

Preventing Sexual Assault

Get serious about duty

by LtCol Robert G. Bracknell

The reality and the perception of a sexual assault epidemic in the Armed Forces have reached a fever pitch and threaten the core of our military institutions. In the Department of Defense (DoD), the Secretary of Defense has withheld authority to dispose of sexual assault cases at the colonel level, effectively removing battalion commanders and other field grade officers with command responsibility from the decision chain.¹ He has directed hours of sexual assault training for unit leaders down to the newest private.² The DoD has established a Sexual Assault and Prevention Response Office, an entire separate activity within the DoD focused exclusively on a single manpower and readiness issue, and has placed an active duty Army major general in charge.³ The Joint Chiefs of Staff, including the Chairman, has taken its cues from its civilian bosses and issued even more guidance, and the Commandant of the Marine Corps integrated the war on sexual assault into his 2012 Heritage Brief, making the reduction of sexual assault a priority of his commandancy.⁵ The issue has produced documentaries, nonprofit organizations, and Federal legislation, and has generated a virtual tsunami of public attention.^{6,7,8}

In other words, military sexual assault has generated a multimillion-dollar response, substantial attention on Capitol Hill and in the Defense Secretary's office, and thousands upon thousands of man-hours designing and administering programs, building training packages, and training commanders and Marines. The issue has exacted immeasurable reputational cost to the Services, which are seen,



How do we significantly reduce sexual assault in the military? (Photo by Cpl Derrick K. Irions.)

accurately or not, by certain segments of society as condoning or ignoring the problem, or even nurturing the offenders at the expense of the victims. It seems like an intractable problem, with people talking past each other,

escalating almost out of control. It threatens the Services' ability to solve the problem on its own, damaging the Services' reputations within the Department of Defense, Congress, and civil society.

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Classes on sexual assault and suicide prevention are taught to NCOs and SNCOs. (Photo by Cpl Robert Reeves.)

All is not lost. In fact, within the Marine Corps, two simple leadership techniques could significantly cut the rate of sexual assaults by reducing the incidence of alcohol-fueled encounters and sexual contact in the barracks. Two simple, old-school Marine Corps leadership techniques, properly applied, could take some of the heat off the Commandant and the Marine Corps, and could serve as a template in terms of military discipline for the other Services. Two small, relatively painless adjustments in the way we lead Marines could change the entire debate: We need to first get serious about enforcing the mandatory drinking age in the Marine Corps, adopting a zero-tolerance policy for this misconduct, and second, about our duty as sentries in garrison environments, reinvigorating the obligations and responsibilities of being a command duty officer or barracks NCO.

Get Our Arms Around Underage Alcohol Use

Alcohol and sexual assault fit together like a hand in a glove. One group of researchers cites estimates that alcohol use among sexual assault perpetrators ranges from 34 to 74 percent, while estimates of alcohol use vary from 30 to 79 percent among victims.⁹ While these estimates include offenders and victims among all age groups, the proportions among underage offenders and victims are likely similar, and even if the numbers were discounted by

half, alcohol would remain a significant factor accompanying hundreds of alleged sexual assault cases each year.¹⁰ Alcohol clouds judgment and lowers inhibitions, causing alleged offenders to act more aggressively and with less discretion, discernment, and chivalry than they might otherwise. It lowers alleged victims' defenses to the point of placing them in social situations they might not be in otherwise, mitigates

This dilemma has a solution: Stop it now. Zero tolerance for violations.

their ability to make rational choices about consent to sexual contact or defend themselves from physical assault, and causes them in some circumstances to make regrettable choices that are later recharacterized or remembered as lack of consent. It can create an atmosphere of "anything goes" and "you only live once," which produce choice sets by both alleged aggressors and alleged victims that ruin lives, careers, futures, and psychological well-being.

Department of the Navy and Service policies, of course, set 21 years of age as the minimum drinking age for active duty Marines worldwide, regardless of the drinking age permitted under state or foreign law. In a naval Service

culture historically awash in alcohol abuse, this policy is sometimes ignored with a wink and a nod. Commanders occasionally assume the authority to grant "exceptions" to policy, particularly around special celebrations such as the anniversary of the founding of the Marine Corps, Christmas parties, and predeployment and postdeployment festivities. Small unit leaders assume additional authority to grant exceptions, sometimes under the theory of "old enough to fight, old enough to drink."¹¹ After a period of accretion of exceptions, exemptions, and turning a blind eye to violations in order to protect a Marine's career, or at least his enlistment, there is a hole in the policy that threatens to consume good order and discipline. We say the drinking age is 21, but our leaders, from general to corporal, frequently undermine this policy through action and inaction.

