 30, the military judge sentenced him to be discharged with a bad-conduct discharge, forfeit \$500 pay per month for four months, reduction in rank to paygrade E-2, and confinement for nine months.

## **Navy Region Midwest**

- At a special court-martial in Great Lakes, Ill., Hospitalman Kody Madson pleaded guilty to assault with force likely to produce grievous bodily harm. On Sept. 26, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1 and confinement for 12 months.

## **Navy Region Northwest**

- At a special court-martial in Bremerton, Wash., Information Systems Technician 3rd Class Deanna M. Hains pleaded guilty to conspiracy, false official statement and larceny. On Sept. 17, the military judge sentenced her to be discharged with a bad-conduct discharge, a \$400 fine and confinement for three months.
- At a special court-martial in Everett, Wash., Seaman Luiz A. Lopez pleaded guilty to violating a lawful order and disorderly conduct. On Sept. 30, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1 and confinement for four months.

## **Navy Region Southwest**

- At a general court-martial in Lemoore, Calif., an E-5 was tried for sexual assault. On Sept. 12, a panel of members returned a verdict of not guilty.
- At a general court-martial in San Diego, Information Systems Technician 3rd Class Ronnie G. Oakley Jr. was tried for sexual assault and indecent conduct. On Sept. 13, a panel of members returned a verdict of guilty and sentenced him to be discharged with a dishonorable discharge, forfeit all pay and allowances, reduction in rank to paygrade E-1 and confinement for five years.
- At a special court-martial in San Diego, an E-6 was tried for drug use. On Sept. 10, the panel of members returned a verdict of not guilty.
- At a special court-martial in San Diego, Logistics Specialist 2nd Class Lyndon P. Ong pleaded guilty to conspiracy and selling military property. On Sept. 19, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1, a \$3,000 fine and confinement for 48 days.
- At a special court-martial in San Diego, Hospital Corpsman 2nd Class Roger R. Rabino pleaded guilty to conspiracy, false official statements and larceny. On Sept. 20, the military judge sentenced him to be

<http://www.navytimes.com/article/20131016/NEWS/310160016/Navy-releases-September-court-martial-results>

discharged with a bad-conduct discharge, reduction in rank to paygrade E-1 and confinement for five months.

### **Navy Region Hawaii**

■ At a special court-martial in Pearl Harbor, Hawaii, Information Systems Technician Seaman Jeremy Searl pleaded guilty to drug use, aggravated assault, communicating a threat and disorderly conduct. On Sept. 25, the military judge sentenced him to be discharged with a bad-conduct discharge, forfeit \$400 pay per month for eight months, reduction in rank to paygrade E-1 and confinement for eight months.

### **Navy Region Japan**

■ At a general court-martial in Yokosuka, Japan, Operations Specialist 3rd Class Rantavious Jones was tried for violation of a lawful order and sexual assault. On Sept. 11, the panel of members returned a verdict of guilty to violation of a lawful order. The panel sentenced him to forfeit \$2,694 pay for one month, restriction for 60 days and hard labor without confinement for three months.

■ At a special court-martial in Yokosuka, Gunner's Mate 2nd Class David Lange pleaded guilty to failure to obey an order, making false official statements, drunk and disorderly conduct and failure to render aid. The military judge entered a finding of not guilty with respect to the failure-to-render-aid charge and accepted the remaining pleas. On Sept. 13, the military judge sentenced him to be discharged with a bad-conduct discharge, reduction in rank to paygrade E-1, a \$10,000 fine and confinement for eight months.

### **Navy Region Europe, Africa, Southwest Asia**

■ At a special court-martial in Naples, Italy, an E-9 was tried for assault consummated by a battery and drunk and disorderly conduct. On Sept. 25, the panel of members returned a verdict of not guilty.

# Religion

# Muslim pilgrims start hajj in Saudi Arabia with emotional day of prayer, renewal

By Associated Press

Washington Post, October 14, 2013

MOUNT ARAFAT, Saudi Arabia — About 2 million Muslims from around the world prayed at a desert hill in Saudi Arabia on Monday, joined in their faith and desire to purify their souls at the start of the annual hajj pilgrimage.

