

COMBATING THE ENEMY WITHIN

Sexual Assault in the British Armed Forces

By Emily Benn

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I. INTRODUCTION

Organizations across Britain, from universities to financial institutions, are grappling with the challenge of inappropriate sexualized behaviors, “lad culture,” and the lack of reporting and successful prosecutions. The number of successful rape prosecutions in Britain remains shockingly low. Yet the nature of the Armed Forces, with its perceived masculine culture and specific working practices, creates conditions in which sexual harassment is, arguably, even more likely to occur; a fact the Army, Navy, and Air Forces recognize themselves.¹ High-profile instances of bullying illustrate failures in the Army's duty of care to its personnel, and in the effectiveness of policies to root out unacceptable behavior, including sexual harassment and abuse.

While senior leadership in the Armed Forces have made a concerted effort to enforce a zero-tolerance approach to sexual assault and harassment, most recent reports still show unacceptably high levels of sexual harassment suffered by both female and male personnel. In 2015, 13 percent of servicewomen reported having an upsetting experience involving

targeted sexualized behaviors, and it is likely this number is lower than the reality due to underreporting.² The negative health consequences of sexual harassment and assault can be severe: victims often display high rates of depression and anxiety symptoms, engage in substance abuse,³ and are more likely to report suicidal ideation and attempt suicide.⁴ The effects can be physical as well, leading to impaired health status and chronic health problems.⁵ The consequences of inaction are not limited to the victim; they may have serious consequences for the effectiveness of the Armed Forces overall. Research has shown sexual abuse in the military “undermines trust in military units, mission readiness, and the health and safety of all service members.”⁶

Barriers remain to solving this persistent problem. There are questions about the Royal Military Police's suitability to investigate sexual assault, given its potential lack of independence and experience. Many victims remain afraid of formally reporting incidents, believing it will negatively affect their careers. While the forces are traditionally resistant to external scrutiny, the situation is critical enough to warrant an external body to oversee the

complaint process, to ensure victims' needs are served. And with the elimination of the female combat exclusion policy, opening up all divisions and units to women for the first time, there is no time for delay in addressing this problem.

II. THE NATURE OF THE PROBLEM

The Ministries of Defence (MoD) and Justice (MoJ) have defined "*sexual assault*" as any "unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of violating the recipient's dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for the recipient."⁷ The military environment and culture creates conditions in which sexual harassment is more likely to occur, especially with soldiers living in extremely close contact with each other and developing intense relationships forged in pressurized situations. There is very little separation between "work" and "life," especially for those living on base. There is a disproportionately large ratio of men to women, with a hyper-masculine culture prevalent in many units. The Army itself has recognized that the "prevalence of and opportunity for sexual harassment to occur may be higher in the Army than other workplaces."⁸ Wider research concurs: in a 2007 paper, Mic Hunter outlined several elements of military culture that can promote sexual violence, including "high prevalence of sexualized violent language, the general acceptance of violence, the learned ability to objectify other people, [and] strong obedience to the chain of command."⁹ Wilson and Turchik likewise found that "organizations endorsing stereotypical masculinity have higher rates of sexual harassment and assault than other organizations."¹⁰

Sexual assault has both male and female victims, as well as male and female perpetrators. Yet in the British Armed Forces, evidence indicates that servicewomen are at higher risk

of assault,¹¹ most likely to suffer negative consequences as a result of raising a complaint, and more likely to be unaware of formal reporting procedures. The MoD recognizes that younger, more junior ranking women are more likely to experience sexual harassment and also "less likely to feel able to manage the situations themselves."¹² In many units, there are few if any senior female officers to turn to for guidance. This must be viewed in the larger context of the lack of a gender-inclusive environment within the Armed Forces. As Woodward and Winter have highlighted, "military discourses about gender construct [represent] women as different in some very specific ways; many differences are seen not as physical but as social. Some of these differences are presented as incompatible within military life, and problematic to their full participation."¹³

Importantly, however, the MoD suggests there is still a cultural problem of not believing the reports of male sexual abuse victims, and that women reporting sexual harassment were taken "'more seriously' than men."¹⁴ Scarce (1997), in a study on male-on-male rape, remarked that, in the military, "men's gender roles become more rigid and narrow, heavily scrutinized for any behavior that might seem the slightest bit feminine, and, therefore, considered weak and unfit for military service."¹⁵