This dilemma has a solution: Stop it now. Zero tolerance for violations. No more wink-and-a-nod tolerance of underage drinking. No more gunny- and captain-level discretion on reporting violations or granting special exceptions. No more birthday ball suspension of the rules. No more cutting Marines a huss because they are just back from deployment or just about to go. In short, the institution's stakeholders can no longer brook the undermining of the Commandant's authority on the subject of substance abuse and sexual assault. We can no longer choose to be disloyal to the Commandant and the legacy of the Marine Corps by individually choosing which rules we enforce and which ones we undermine.

In order to signal his resolution on this point, the Commandant could simply modify the policy with a strongly stated zero-tolerance rule for underage drinking, granting a 6-month grace period for adjustment so that everyone has a fair chance to get the word and internalize that, with regard to underage drinking, "no" really does mean "no." He can issue an AlMar and a MarAdmin to maximize information flow, and he can send the general officers a green letter *directing* that he is withholding discretion and instituting a mandatory punishment policy for single violations.

As a more permanent solution, he can seek legislative relief, asking Congress to modify the Uniform Code of Military Justice to add underage drinking as an additional offense under Article 112 (wrongful use, possession, etc., of controlled substances) and to prescribe mandatory minimum penalties for this offense by legislation. Finally, he can direct the relief of the first few officers who fail to get the message and continue to flaunt his authority to set discipline and conduct policy for the Marine Corps.

Is this heavy-handed? Yes, but perhaps heavy-handed is the approach that this particular dilemma requires, because the Marine Corps has had limited success solving the problem through other means. The statistics on sexual assault allegations remain unconscionably high, the Marine Corps is taking a beating in the media and public opinion, and our civilian leaders continue to characterize the sexual assault issue as a crisis. Would this constitute unlawful command influence under the Uniform Code of Military Justice? Perhaps, and we would learn the answer to this when some brave soul refuses his nonjudicial punishment and takes his chances at a special courts martial on an alcohol order enforcement violation. On the other hand, until the statute is changed, military courts could view a zero tolerance edict from the Commandant as akin to a mandatory minimum punishment in civilian courts.¹² Will more draconian enforcement of the drinking age force more would-be underage drinkers out of the barracks and into their cars and civilian communities where different mischief awaits, thus trading one problem (sexual assault) for another (other potentially lethal alcohol-induced misconduct)? Perhaps, and that is a tradeoff that only the Commandant can make, informed by a clear recognition that sexual assault accusations overwhelmingly involve the use of alcohol, often by Marines under the legal drinking age, and that the Marine Corps indulges a semipermissive culture toward underage drinking.

In the meantime, while those issues sort themselves out, the Marine Corps could benefit from the strong

signal from the Service Chief to his commanders, officers, and noncommissioned officers that standards are standards owned by the Commandant and are not negotiable suggestions, an effect which would improve discipline generally as the Marine Corps seeks to readjust to a post-Operation IRAQI FREEDOM/ENDURING FREEDOM operational environment in which a smaller proportion of Marines will be deployed. The time has come and gone for Marine leaders to stop undercutting the Commandant as he works to get the sexual assault problem back inside its box. The time has come for meaningful enforcement of the drinking age inside the Marine Corps as an avenue of attack against the scourge of sexual assault. If leaders fix the problem with underage consumption of alcohol, no longer turning a blind eye to violations, but strictly enforcing the rules virtually without exception, we can mitigate the sexual assault issue among underage alcohol aggressors and victims.

Put the "U" Back in "Duty"

Sexual assaults occur in a wide variety of locations—hotel rooms, private residences, automobiles, public venues, outdoors, and even in military barracks rooms. While Marine leaders have limited influence over most of these locales, enlisted barracks have the greatest potential for Marine leader control and monitoring. We need to reconceive the nature of the barracks and reassert Marine leader authority there. With proper governance of the barracks, Marine leaders can reduce the instances of sexual assaults occurring in the dormitories the American people provide not as private homes, but as places for our Marines to rest between training events. Getting control over the barracks will require a concerted leadership effort from the top down.

Over the course of my career, I have noticed a trend in rank-based exemptions from standing duty. When I began my career in 2d MarDiv, lieutenants, warrant officers, and chief warrant of-

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Are we going to just talk about the problem, or work to solve it? (Photo by Cpl Brianna Turner.)