It is here on Mount Arafat, marked by a white pillar, where Islam’s Prophet Muhammad is believed to have delivered his last sermon to tens of thousands of followers some 1,400 years ago, calling on Muslims to unite.



Muslims from across the world are converging on the Saudi Arabian city of Mecca on the first day of the annual hajj pilgrimage.

Prayers on and around the mount are a climactic emotional and spiritual moment in the hajj. The faithful believe that on this day the gates of heaven are open, prayers are answered and past sins are forgiven. Among the crowds of pilgrims Monday, men and women wept as they stretched their hands out in prayer and supplication. “Labayk, Allahuma, labayk,” they repeated — “Here I am, God,

answering your call. Here I am.”

The prayers at Arafat, outside the holy city of Mecca, are part of the elaborate and physically demanding purification rites of hajj. Hajj is a central pillar of Islam and all able-bodied Muslims are required to perform it once in their lives. While following a route Muhammad once walked, the rites are believed to ultimately trace the footsteps of the prophets Ibrahim and Ismail, or Abraham and Ishmael as they are named in the Bible.

For many pilgrims, the hajj is an answer to a lifetime of prayers — particularly for the poor, who often save for years for the chance to make the journey. The rites emphasize equality before God, whether rich or poor. Men dress in seamless white terrycloth garments symbolizing simplicity. Women wear long, loose clothing and a headscarf, forgoing perfume and makeup

Syrian pilgrim Mohammed Firas has come to hajj without his children. They were killed in Syria’s civil war, he says, a conflict that has claimed more than 100,000 lives. “I pray to God on this great day to swiftly lift our country’s suffering,” he said. In his annual hajj sermon at a mosque near Mount Arafat, Saudi Arabia’s mufti, Sheik Abdulaziz bin Abdullah Al Sheikh warned Muslims against divisions.

“The Muslim community is targeted by the enemies of Islam, who want to deal blows, sow divisions and spread chaos,” he said, adding that Muslims must “protect their homelands.”

Many of the pilgrims wore face masks, part of extra precautions this year because of a new respiratory virus centered in the Arabian Peninsula. The virus has killed more than 50 people in the kingdom this past year, prompting Saudi officials to slash visas for hajj by 20 percent in part due to concerns the presence of massive crowds in close quarters could cause a wider outbreak.

They say no cases of the coronavirus have been detected among pilgrims.

Around sunset, the pilgrims on hajj leave Mount Arafat and head eight kilometers (five miles) to Muzdalifa, a desert plain where they collect pebbles. Those pebbles will be used in a symbolic stoning of the devil that begins on Tuesday, marking the start of the three-day Eid al-Adha feast, celebrated around the Muslim world.

## In push for Muslim school holiday, some Montgomery students will stay home

By Donna St. George

Washington Post, October 13, 2013

On other holidays, the choice has been difficult: Education or faith? But this year, with the Muslim holy day of Eid al-Adha on Tuesday, the Shraim family decided against school. Their teenagers might fall behind in their classes. They might feel torn. But they will stay home to celebrate.

The Germantown family is joining others across Montgomery County in an effort to make the Islamic holy day into a full-fledged school holiday. They point out that school is closed for Christmas, Good Friday and Easter. It also is closed for Rosh Hashanah and Yom Kippur.

They ask why a holiday wouldn't similarly be given for Eid al-Adha, one of two major Muslim holidays, in a county with a growing Islamic community. There are no county or census figures on the Muslim population, but community leaders say that Muslims number at least in the "tens of thousands." Montgomery's population is nearly 1 million.

"It's like we don't feel equal to other people who get their holidays off," says Hannah Shraim, 14, a sophomore at Northwest High School in Germantown.

School officials say they give excused absences to students who miss classes on religious holidays and that they can't legally close schools for religious reasons. But the issue is gaining attention as Muslim leaders step up a call for equity and encourage Muslims and non-Muslims to keep children home Tuesday.

