The Invisible War: Screening and Panel Discussion
Fact Sheet

Military Sexual Assault

- The Pentagon estimates that 26,000 active-duty men and women were sexually assaulted in 2012. 3,374 cases were actually reported. This is a 34% increase from 2010 estimates.¹
- 26% of women who reported unwanted sexual conduct* reported a combination of professional retaliation, social retaliation, administrative action, and/or other punishments; Of those women who did not report to authorities, 47% indicated fear of retaliation or reprisal as the reason for not reporting, and 43% had heard about negative experiences of other victims who reported their situation.²
- The 2012 Workplace and Gender Relations Survey of Active Duty Members indicates that 25% of sexual assault perpetrators were in the survivor’s chain of command.³
- From 2007 to 2012, commanders’ preference of court martial charges over nonjudicial punishments against military subjects for sexual assault offenses increased from 30% to 68%.⁴
- In 2012, out of the 1,714 cases that qualified for possible disciplinary action, only 37% went to military courts.⁵
- Preliminary statistics for 2013 indicate a 46% increase of reported sexual assault cases in the first three quarters of the year as compared to the same period in 2012.⁶

*The above are drawn from a survey that defined “unwanted sexual conduct” as “intentional sexual contact that was against a person’s will or which occurred when the person did not or could not consent, and includes completed or attempted sexual intercourse, sodomy (oral or anal sex), penetration by an object, and the unwanted touching of genitalia and other sexually-related areas of the body.”⁷

Military Sexual Trauma (MST)

- The Department of Veteran Affairs (VA) granted disability benefit claims rate for MST-related PTSD claims has lagged behind the grant rate for other PTSD claims by between 16.5 and 29.6% each year between 2008-2012.⁸
- While women and men both face barriers to receiving VA disability compensation for MST-related PTSD, evidence indicates that men receive higher compensation ratings than women. Women are more likely than men to receive 10% to 30% compensation ratings. Men are more likely than women to receive 70% to 100% compensation ratings for MST-related PTSD claims.⁹
- The VA spends approximately $10,880 on healthcare costs per military sexual assault survivor. Adjusting for inflation, in 2010 the VA spent almost $872 million dollars on sexual assault related healthcare expenditures.¹⁰

Proposed Bills – Several bills have recently been introduced before the House and Senate to address sexual assault in the US military. The bills cited below are currently being debated and are likely to be voted on before Congress’ Thanksgiving Recess.

The Military Justice Improvement Act (proposed by Senator Kirsten Gillibrand, D-NY))
The Military Justice Improvement Act (MJIA), moves the decision whether to prosecute any crime punishable by one year or more– including sexual assault cases – to independent military prosecutors. The decision whether to prosecute thirty-seven serious military crimes, such as disobeying orders or going Absent Without Leave, and all crimes punishable by less than one year, would remain within the
chain of command. The Military Justice Improvement Act will be offered as an amendment to the annual National Defense Authorization Act.

**Amendment #183 to the National Defense Authorization Act (proposed by Senator Carl Levin (D-MI))**
The proposed amendment calls for an independent review by the next higher level of the chain of command when a commander decides not to prosecute a sexual assault allegation, strips commanders of their ability to overturn jury verdicts, mandates dishonorable discharge or dismissal for anyone convicted of sexual assault and makes retaliation against victims a crime under the Uniform Code of Military Justice. The amendment also calls on the Pentagon to relieve commanders who fail to create a receptive climate for survivors.

**Article 32 Bills**
Two bills (the *Article 32 Reform Act* proposed by Senator Barbara Boxer (D-CA) and *HR 3360* proposed by Congressman Mike Turner (R-OH)) have recently been proposed to amend the language of section 832, article 32 of the Military Code of Justice, which governs pre-trial investigations, commonly referred to as “Article 32” hearings. Article 32 hearings are meant to provide a thorough and impartial investigation of charges and specifications and help determine whether they will be referred to a general court-martial for possible trial, and according to the Code “shall include inquiry as to the truth of the matter set forth in the charges, consideration of the form of charges, and a recommendation as to the disposition which should be made of the case in the interest of justice and discipline.” (10 USCA § 832)

Congress became involved in reforming Article 32 hearings after transcripts of an Article 32 hearing about an alleged sexual assault at the U.S. Naval Academy received media attention because the victim testified for 30-hours. Both bills allow the victim to decline to testify and both, in slightly different ways, try to limit cross-examination of witnesses and pretrial investigations to issues specifically related to determining whether there exists probable cause that the crime was committed.

2 See id. at 39.
4 See DoD Report, supra n. 1 at 69-70.
5 See id.
7 See DMDC 2012 Survey, supra n.4 at 1.
9 See SERVICE WOMEN’S ACTION NETWORK (SWAN), QUICK FACTS: RAPE, SEXUAL ASSAULT AND SEXUAL HARASSMENT IN THE MILITARY 2 (2012). In conjunction with the ACLU, SWAN filed a Freedom of Information Act (FOIA) request to obtain data for fiscal years 2008-2010 concerning gender differences in compensation awarded for MST-related PTSD claims. See also DEPARTMENT OF VETERANS AFFAIRS, OFFICE OF INSPECTOR GENERAL, REVIEW OF COMBAT STRESS IN WOMEN VETERANS RECEIVING VA HEALTH CARE AND DISABILITY BENEFITS (2010).