



Testimony

Before the Subcommittee on Military Personnel, Committee on Armed Services, House of Representatives

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DOMESTIC ABUSE

DOD Needs to Enhance Its Prevention, Response, and Oversight

Statement of Brenda S. Farrell, Director,
Defense Capabilities and Management

Chairwoman Speier, Ranking Member Gallagher, and Members of the Subcommittee:

Thank you for the opportunity to discuss our report on domestic abuse prevention and response in the military, which we issued earlier this month.¹ Domestic abuse, including physical, emotional, or sexual abuse and neglect committed by a spouse or intimate partner, can result in devastating personal consequences and is a significant public health issue that engenders substantial societal costs.² According to the Department of Defense (DOD), domestic abuse is incompatible with military values and reduces mission readiness.

Domestic abuse in the military has been a subject of congressional concern for over 20 years. From 2000 through 2003, DOD convened a congressionally directed Defense Task Force on Domestic Violence, which issued three reports containing nearly 200 recommendations for improvement. In 2006, we reported on the status of these recommendations, finding that further management action was needed to improve key areas, including data tracking for domestic violence incidents and related command actions.³ Similarly, in 2010, we found that sustained leadership and oversight were needed to improve DOD's prevention and treatment of domestic abuse.⁴

My testimony today summarizes our May 2021 report on domestic abuse in the military, which included 32 recommendations to DOD and the military services to improve their domestic abuse prevention and

¹GAO, *Domestic Abuse: Actions Needed to Enhance DOD's Prevention, Response, and Oversight*, [GAO-21-289](#) (Washington, D.C.: May 6, 2021).

²DOD defines domestic abuse as a pattern of behavior resulting in emotional or psychological abuse, economic control, or interference with personal liberty that is directed toward a current or former spouse, a person with whom the abuser shares a child in common, or a current or former intimate partner with whom the abuser shares or has shared a common domicile. In addition, DOD defines domestic violence, which is an offense under the Uniform Code of Military Justice, as a subcategory of domestic abuse. Department of Defense (DOD) Instruction 6400.06, *Domestic Abuse Involving DOD Military and Certain Affiliated Personnel*, (Aug. 21, 2007) (incorporating change 4, May 26, 2017).

³GAO, *Military Personnel: Progress Made in Implementing Recommendations to Reduce Domestic Violence, but Further Management Action Needed*, [GAO-06-540](#) (Washington, D.C.: May 24, 2006).

⁴GAO, *Military Personnel: Sustained Leadership and Oversight Needed to Improve DOD's Prevention and Treatment of Domestic Abuse*, [GAO-10-923](#) (Washington, D.C.: Sept. 22, 2010).

response, as well as their oversight activities. DOD concurred with each of the recommendations. This testimony will focus on some of the key findings from the report, including the extent to which 1) DOD has met statutory requirements to collect and report complete data on reports of domestic abuse and 2) DOD and the military services have implemented and overseen domestic abuse prevention and response activities, including commanders' disposition of incidents, in accordance with DOD policy.

To conduct the work on which this statement is based, we analyzed program data, policies, and guidance; assessed documents from a nongeneralizable sample of 20 military installations; and interviewed 68 domestic abuse survivors as well as DOD, service, and civilian officials. Additional information on our scope and methodology is available in our report. Our work was performed in accordance with generally accepted government auditing standards.

DOD Has Collected and Reported Some Statutorily Required Domestic Abuse Data, but Has Not Met Requirements for Allegation and Command Action Data

As described in our report, DOD met a statutory requirement to collect and report data for incidents that met its criteria for domestic abuse, but it has not collected and reported accurate data for all domestic abuse allegations received.⁵ In addition, while there has been a longstanding statutory requirement, DOD has not collected comprehensive data on allegations of domestic violence—a subset of domestic abuse that is an offense under the Uniform Code of Military Justice (UCMJ)—and associated disciplinary or administrative actions taken by commanders.⁶

Domestic Abuse Data. During fiscal years 2015 through 2019, DOD's Family Advocacy Program (FAP) collected and reported statutorily-required data for over 40,000 incidents that were determined by incident determination committees (IDC) at the installation level to meet DOD's

⁵National Defense Authorization Act for Fiscal Year 2017, Pub. L. No. 114-328 § 574 (2016).