In recent weeks, Muslim leaders have started a petition drive, called a news conference and won the backing of a string of elected leaders and religious groups including a Lutheran church and a Jewish organization. "We think this is very much a civil rights issue, and we've had a strong response from people of all faiths," said Saqib Ali, a former state legislator and co-chair of the recently formed group Equality for Eid Coalition.

Among elected officials supporting the group's effort is County Council member George L. Leventhal (D-At Large), who is Jewish and said he intends to keep his son home that day. "I think it's the right thing to do," he said. Montgomery school officials say that, legally, granting a day off requires a secular rationale, such as an impact on instruction because of a high rate of absenteeism. Last year, the school board asked staff to examine attendance patterns on the Muslim holiday.

Figures from the past three years show Muslim holidays had little impact on attendance, school officials said. Last year, Eid al-Adha fell on a Friday, and 5.56 percent of students were absent, similar to other Fridays. About 6.5 percent of staff was absent, which was fairly typical, they said. Maryland law designates public school holidays from the Friday before Easter through the Monday afterward and also gives time off for a period surrounding Christmas.

In the 1970s, Montgomery began giving students days off for Yom Kippur and Rosh Hashanah when the holidays fell on school days. "Our understanding is that decision was made for operational reasons," Montgomery schools spokesman Dana Tofig said.

Forty years later, Muslim leaders say their concern about Islamic holidays goes back a number of years and has increased as the Muslim community has grown and more people have been affected.

In Germantown, May Salloum-Shraim said her teenagers, in 10th and 12 grades, are dedicated students who do not like to miss instruction. "It's extremely difficult on these kids, and it's absolutely unfair that they are forced to choose," she said. Eid al-Adha typically begins with a morning prayer service, she said. Afterward, she said: "Think of it as Christmas. Everything is all about families and happiness and food." But some years, she said, her teenagers have rushed from prayer service back to classes.

Her daughter, Hannah, says she worries about missing math and her AP government class. This year, she is on the high school tennis team and will miss a match scheduled on the Muslim holiday. She also will return

[http://www.washingtonpost.com/local/education/in-push-for-muslim-school-holiday-some-montgomery-students-will-stay-home/2013/10/13/b26b8f6e-2d22-11e3-8ade-af23cda135e\\_story.html](http://www.washingtonpost.com/local/education/in-push-for-muslim-school-holiday-some-montgomery-students-will-stay-home/2013/10/13/b26b8f6e-2d22-11e3-8ade-af23cda135e_story.html)

to school the next morning to face the PSAT exam, a national standardized test given in advance of the SAT college entrance exam.

“This is an important exam,” says her mother. Muslim students will be celebrating their holiday and “thinking in the back of their head, ‘I need to get my sleep.’ ” Muslim leaders take issue with the county’s focus on absenteeism as the standard for an official day off. They say they have never been told how much absenteeism would be enough to qualify, and that Christian and Jewish holidays have not been put to the same test. “We think it’s not right when there are different standards for different people,” Ali said.

Fairness questions resonate with many non-Muslims. Kari Parsons, pastor of Christ the Servant Lutheran Church in Montgomery Village, said her church’s governing council was asked to take a position — and a majority voted to support the Muslim holiday effort. There are school holidays for other religions, and the Muslim community is large, she said. “It seemed fair,” she said.

Like Montgomery, other school systems in the Washington region — Fairfax, Loudoun, Prince George’s, Prince William and Arlington counties and the D.C. Public Schools — do not give students Muslim holidays off. But officials say students who miss school to observe religious holidays are excused. Organizers point out that some school systems — in New Jersey, Vermont and Michigan, for example — give students at least one Muslim holiday off.

In Damascus, Hwaida Hassanein, 41, a mother of four, said she faced the same issue when she grew up in Montgomery and now confronts it again with her children. She intends to keep her two youngest, who attend Montgomery schools, home for Eid al-Adha. “They don’t get any other chance for this,” she said. “To me, it’s the religion and the tradition. This is what my grandmother did.”