There is a chronic lack of formal reporting of inappropriate sexual behavior. Strikingly, only three percent of service personnel who have had a "particularly upsetting" experience involving sexualized behaviors make a formal written complaint.¹⁶ There is also no consistent mechanism by which reports and statistics are collated. An allegation of sexual assault can be investigated by a commanding officer alone, the Military Police unit of the branch in question, or local police, depending on where the alleged incident took place. A 2015 Investigation by the MoJ concluded

that, in relation to the effectiveness of crime reporting in the Royal Military Police, there is “insufficient oversight of the system. For example, there is no crime registrar as exists in Home Office police forces to ensure compliance with crime-recording rules.”¹⁷

Nearly half of service personnel who have had an upsetting experience did not make a formal complaint because they were concerned about the consequences, such as being labeled a troublemaker, and the effect it might have on their career—with higher numbers of females not reporting.¹⁸ A 2006 report indicated that over half of respondents who made a formal complaint stated that they had suffered negative consequences as a result of doing so, and a follow-up report nine years later found little had changed.¹⁹ The consequences also are more severe for women: nearly two thirds of servicewomen believed they had suffered negative consequences.²⁰

This real and evident threat of reprisal makes the task of encouraging reporting within the organization so much harder. It is particularly problematic when victims are assaulted by a superior officer, as the forces regard the chain of command as the backbone that enables them to work effectively.²¹ MoD data indicates that the more junior service personnel were in rank, the more likely they were to experience “targeted sexualized behavior.”²² Yet strict discipline, fear of retaliation, and the lack of “life outside of the job” can make it particularly difficult for junior personnel to raise complaints about superiors. It is hardly surprising that the MoD’s own data show that over a third of service personnel are worried about repercussions from the other people involved,²³ and do not think anything will be done if they make a complaint—all the more in cases where victims were junior personnel. For those personnel who are afraid to speak out, the nature of employment in the Army often means they are forced to remain in their unit, as they

are legally unable to leave their employment without facing desertion charges. This was the case with this unnamed male recruit, who was subject to sexual abuse by male colleagues in a German barracks.²⁴ His fear of retaliation prevented him from raising a complaint formally, leaving it to a tabloid newspaper to do so on his behalf.

The evidence also suggests there is a cultural problem around the acceptance of sexualized behaviors, and the minimal degree to which service members believe it is their own responsibility to step in to prevent harassment when witnessed. The MoD report quotes “servicemen were more likely to believe that trying to stop sexual harassment was not their responsibility. Almost a quarter of service personnel that would not stop sexual harassment did not think the system would support them if they tried.”²⁵ Experience in the United States likewise indicates a military cultural issue around the responsibility to intervene, as well as a potential solution. A Foubert and Masin paper compared the US military’s bystander training program, “The Men’s Program,” to a typical Army sexual assault brief, to understand male soldiers’ relative willingness to intervene in a sexual assault. It found that “men in the bystander training program were significantly more willing to help after training.”²⁶ In response to concerns, the US Department of Defense initiated the 2009 “Our Strength is for Defending” poster and video campaign to remind all personnel that it is their duty to “prevent sexual assault by taking an active role in looking out for the welfare of friends and co-workers.”²⁷

Even when victims do muster the courage to report, the ability of the Royal Military Police to sufficiently investigate sexual assault is questionable. The MoJ found that standards of training in the Royal Military Police were inconsistent, not matching standards of the civilian police. They found that junior and senior officers felt “soldiering duties and

training should be so much more of a priority than policing duties and training that the policing element had been neglected.”²⁸ Army policy of moving personnel every two to three years also left the Royal Military Police devoid of experienced and specialized officers—creating capability gaps. This is in contrast to Home Office police forces, where significant resources have been invested in recent decades to establish highly trained units to investigate sexual assault.

ARMY CULTURE HAS LONG BEEN HOSTILE TO OUTSIDE INDEPENDENT OVERSIGHT, BUT THIS DOES NOT INSPIRE CONFIDENCE IN THOSE SERVICE PERSONNEL WHO FEAR THEIR COMPLAINTS—WHETHER OF A BULLYING OR SEXUAL NATURE—WILL NOT BE HANDLED APPROPRIATELY.