Officers stood battalion duty. Captains and majors stood division duty, though company commanders and Marines in the grade of master sergeant, master gunnery sergeant, and CWO4 inexplicably were exempt from standing any duty. Each duty officer in a battalion was assisted by an SNCO, always a staff sergeant or a gunnery sergeant. The battalion guard force at the vehicle or gun park was led by a sergeant of the guard (SOG)—a real sergeant, not a corporal performing SOG duties—and each barracks had an NCO on duty. This may not have been ideal, but it was a much more senior duty representation than one finds in many units now. By contrast, within the past 2 years, I have been assigned temporary duty at Camp Lejeune, Marine Corps Air Station Cherry Point, Henderson Hall, and Quantico on several occasions. At Camp Lejeune, within one of the II MEF major subordinate command (MSC) headquarters, the duty officer was routinely a staff sergeant or a gunnery sergeant—I never once saw an officer standing duty as the command duty officer for this MEF MSC. At Lejeune Hall on Quantico, the same was true—not a company grade officer in sight, much less a major or a lieutenant colonel. I cannot remember the last time I've seen a colonel on duty, if ever.

As Marine leaders, we have to get

more seniors practicing intrusive leadership in garrison. No doubt, there are still Marine company and field grade officers who spend evening, overnight, and weekend time around their unit areas being seen and demonstrating committed leadership. This type of presence has to again become the rule rather than the exception. Instead of merely talking about intrusive leadership at leadership symposia and hoping for the best, the Commandant and his senior commanders have to mandate and measure it until it once again becomes a leadership habit. Instead of an NCO in each barracks, we need an NCO and a non-NCO assistant duty on every single deck of the barracks. Every barracks should be supervised by an SNCO. Lieutenants, captains, and chief warrant officers have to get involved in battalion and regimental duty without exemptions for company commanders or CWO4s and CWO5s. Majors through colonels—including the married ones, the single parents, the officers who live locally off base, and the officers who choose to live scores of miles away from their duty station—should be standing duty up through the MEF level, including commanders.^{13 14} Sergeants major reviewing the duty log need to look at the entries that say, "0100, toured the area, all secure. 0200, toured the area, all secure. 0300, toured the area, all secure

..." and ask NCOs in rigorous post-duty debriefs if they would only patrol every hour on the hour in combat. They must drill down on whether the sentries actually executed their "garrison patrol" responsibilities at all. Install technical solutions in the barracks that require duty NCOs to demonstrate mobility on duty by checking in at random intervals in multiple locations by scanning their common access cards. Remove the televisions and outlaw the smart phones that seem to capture everyone's attention during duty hours, and return duty personnel—including the colonels—to their legacy duties as sentries. Draw a hard line on privilege-based exceptions from duty; exceptions accrete over time until there are more exceptions than duty standers, and once again, we get 8-year time-in-service staff sergeants standing duty in Lejeune Hall instead of 20-year time-in-service lieutenant colonels. Relieve for cause the first group of officers that voices a complaint about performing this portion of its duty. Take a stand and send a signal clearly heard from the junior generals to the corporals: Being an effective sentry is a component of being an effective leader, and we fail those we are charged with protecting and leading when we treat it as something other than solemn duty.

Conclusion

Marine leaders are the stakeholders in the continuing legacy of the institution. We have to decide whether we are going to simply continue to admire this problem, or work to solve it. By heightening the attention paid to the barracks after hours, and with intrusive leadership, more regular tours of each deck, mandatory reporting of alcohol-related offenses, and a serious reexamination of how well we execute leadership in the barracks, the battalions, and the major Marine formations, Marine leaders can cut down the opportunity for the combination of privacy and the haze of alcohol to generate additional sexual assaults and sexual assault allegations. Marine leaders who take their obligation seriously can help the Commandant get this problem under control. The alternative is that the Commandant is perceived as incapable of governing the

Marine Corps in terms of sexual assault, and all commanders' authorities to deal with this problem are taken away by civilian leaders imposing solutions from outside the institution, as is their prerogative.