As she talked, her mother, Mimi Hassanein, a longtime activist, said she hoped for change in time for the next generation. “I don’t want my grandchildren to have this issue when they have their children,” she said.



***See Also:***

[Both Bill de Blasio, Joe Lhota say schools should close on Muslim holidays](#) [Ben Chapman , Erin Durkin and Jennifer Fermino, *New York Daily News*, 17 October 2013]

# **Sexual Assault / Harassment**

## Airmen: More training for sexual assault prevention

By Kristin Davis, Staff writer

Air Force Times, October 10, 2013



*Air Force Vice Chief of Staff Gen. Larry Spencer has asked airmen for suggestions on how to combat sexual assault. A blog, called Every Airman Counts, has had 50,000 visits since July 15. (Airman 1st Class Erin O'Shea / Air Force)*

Airmen want to know more about how to prevent sexual assault — and what to do if it happens to them or someone they know.

In the 2½ months since the Air Force began asking for input on the military's sexual assault problem, airmen have said again and again they need more training, Vice Chief of Staff Gen. Larry Spencer said. The call-out came in the wake of a

May Defense Department report that showed a 35 percent increase in the number of service members who said they had experienced unwanted sexual contact, from an estimated 19,300 in 2010 to 26,000 in 2012.

At the Air Force's Joint Base San Antonio-Lackland alone, 33 military training instructors have been accused of sexual misconduct with 67 trainees since summer 2011.

Airmen “say we need to understand what sexual assault is, why it happens, how to talk about it, what victims go through, how to treat them. Victims need to understand how to report. We need to continually reinforce that training,” Spencer told Air Force Times.

Reports of sexual assault in the Air Force were up from 790 in fiscal 2012 to nearly 1,090 in fiscal 2013, Spencer said, and he sees that as a positive sign. “We think that shows folks have more confidence in the system,” the vice chief said. “We will handle these things appropriately, and the appropriate action will be taken.”

The Every Airman Counts blog, launched July 15 to solicit feedback on the sexual assault problem, has generated nearly 1,000 comments. The site has received 50,000 visits, Spencer said. In addition to asking for more training, airmen also repeatedly cite a link between alcohol abuse and sexual assault, Spencer wrote in a recent blog post to airmen.

“We hear you and the data shows you are correct. As a result, we have reached out to our [major commands] to gather best practices regarding use of alcohol in the dorms.”

Current Air Force instruction forbids only underage drinking in dormitories, although policy is ultimately up to a base's commander. In March, the head of the 86th Airlift Wing at Ramstein Air Base, Germany, banned the use and possession of alcohol in and around junior enlisted housing at Ramstein and Kapaun Air Station, Stars and Stripes reported.

Twenty-six of the 29 sexual assaults reported at the wing in 2012 involved alcohol use by the victim, the attacker or both, the paper reported. Seven of the assaults occurred in Air Force dormitories.

Multiple blog responses also expressed concern about blaming the victim. “To be clear, we cannot and will not blame the victim!” Spencer wrote. “Our training efforts will ensure every airman understands the toll this trauma exacts on victims and their families.” Since launching the blog, the Air Force has begun an advanced course for Air Force lawyers and agents with the Office of Special Investigations.

Many of the victims in the sexual misconduct scandal at Joint Base San Antonio-Lackland testified at courts-martial they did not come forward and initially lied to investigators because they feared they would be held responsible. It was only after investigators told them they were not at fault that they cooperated. “For a victim [of sexual assault], it's a very traumatic experience,” Spencer said. “You really need to

<http://www.airforcetimes.com/article/20131010/NEWS05/310100030/Airmen-More-training-sexual-assault-prevention>

understand how to ask the right questions and understand the person has gone through a life changing event.”

The Air Force will also begin a weeklong capstone course for graduates of basic military training at Lackland that will address sexual assault prevention, among other topics. “One thing that commanders talked about is how do we prevent [sexual assault] from happening in the first place,” Spencer said. That’s what the capstone course will focus on.