These failures in reporting and investigating sexual assault also raise the question of whether the Armed Forces should be opened up to more independent scrutiny and accountability. Army culture has long been hostile to outside independent oversight, but this does not inspire confidence in those service personnel who fear their complaints—whether of a bullying or sexual nature—will not be handled appropriately.²⁹ This may be connected to the culture of loyalty and protection of the institution. Hunter in 2007 argued that military culture “promoted belief that those outside the military will not understand what goes on within the military.”³⁰

III. POLICY INTERVENTIONS TO DATE

The past 12 years have seen the MoD and all three services make steps to identify the scale of the problem and publicly affirm their commitment to addressing it. In response to a growing number of sexual harassment

and bullying cases, the MoD published its first landmark report into sexual assault in the Armed Forces in 2006 in order to gather data. This continued in numerous subsequent reports. Furthermore, an agreement was signed between the MoD and the Equality and Human Rights Commission in 2008 to gather more crucial data on the prevalence of sexual harassment within the Army. Senior leaders of all branches have demonstrated their commitment to culture change, prioritizing the welfare of personnel and zero tolerance of abuse. In 2015, Chief of the Defence Staff Nick Carter, in his response to the 2015 report, launched a new internal and external campaign to tackle the harassment exposed, arguing “the world has moved on, and the army has to move on with it.”³¹

Greater external oversight of Armed Forces practices has been a common theme of recent policy developments. In response to the deaths of service members at Deepcut barracks, in March 2014, the Secretary of State for Defence announced the creation of a Service Complaints Ombudsman, to provide “independent and impartial” scrutiny of complaints. The body is empowered to not only investigate potential failures of the military’s internal investigations, but also to investigate the circumstances and substance of the initial complaint itself—a significant improvement in the power of external oversight.³² This body has already brought attention to multiple inadequacies of the Army’s internal processes. Their 2016 annual report, for example, announced that “bullying, discrimination and harassment continue to be a more common cause for complaints for female and Black, Asian, and minority ethnic personnel.”³³

Greater oversight has also been introduced to the Military Police since 2014, after concerns that investigations were at risk of improper interference.³⁴ It placed a statutory duty on Her Majesty’s Inspector of Constabulary (HMIC) to inspect and report

to the Secretary of State for Defence (outside the military hierarchy), on the independence and effectiveness of investigations carried out by each service police force. This serves as another independent oversight of the military's internal processes. Subsequent inspections have focused on the strategic leadership, governance, and performance management of investigations.³⁵

There have also been attempts to raise awareness of sexual assault within the Armed Forces, in order to start mitigating the problem itself. In 2015, a groundbreaking campaign called "Don't Kid Yourself" was launched.³⁶ A number of graphic posters, containing distressing images of servicemen and women who had suffered sexual assault, with the streamline "Without Consent, It's Rape," were distributed to every base. They played on common excuses often used by male perpetrators, such as "she didn't need to say yes, who wouldn't want me," and "he's gay, he would have been gagging for it." Time will tell how effective these efforts will be, though at least now service personnel may have a better understanding of what constitutes unacceptable behavior.

Just as the institutions have been opened to more scrutiny, soldiers themselves have been given new opportunities to independently raise concerns. The SSAFA (Armed Forces Charity) opened a dedicated phone line for soldiers and their families to contact when concerned about welfare issues. Independent and entirely outside the chain of command, it provides factual information about how to proceed with various problems.

IV. NEXT STEPS

Despite the efforts to date, the number of sexual assaults in the Armed Forces has remained stubbornly high a decade later. The Armed Forces should be doing more to address the causes and consequences of military sexual assault, the failure of reporting, and the

perceived lack of trust in military establishment to fully investigate these offenses.

First, there should be a greater focus on eliminating inappropriate sexual behavior of any kind, not just the more serious crimes of assault and rape. More disciplinary procedures for lower-level offenses, such as sending inappropriate sexual images to fellow personnel, are warranted. A culture in which 40 percent of servicewomen receive unwanted sexual comments in the past year is one in which it is easy to imagine more serious sexual crimes being committed.³⁷ Officers must also make clear that "army banter" is not acceptable as an excuse for wholly inappropriate sexualized behavior. Accused male soldiers have used this excuse at various employment tribunals brought by female victims, such as in the case of Corporal Leah Mates, who successfully sued the Ministry of Defence in 2006 for sexual discrimination.³⁸

There is also a clear need for more education and training on the formal complaints procedure, and a change in culture to minimize the fear of repercussion from reporting. This is no easy task, and will require full commitment from every officer, including senior non-commissioned officers, who are responsible for the setting the cultural standard for the vast majority of personnel. Given the close-knit nature of the community, it is also imperative that victims' privacy and confidentiality is assured throughout the process. When a victim does raise a complaint, there should be an immediate opportunity for those members to transfer to another unit, to stop them being forced to live in close contact with those they have accused. Particularly for junior personnel, there should be the opportunity to curtail the length of service requirement where they have suffered bullying or inappropriate sexual behaviors. Instead of having to wait until the end of their three- or six-year commission, a shorter notice period should be provided.