⁶Pub. L. No. 106-65, § 594 (*codified* at 10 U.S.C. § 1562) (1999). DOD defines domestic violence, which is an offense under the Uniform Code of Military Justice (UCMJ), as a subcategory of domestic abuse. 10 U.S.C. §928b. The crime of domestic violence, added to the UCMJ in 2019 as Article 128b, involves the use, attempted use, or threatened use of force or violence against a person, or a violation of a lawful order used for the protection of a person who is a spouse, immediate family member, or intimate partner.

criteria for domestic abuse.⁷ Of these, 74 percent were physical abuse, 22 percent were emotional abuse, 4 percent were sexual abuse, and less than 1 percent were neglect. However, based on our review of military service FAP data, we found that it is not possible to determine the total number and type of domestic abuse allegations received across DOD because the services use different data collection methods, which may result in DOD's undercounting of the number of allegations received by two military services. As a result, DOD is unable to assess the scope of alleged abuse and its rate of substantiation. To address these challenges, we recommended that DOD clarify its guidance to the military services for submitting data and develop a quality control process to ensure accurate and complete data on allegations of domestic abuse.

Domestic Violence and Command Action Data. In addition, despite a statutory requirement since 1999, DOD has not collected comprehensive data on allegations of domestic violence and associated disciplinary or administrative actions taken by commanders. Since fiscal year 2015, DOD FAP has made an effort to aggregate these data at the department level by collecting military service data for incidents that met DOD's criteria for domestic abuse and are categorized as sexual abuse or moderate or severe physical abuse.

However, the data collected by DOD FAP do not cover the full scope of acts that may be considered domestic violence under the UCMJ. For example, the UCMJ defines domestic violence as including offenses against property, including animals, committed with the intent to threaten the spouse or intimate partner, while DOD FAP policy categorizes such acts as emotional abuse. Therefore, DOD FAP does not include them in its domestic violence data collection. In addition, 20 percent of command actions reported during fiscal years 2015 through 2019 were categorized as "pending," meaning they had not yet been adjudicated, and were not subsequently updated in the data once the action had been finalized. Further, nearly half of the non-pending command actions reported during

⁷FAP is a DOD program that is intended to prevent and respond to domestic abuse in military families, among other things. According to DOD, the IDC is not a disciplinary process and is separate and distinct from any law enforcement or military criminal investigative organization process.

that period were categorized as “other.”⁸ Based on DOD’s definition for the “other” category, it is unknown whether the command determined that the allegations were unfounded for these incidents or if the incidents were not prosecutable for other reasons.

Current DOD policies do not assign responsibility for tracking domestic violence allegations received and associated command actions in a manner that has enabled the department to achieve these objectives. Specifically, while DOD FAP is currently responsible for collecting domestic violence and command action data, DOD FAP officials told us that tracking command action data is not compatible with FAP’s mission as a social services program and that FAP therefore neither tracks information on command actions in its data system nor identifies in the system whether allegations received are considered domestic violence under the UCMJ.

Additionally, although service law enforcement officials stated that domestic violence and command action data are generally tracked in various service law enforcement data systems, such data are not aggregated at the department level. As a result, DOD is unable to determine the extent of domestic violence allegations, the rate that domestic violence allegations received are substantiated for command action, and the number and types of associated command actions that are taken. To address these challenges, we recommended that DOD evaluate and, if needed, clarify or adjust the responsibilities for tracking domestic violence allegation and related command action data.

⁸DOD defines “other” command actions as those for incidents which are not prosecutable for various reasons including: the military did not have legal jurisdiction; the allegation was unfounded by command (meaning it was false or did not meet the elements/criteria of a domestic violence offense/incident); the statute of limitations expired; the subject died or deserted; the evidence was insufficient; or the victim declined or refused to cooperate with the investigation or prosecution.

Gaps Exist in DOD and Military Service Implementation and Oversight of Domestic Abuse Prevention and Response Activities

In our report, we found that DOD and the military services have taken steps to implement and oversee domestic abuse prevention and response activities, but gaps exist in key areas, including creating awareness of domestic abuse reporting options and resources, screening of allegations, victim risk assessment, and commanders' disposition of incidents, referred to as command action.