“We slow them down after basic training and before tech school. In general, we talk about every airman counts and every airman deserves dignity and respect, resiliency, life stress, core values, what we expect from them and what they should expect from us. But the focus clearly is on sexual assault prevention and bystander intervention,” the vice chief said. “One thing we learned from the blog — we need to make sure our folks understand what sex assault is and what it’s about it, that we’re not going to tolerate it.”

Spencer said the blog feedback left him more impressed than surprised. “I get this a lot from airmen: ‘We are really glad you’re doing this.’ They understand how bad this is. They don’t want this to happen. They want this fixed. They want to do everything they can to help.” Spencer said he believes programs put into place recently — such as providing victims of sexual assault their own attorney — are already making a difference.

About 490 airmen have used the special victims counsel program since its launch in January. Of those, 91 percent say they were very satisfied. Those who have their own attorneys also are more likely to make an unrestricted report, which launches an investigation.

## **CID program targets child sex abuse**

**By Matt Millham**

**Stars and Stripes, October 16, 2013**

KAISERSLAUTERN, Germany — Most freshmen at Kaiserslautern High School know what Pokemon cards are. That, says an Army special agent who investigates sex crimes, disturbs him. While 10 years ago Pokemon cards were an innocuous craze among younger children, these days, the term has a more sinister meaning.

Teens are pasting sexually explicit images of their classmates on the cards and trading them among their peers, just as their parents or grandparents might have traded baseball cards. “I found this out from a high schooler,” Ronald Wiesner, a special agent for the Army’s Criminal Investigation Command in Kaiserslautern, told an auditorium of teens Wednesday.

Wiesner was at Kaiserslautern High as part of a public health event designed to improve awareness about various issues affecting today’s youth, including depression and bullying. His presentation, titled “Breaking Chains,” focused on sex crimes against children, which are alarmingly common but rarely acknowledged or talked about, according to Wiesner.

He used the pokemon cards as an example of how teens exploit each other. However, most of his presentation was focused on assault and abuse. By the age of 16, one in four girls and one in six boys will be sexually assaulted in the U.S., Wiesner said, citing statistics from a national crime database. “Anybody in this room could be a victim of sexual assault,” he told the students.

School psychologist Kirstin Kone said the number of assaults against children are like an iceberg; even those looking at the problem are only seeing a fraction of what’s out there.

“There’s more than anybody wants to imagine,” she said. Wiesner’s presentation of the same program at the school last year led to a number of sexual abuse and assault victims coming forward, he said. Those victims were able to get medical treatment and counseling. A handful of the reports led to cases that could be prosecuted, he said. One of those cases recently resulted in a court martial conviction, according to officials.

But generating investigative leads is not a goal of “Breaking Chains,” Wiesner said. The program partly draws from his youth, growing up in a home wracked by drugs and abuse. He was able to break out of that environment, he said, while his brother continued down a more destructive path. Sexual assault tends to run in families, both Kone and Wiesner said. Children of abusers often turn out to be abusers themselves, and victims often have children who turn out to be victims.

But intervention by friends and peers can help break the cycle, according to Wiesner, who credits his high school sweetheart — now his wife — with helping turn his life around. “I call her my desert rose,” he said. Part of breaking the cycle of sexual abuse is explaining what sexual abuse and assault are, Wiesner said, because victims don’t always know they’ve been abused, and sometimes abusers don’t know they’re being abusive.

In one video in his presentation, a victim of childhood repeated sexual abuse recounted that she just assumed that all men forced themselves on girls. A handful of students either excused themselves from the auditorium or appeared to tune out during that particular clip, Wiesner said, suggesting to him that there were victims of sexual abuse in the audience. By talking to students, he hopes victims seek help, “and we might be able to even help out the family members, as well.”

## Command Influence to Figure in Navy Rape Case

By Richard Sisk

Military.com, Oct 14, 2013

The upcoming general courts-martial on aggravated sexual assault and abusive sexual contact charges against two former Navy football players have all but guaranteed a high-profile test case on the issue of unlawful command influence in the military justice system that will include that of the commander-in-chief.