Accurate and comprehensive data can also make the difference between creating effective and futile policy. A single reporting system should be introduced to collate all allegations, wherever and to whomever they are reported. Commanding officers, sergeant majors, and any other ranks in receipt of information must be compelled to notify this body of any allegation, and be disciplined if it is found they have failed to do so. Furthermore, commanding officers should be required to report, to local forces and to the dedicated branch of the Military Police, all allegations of any sexualized assault. An independent body (the complaints ombudsman) should be notified at the same time, so they are able to monitor what action was taken as a result of the complaint. Victims should be able to refer to this outside body throughout the complaints and discipline process. Finally, as suggested by Liberty Human Rights Group, “the relevant prosecuting authority should provide annual corresponding information on the number of cases that were referred to them, how many were prosecuted, and how many convictions were secured,”³⁹ so that progress on convictions can be adequately tracked.

As the MoD recognizes itself, a large reason why servicemen and women expressed lack of confidence in the existing complaints and discipline procedure, and thus a greater unwillingness to use the formal reporting processes, was due to its lack of transparency. There are often no clear procedures around how the victim can be kept informed of progress and outcomes of any investigation. Crucially, there is also no guarantee that victims’ privacy or confidentiality will be assured during the process. This problem is exacerbated by the fact that commanding officers have significant discretion when deciding what actions to take, which investigations should be carried out, and in what manner. While commanding officers are by law required to refer any

serious offenses listed under the 2003 Sexual Offences Act to the Royal Military Police, and consequently to local police forces,⁴⁰ this does not include many inappropriate sexualized behaviors that may suggest an alarming pattern and could lead to more dangerous offenses in the future.

This situation is not fair to either side: it does little to inspire confidence on the part of the accuser, while commanding officers are not given the specialist training or resources needed to investigate such incidents, let alone to be able to handle more serious incidents. The MoJ Inspectorate also found this particularly concerning, noting in its report that these circumstances would “compromise the independence of any investigation.”⁴¹

Where there is a suspicion that the Military Police have not conducted investigations with the required independence or seriousness, or their investigations have become corrupted, there is currently no independent body that can investigate this misconduct, nor provide recourse for victims. The civilian police forces have the Independent Police Complaints Commission (IPCC). A similar body should be established to provide the same oversight to the Armed Forces, and be staffed with trained civilians, under the remit of the Ministry of Defence. This may give victims more confidence in agreeing for their complaints to be passed on to the Military Police, as their actions will be subject to rigorous independent scrutiny.

The active and reserve military is a small community in the UK. The size and nature of the Royal Military Police, and its equivalents in the Navy and Air Force, mean it is very possible for the police to know the individuals concerned in any rape or serious sexual assault allegation. This is entirely inappropriate, especially in instances where a service member has accused a colleague of rape and/or if the accused is of a higher rank. These instances should be investigated by the Home

Office police forces, a police body independent of the military that is more experienced and has the specialist training for offenses of this kind. At the very least, a specialized and independent unit within the Military Police that covers sexual assault cases should be set up, given significant current deficiencies in skill and expertise.

There will be a vocal view from some in the Armed Forces that there is no need for an independent police force to be brought in to investigate internal military matters, nor an independent scrutiny body, and that this force will not understand the circumstances unique to the Armed Forces. Yet in the same way that the police force over decades had to accept oversight from the IPCC to root out corruption, the Armed Forces will have to as well, given the scale of the cultural change needed to empower victims to trust the system, speak out, and overcome fear or reprisal. Until servicemen and women have enough confidence and trust in their own establishment and superiors to take complaints seriously and deal with perpetrators, it is essential that they have access to an external service that can independently investigate their complaints.

V. CONCLUSION

The Armed Forces owe their personnel a duty of care, and victims deserve that their institutions do all they can to prevent unacceptable harassment and assault. Significant progress has already been made in data gathering and identifying the scale of the issue. Now the necessary steps must be taken to root out all levels of sexual abuse and ensure all personnel know there is no excuse for any inappropriate sexualized behavior. The forces must also eliminate any lingering reluctance to open up to independent oversight of their reporting and investigation processes, which should help victims have greater confidence in coming forward.

This is not a “nice to have” issue, but rather is central to the operational challenge the Armed Forces is currently facing. The Army is facing a very real recruitment crisis; attracting high-quality, skilled recruits is a vital priority. Any perception that sexual abuse and a bullying culture goes unchallenged in the Armed Forces will not help. The MoD recognizes that failure to tackle this “will impact ... every area of the Army from procurement, recruitment, and talent management to negotiating power, international presence and cooperation, and national security goals.”⁴²

NOTES

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