If we Marine leaders cherish the authority we have been granted by our civilian superiors and the American people and take seriously our obligation to protect vulnerable Marines from aggressors and poor choices, we must demonstrate in good faith our ability to ensure the safety of potential sexual assault victims in our own barracks. We leaders must return to our posts as sentries with less deference to the privilege of rank. We must walk our posts in a military manner and heed our special instruction to report alcohol-related offenses without exception or delay. We must talk to no one in the line of duty, in person, or on Facebook or Twitter, and we must not be distracted from our solemn duty as sentries by ESPN or even the History Channel. We have to get better at disrupting risk-laden conduct by returning to traditional techniques of leadership in the barracks, demonstrating we deserve the trust we have been accorded. The problem is not going away and it will be solved either internally or externally. This author prefers the internal method of generating solutions that match the requirements of the Service, rather than external solutions which may not adequately account for the realities of military life, culture, and operational requirements. Effectively addressing the challenge internally by driving down sexual assault rates through corporal-to-colonel intrusive leadership will remove the urgency of the problem and the justification for imposing offensive, disheartening, and cumbersome solutions driven from Pentagon offices, Capitol Hill, and interest groups.¹⁵ If we fail to protect our ability to lead by demonstrating the ability to leverage leadership effectively to control the sexual assault dilemma, we justify continued intrusions on our authority to shape the Corps.

Notes

1. Memorandum for Secretaries of the Military

Departments et al., *Withholding Initial Disposition Authority Under the Uniform Code of Military Justice in Certain Sexual Assault Cases*, Washington, DC, 20 April 2012.

2. Memorandum for Secretaries of the Military Departments et al., *Evaluation of Pre-Command Sexual Assault Prevention and Response Training*, Washington, DC, 25 September 2012.

3. DoD Sexual Assault and Response Office, Washington, DC, accessed at www.sapr.mil.

4. Department of Defense, Office of the Assistant Secretary of Defense (Public Affairs), News Release No. 488-12, 13 June 2012, "New Sexual Assault Prevention and Response Director Named," accessed at www.defense.gov.

5. Chairman of the Joint Chiefs of Staff, *Strategic Direction to the Joint Force on Sexual Assault Prevention and Response*, Washington, DC, 7 May 2012, accessed at www.jcs.mil.

6. Dick, Kirby, *The Invisible War*, Chain Camera Pictures, 2012, accessed at invisiblewarmovie.com.

7. Parrish, Nancy, *Protect Our Defenders*, Burlingame, CA, accessed at www.protectourdefenders.com.

8. House of Representatives, *Sexual Assault Prevention*, www.dod.mil; STOP Act, H.R. 3435, thomas.loc.gov.

9. Abbey, Antonia, Tina Zawacki, Philip O. Buck, Monique Clinton, and Pam McAuslan, *Alcohol and Sexual Assault*, National Institutes of Health study, Bethesda, MD, available at pubs.niaaa.nih.gov.

10. From personal experience as a military lawyer on active duty, I cannot remember having familiarity with a single allegation of sexual assault that did not involve alcohol use by the alleged offender or the alleged victim. In most cases, both parties were drinking.

11. It has always mystified this author what these two qualifications have to do with each other. Under this logic, an 18-year-old enlisted Marine should also be qualified to be President of the United States (ordinarily 35 years of age under Article II, Section 1 of the U.S. Constitution) or to collect social security insurance payments (ordinarily 62 years of age under Title II of the Social Security Act).

12. For example, in California, a first-time driving under the influence conviction results in a minimum of 48 hours of consecutive confinement and a mandatory 6-month driver's license

suspension. (See California Vehicle Code, Division 11.5, Chapter 2, Sacramento, CA.)

13. This model is premised on a MEF model. Other major commands, such as Marine Forces, Marine Corps Combat Development Command, Logistics Command, and the recruit depots would generate their own construct based on a similar model with one unifying characteristic: Field grade officers and senior SNCOs are no longer exempt from standing duty, and will take a more active interest in what is going on in garrison between 1630 and 0600 and on the weekends.

14. I cannot think of a good reason why a battalion- or regimental-level commander could not stand duty at the division or MEF level to free up some majors and lieutenant colonels to stand duty at lower levels. In turn, captains and junior officers would be available at the battalion level. This author acknowledges that command is, in fact, a 24-hour-a-day job. Rather than jealously guard the prerogatives of command, this author challenges commanders as to whether they can give just a little bit more to help the Commandant solve this problem.

15. Secretary of the Navy Press Release, Story Number NNS120305-12, 5 March 2012, "Secretary of the Navy Announces 21st Century Sailor and Marine Initiative," accessed at www.navy.mil; Headquarters Marine Corps, *MarAdm 709/12, Marine Corps Alcohol Screening Program*, Washington, DC, 12 December 2012, accessed at www.marines.mil; "Breathalyzers: Another Navy Dept. nail in the coffin of 'special trust and confidence,'" John Paul Lejeune (nomme de plume), *Best Defense*, 15 March 2012, ricks.foreignpolicy.com. Query: Did we Marine leaders wait too long and fail to get serious about alcohol abuse, thereby unintentionally forcing the Commandant's hand on the breathalyzer program?

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