Naval Academy Superintendent Vice Adm. Michael Miller announced his decision to refer the two midshipmen to courts-martial Thursday morning. By the afternoon, a civilian defense attorney for one of the midshipmen had already said Miller succumbed to political pressure to crack down on sexual assault within the military.

"When you weigh what happened against the evidence, there can be no other conclusion but that Vice Adm. Miller came under political pressure [to refer the midshipman to general court-martial]," Ronald "Chip" Harrington said. "Clearly, this case has generated an enormous amount of press coverage, including comment from the president of the United States."

Congress didn't waste any time weighing in on the case either. Sen. Kirsten Gillibrand, D-N.Y., served notice that she will cite the Naval Academy sexual assault case in her efforts to legislate a major overhaul of the Uniform Code of Military Justice to take away commanders' authority to refer charges and overrule decisions in courts-martial.

"It is time to move the sole decision-making power over whether serious crimes go to trial from the chain of command into the hands of non-biased, professionally trained military prosecutors -- where it belongs," Gillibrand said.

Midshipman Eric Graham has been charged with abusive sexual contact under Article 120 of the UCMJ and Midshipman Josh Tate has been charged with aggressive sexual assault under Article 120, the Naval Academy said Thursday. Both were charged with making false statements under Article 107.

The charges stem from a report by a 21-year-old female midshipman who said she was raped by Graham, Tate and Midshipman Tra'ves Bush after a house party in Annapolis, Md., on April 14, 2012. The charges against Bush were dismissed Thursday.

In early May at the White House, Obama cited reports on increasing incidents of sexual assault in the ranks. He had a message for leaders across the Defense Department:

"I expect consequences. So I don't just want more speeches or awareness programs or training, but ultimately folks look the other way. If we find out somebody's engaging in this, they've got to be held accountable -- prosecuted, stripped of their positions, court-martialed, fired, dishonorably discharged. Period," Obama said.

At the Naval Academy commencement later in May, Obama called on midshipmen to stand up against sexual assault, warning that sex abuse and harassment "threaten the trust and discipline which makes our military strong."

Defense lawyers have already pointed out that two weeks after Obama's address, Miller referred the charges against the three football players to an Article 32 hearing on whether there was sufficient evidence for a court-martial.

John Schofield, the Naval Academy spokesman, explained Thursday that Miller had to balance all the information from the case to include the recommendation of the investigative officer. Schofield was clear in saying that Miller did not allow any political pressure to affect his decision to refer the charges to an Article 32 hearing or a general court-martial.

"The convening authority determined that reasonable grounds did not exist to believe that the offense of Article 120 was committed by Midshipman Bush. He determined reasonable grounds did exist to believe that the offenses were committed by Midshipman Graham and Midshipman Tate," Schofield said.

<http://www.military.com/daily-news/2013/10/14/command-influence-to-figure-in-navy-rape-case.html>

However, Obama's remarks, and the remarks of the service chiefs against sexual assault, have been cited in previous cases of sexual assault in the military.

In June in Hawaii, Navy Cmdr. Marcus Fulton, presiding as the investigating officer in an Article 32 hearing on two sexual assault cases, ruled that Obama's remarks as commander-in-chief would unduly influence any potential sentencing of the two defendants.

Fulton approved defense motions that, if convicted, the defendants could not be given bad conduct or dishonorable discharges in sentencing.

"The strain on the system created by asking a convening authority to disregard [Obama's remarks] in this environment would be too much to sustain public confidence," Fulton said.

The current environment in the military with the military chain of command demanding more accountability from subordinates in sexual assault cases also increased the likelihood that defendants would claim unlawful command influence was used against them, said military law analyst Gary Solis.

"What a defense lawyer should do is made a lot easier in today's climate. In a case like this, under such high visibility, I'd bet money it will happen," said Solis, a former judge advocate general and military law professor at Georgetown University and West Point, about the likelihood undue command influence will be invoked during the Naval Academy sexual assault case.