Awareness. DOD and the military services have undertaken various efforts to create awareness of domestic abuse reporting options and resources, including awareness month campaigns, fliers, events, social media, and mobile phone applications. Nonetheless, reaching domestic abuse victims and evaluating the effectiveness of these efforts remains a challenge.

Of the 68 domestic abuse survivors we interviewed, 44 stated they were not aware of options for restricted and unrestricted reporting at the time they considered reporting the abuse.⁹ In addition, the survivors we interviewed frequently cited the need for additional information about domestic abuse. Overall, 37 of the 68 survivors we interviewed stated that more information should be provided about how to report abuse or what services are available.

Some challenges to creating awareness are specific to the military or the dynamics of domestic abuse. For example, over 70 percent of married active-duty servicemembers live off the installation, permanent changes of station or deployments may result in social isolation, and the trauma of domestic abuse may affect victims' ability to recall information. Without addressing these challenges, DOD and the military services may be limited in their ability to reach and provide support to victims of domestic abuse.

We recommended that DOD develop a communication strategy it has planned since at least 2016 or take other action to support the services in increasing awareness of domestic abuse reporting options and resources. We also recommended that DOD develop metrics to evaluate the effectiveness of DOD and military service domestic abuse awareness

⁹Adult victims of domestic abuse who report the abuse to the military and are eligible to receive military medical treatment have the option to make a restricted report or unrestricted report. A restricted report does not require notification to the command or law enforcement, but allows the victim to receive support services from the military. An unrestricted report requires notification to the command and law enforcement and may trigger an investigation and administrative or disciplinary action.

campaigns, including by identifying a target audience and measurable objectives.

Screening of Allegations. Installation FAP personnel are responsible for screening initial allegations of domestic abuse to determine if they should be presented to the IDC. We found that, in some cases, this process can result in allegations being screened out inappropriately. DOD guidance states that every allegation of domestic abuse must be presented to the IDC for a determination unless there is no possibility that the allegation could meet any of the criteria for domestic abuse. However, FAP officials at one installation described routinely screening out all allegations of physical or emotional abuse if FAP personnel determined there had been no impact to the victims, although DOD policy states that such impact is one of the criteria to be determined later by the IDC.

According to DOD FAP officials, the initial screening is a judgment call based on the presence of reasonable suspicion. However, these officials acknowledged that existing DOD policy does not define what should be considered reasonable suspicion, and the military services currently differ in their use of the term. In addition, the military services perform limited monitoring of the installations' incident screenings.

Without clear guidance and processes for monitoring installations' screening for allegations, DOD and military services lack reasonable assurance that all qualified domestic abuse allegations are being presented to the IDC to determine whether abuse occurred. Consequently, we recommended that DOD update its guidance regarding the criteria for initial screening and that each military service develop a risk-based process to consistently monitor how allegations of domestic abuse are screened at installations.

Victim Risk Assessment. DOD and the military services have developed risk assessment tools to assess the risk to victims of further abuse and the potential for death. However, the Army, the Navy, and the Marine Corps have not ensured their consistent implementation across installations, and may therefore be limited in their ability to identify and convey the need for critical safety measures. In our review of documents from a nongeneralizable sample of 80 reported incidents from 20 selected installations, we found that the required tools were not always used. Specifically, all required tools were provided by four of the 20 installations and used for 16 of 80 incidents we reviewed. Additionally, nine of 20 installations provided risk assessment tools that, when combined, fully or

partially included all 16 lethality risk factors that DOD requires to be assessed.

Service FAP officials stated installations should use the required risk assessment tools, but only the Air Force's FAP policy specifies required risk assessment tools and the personnel required to complete them. Risk assessment serves a critical function in identifying needed safety measures that can prevent further abuse and even death. As a result, we recommended that the Army, the Navy, and the Marine Corps issue guidance to clarify responsibilities for completing risk assessment tools.

Oversight of Command Actions. In addition, we found that the military services perform limited oversight of commanders' disposition of domestic violence incidents, referred to as command actions. These actions can have significant implications, including for victims' eligibility for transitional compensation—which provides monthly payments, among other benefits—and Lautenberg Amendment restrictions for alleged abusers.

Victims of certain acts of domestic abuse committed by a servicemember spouse may be eligible to receive transitional compensation benefits when an alleged servicemember abuser is administratively discharged due to the abuse or found guilty of domestic violence by a general or special court-martial. However, these benefits are not available when the alleged servicemember abuser is allowed to retire or is discharged for other reasons. The availability of financial assistance, such as transitional compensation, can be an important consideration for victims of domestic abuse, particularly when a servicemember abuser is the sole source of income for a family. Survivors we interviewed most frequently identified financial dependence on their abuser when describing barriers to reporting.

Command actions may also affect the alleged abusers in domestic violence cases. For example, the Lautenberg Amendment to the Gun Control Act of 1968 prohibits anyone convicted of a misdemeanor crime

of domestic violence from possessing a firearm.¹⁰ DOD has implemented the statute by prohibiting military personnel who have been convicted of domestic violence by a general or special court-martial from possessing a firearm, but not those disciplined via a summary court-martial conviction, nonjudicial punishment, or administrative actions.¹¹

The UCMJ authorizes commanders at the lowest level to determine the initial disposition for nonsexual domestic violence incidents. Officials—including FAP, law enforcement, and command representatives—at the four installations at which we conducted interviews identified potential risks associated with current oversight of command actions. For example, one installation commander we interviewed stated that disposition decisions create competing priorities for commanders, because it is difficult to weigh individuals' skill sets for the mission and national defense against the evidence of someone having committed domestic abuse. The official further stated commanders make these decisions in the best interest of the servicemember and the service.

However, a DOD Office of General Counsel official told us that, as of November 2020, officials in that office were not aware of any planned or completed initiatives within DOD to study risks associated with the current disposition model or the feasibility of potential alternatives. Performing such an assessment could provide the department and military services

¹⁰The Gun Control Act of 1968 prohibits those convicted of a felony offense, including of domestic violence, from possessing a firearm, but provides an exception that allows law enforcement and military personnel convicted of a felony offense to carry a firearm while on duty. The Lautenberg Amendment does not provide this exception for those convicted of a misdemeanor offense of domestic violence. As such, the law currently allows law enforcement and military personnel to carry a firearm on duty if convicted of felony domestic violence, but not of misdemeanor domestic violence. DOD has determined through policy that a conviction for an offense meeting the definition of "felony domestic violence" shall also be considered a qualifying conviction that is subject to the Lautenberg Amendment and therefore does not provide an exception for military personnel convicted of felony domestic violence to carry a firearm while on duty. 18 U.S.C. § 922(g)(9).

¹¹Under the UCMJ, there are three levels of courts-martial: summary, special, and general. Each of these types respectively is intended to deal with progressively more serious offenses, and each court-martial type may adjudicate more severe maximum punishments as prescribed under the UCMJ. In addition to the maximum punishments that may be adjudicated by each type of court-martial, various relevant executive orders of the President of the United States prescribe a maximum punishment for each offense. However, as of April 2021, a necessary executive order to establish the maximum punishment for domestic violence under the UCMJ had not yet been issued. A summary court-martial is not considered a criminal forum, and so a guilty finding by a summary court-martial is not a criminal conviction. In addition, a commander can punish a servicemember using nonjudicial punishment or administrative action without going through the court-martial process.

with a better understanding of such risks and their resulting potential impacts, including to transitional compensation eligibility and Lautenberg Amendment qualification. As a result, we recommended that DOD assess the potential risks associated with its current disposition model for domestic violence incidents and the feasibility of potential alternatives that may respond to such risks.

In summary, over the years, DOD has taken actions to track the incidence of domestic abuse and improve its domestic abuse prevention and response capacity, yet significant gaps exist. To improve its ability to prevent and respond to incidents of domestic abuse involving military servicemembers and families, DOD should act to implement our May 2021 recommendations.

Chairwoman Speier, Ranking Member Gallagher, and Members of the Subcommittee, this completes my prepared statement. I would be pleased to respond to any questions you may have at this time.

GAO Contact and Staff Acknowledgments

If you or your staff have any questions about this testimony, please contact Brenda S. Farrell, Director, Defense Capabilities and Management, who may be reached at (202) 512-3604 or farrellb@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. GAO staff who made key contributions to this testimony are Ryan D'Amore (Assistant Director), Serena Epstein (Analyst in Charge), Vincent Buquicchio, Michael Silver, and Lillian M. Yob.

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