It is possible and it has happened that cases under the Uniform Code of Military Justice have been set aside because of remarks made by a president and others in the chain of command, Solis said.

Under the UCMJ, defense lawyers can also grill prospective jurors on whether they were aware of the remarks by Obama and others in the chain of command, and whether those remarks would influence their judgment, Solis said.

**RELATED TOPICS** [Naval Academy Sexual Assault Richard Sisk](#)

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[Naval Academy midshipman accused of sex assault wants superintendent removed](#) [Pamela Wood (Baltimore Sun), Stars & Stripes, 10 October 2013]

# Testimony from Navy undersecretary nominee raises eyebrows

By Jennifer Hlad

Stars and Stripes, October 11, 2013

The woman nominated as the next undersecretary of the Navy has come under fire for a statement in her written testimony to Congress, though the full context of the statement largely mirrors the positions of many top military leaders and some on Capitol Hill.

At issue is a proposal to remove decisions about prosecutions for sexual assaults and other serious crimes from the chain of command. Advocacy groups and several members of Congress, including Sen. Kirsten Gillibrand, have said that putting those legal decisions in the hands of military prosecutors who are not directly linked to the victim or accused servicemember's unit is the only way to improve accountability and decrease the number of sexual assaults.

In response to a written question about the potential impact of requiring a judge advocate outside the chain of command to determine whether sexual assault allegations should be prosecuted, nominee Jo Ann Rooney wrote that judge advocates outside the chain of command would look at the case "through a different lens than a military commander."

"I believe the impact would be decisions based on evidence rather than the interest in preserving good order and discipline," she wrote. "I believe this will result in fewer prosecutions and therefore defeat the very problem that I understand it seeks to address."

Thursday, Gillibrand called Rooney's statement about "decisions based on evidence" shocking and said it and others like it erode victims' trust in the system.

"The United States legal system, based on evidence, justice and due process, is the cornerstone of our democracy. Why isn't this good enough for our servicemembers who risk everything to protect those freedoms?" she said. "The brave men and women we send to war to keep us safe deserve nothing less than a justice system equal to their sacrifice."

On Friday, the sexual assault victims' advocacy group Protect Our Defenders called for a hold on Jo Ann Rooney's nomination because of the comments.

The organization's president, Nancy Parrish, said Rooney's comments "do not reflect the attitude of a person who deserves to be in a position of leadership."

"It is astounding to hear our military leaders proclaim that service members are not deserving of a system of justice based on the evidence in their case," Parrish said. "While our military leaders testify that they are finally getting serious about 'zero tolerance,' their actions and testimony suggest the opposite."

Still, military leaders and other members of Congress, including Sen. Claire McCaskill, have said that taking prosecution out of the chain of command would absolve commanders of responsibility and could result in fewer prosecutions – if lawyers with no connection to the unit believes there is not enough evidence for a conviction.

In her testimony, Rooney wrote that "commanders set the tone of their command" and "should be accountable for the health, safety and morale of their units — to include the command climate with regard to gender issues and sexual assault."

Rooney said commanders' words and actions "are visible models that inform subordinates of our true standards and expectations."

She said that while consistent and effective policy guidance is needed, "no strategy to combat sexual assault, no matter how well-founded, could ever succeed without the active engagement of commanding officers and their chains of command."

<http://www.stripes.com/news/testimony-from-navy-undersecretary-nominee-raises-eyebrows-1.246567#>

Rooney wrote that she understands the issue is being examined now and “would appreciate the opportunity to review data and recommendations” from a panel directed by Congress “before considering a change of this magnitude.”

And while Service Women’s Action Network Executive Director Anu Bhagwati said that Rooney’s statement was “un-American,” Navy officials said they look forward to working with Congress throughout Rooney’s confirmation process.

“The Navy remains committed to sexual assault prevention and response and has taken important steps in victim support and accountability,” the Navy official said. “The Navy also maintains that our commanders should be involved in each phase of the military justice process.”