

# UNIVERSITY OF CALIFORNIA, DAVIS

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO



SANTA BARBARA • SANTA CRUZ

DEPARTMENT OF PSYCHIATRY AND BEHAVIORAL SCIENCES  
2230 STOCKTON BOULEVARD  
SACRAMENTO, CA 95817

UNIVERSITY OF CALIFORNIA DAVIS  
MEDICAL CENTER, SACRAMENTO  
2315 STOCKTON BOULEVARD  
SACRAMENTO, CALIFORNIA 95817

April 9, 2015

Panel members, good afternoon, thank you for the opportunity to discuss retaliation against victims of sexual assault crimes. To put my testimony in context, let me tell you a little about my background.

I am a professor of psychiatry at the University of California in Davis. I am trained as both a child and adult psychiatrist. I have a special clinical interest in victims of trauma. You are all well versed in the often-permanent psychological effects of trauma. I am highly invested in neutralizing these effects, while maximizing the function and wellbeing of such sufferers. I have cared for numerous victims after they expose their offenders, and witnessed their process as they participate in an investigation or proceedings that adjudicate their allegations. I have also cared for victims who never reached the adjudicative phase, but still live with their very real memories. As a forensic psychiatrist, I evaluate and interview offenders of sexual crimes in penal settings. I am then called into court to offer opinions about the experience and effect of trauma on victims. I also testify about perpetrator behaviors and their potential for future offense.

I have consulted or testified in over 40 courts martial as an expert witness in the last seven years. Most of these matters have concerned sexual crimes against both children and adults. I am an outsider, but I have had the advantage of simultaneously comparing the prosecution of these crimes in both the civilian and military courts. I have witnessed the significantly augmented attention to military sexual assault, including the birth of programs such as special victim prosecutors and special victim counsel—all of which have been enormously helpful. I believe the military has become exquisitely more sensitive to the process of sexual assault crimes. A discussion about retaliation seems to achieve even another level of sophistication.

As a military expert witness, I typically receive a digital case file. I review those materials and consult to either the government or defense teams about the strengths or weaknesses of their cases. For either side, the primary focus is the victim and offender. For the government, my experience is that they would not have brought the case forward if they did not believe there was sufficient evidence against the accused.

My experience in working with and watching civilian and military defense teams is that their best defense is to undermine the victim's credibility. Most of these cases will lack physical evidence. Many of these cases will involve a victim who engages in behaviors that seem unexpected. Unfortunately, there is no behavior that reliably determines whether sexual assault occurred. I find no fault in an aggressive defense, and the accused is fully entitled to such. Ultimately, this system will best lead to a just outcome. In such situations, the defense often accentuates every idiosyncrasy or perceived oddity of the victim. Defense teams want the spotlight to shine brightly on the victim.

However, such strategy only continues what the victim has too often experienced since she reported the crime. Blame, isolation, shame, faultfinding, and rejection are all symptoms of retaliation that may follow an allegation of sexual assault. I am going to talk to you about how retaliation plays out in judicial proceedings. Retaliation is alive and well, not just after the report of the crime, but in judicial proceedings across the military. Let me explain.

I know that the issue of retaliation occurs or begins long before a court proceeding, but I began at the end because that is usually where my perspective begins, and also because my personal experience has been that the courtroom too often formally highlights and brings to an apex crime victim ostracization. Courts are open to the public, and I sit behind the team for whom I consult. The most typical scenario is for the courtroom to have a strong showing for the accused from his fellow soldiers. While the Military Judge always maintains proper decorum and dignity of the proceedings, supporters very explicitly sit behind the accused, often showing nonverbal signs of support. The victim usually has few, if any people who sit on the side of the government. She usually has a family member or "new friends"—friendships that developed after the disclosure of sexual assault—who sit in the courtroom, but more often, her support stays out of the courtroom to provide comfort and encouragement. In my experience, these new friends are more likely to be civilians.

Sometimes, there is some limited socializing between the accused and his supporters between the proceedings. They smile, and it is difficult to ignore the quiet side conversations that too often begin with, "I heard that..." It is not unusual to hear side conversations in hallways that blame the victim or support rape myths such as the contaminating influence of alcohol. I have witnessed some cases in which there are an unusual or exclusive number of female supporters for an accused that stay from beginning to end. The rules of evidence often only serve to confirm to supporters that such offenders are stainless, as their prior faults or mishaps are never openly revealed, while victims are often not afforded such pristine luxury. From an outsider perspective, it can feel absurd to hear good soldier evidence that touts an accused's accomplishments while a victim is left to explain why she divorced 3 years prior. However, I will note that the prosecution of these cases has become substantially more refined. My opinion is that SVP's are particularly adept at supporting a victim, and keeping a panel focused on the only ball that matters—what happened at the time of the offense.

I have witnessed soldier supporters weep openly when the accused is found guilty, even while the victim may have re-entered the courtroom for the final determination of guilt or innocence. I have never witnessed a wide, explicit support from soldiers after a finding of guilt towards the victim. No, it is a lonely experience. The victim often steps into the hallway or office of the government prosecution to offer a hug, but I have never observed a big group hug or a "...we knew it all along..." towards the victim. Maybe, that comes later...maybe it comes more subtly. But too often, my impression is that I usually watch these victims drive off with a civilian family member, and I wonder what their final opinion of the proceedings was. They look tired. It has been quite a journey for them. I have often heard them recount the rejection; the loss of relationships; the challenge of not feeling believed that precedes their legal proceedings. I have often watched soldiers still insist amongst themselves that the accused must be innocent despite a finding of guilt. Sometimes the level of denial or influence of the accused can appear startling. Dr. Valliere is an expert in the power and influence of these offenders.

We try to tell victims before they go through an investigation of their allegations that the end result doesn't matter. We try to emphasize that what matters is that they came forward, they reported the truth, and they know it happened, regardless of the outcome. We educate them about the rules and meaning of truth in the courtroom, and the inherent difficulties to successfully prosecuting such cases. Sometimes, they look more reassured. Sometimes, they stare at you blankly. After working with victims in both the civilian and military arenas, the military experience is unique. For a victim of military sexual assault, those peers are literally your peers. You dress the same. You carry the same values, the same ideals. You share the same mission. Your courtroom is on the grounds of your common workplace. You have to go back to this common workplace the following day. You may see and recognize your peers the next day...the same peers who decided the fate of your offender.

Where do things go so off the tracks that there is not a group hug for the victim at the end of a trial, even after a guilty finding among her fellow soldiers? Where are her supporters in the courtroom? The level of ostracism and rejection is alive and transparent during the judicial proceedings to an observer like myself. I have often asked myself if the degree of alienation among soldiers is so obvious in a courtroom, what must it be like for a victim soldier in the months or years following an allegation to the point of trial.

What happens following an allegation of sexual assault? It is true that it represents a serious disruption to the group dynamics of a military community. Disclosure of sexual assault has the potential to lead to ostracism of victims. Retaliation negatively impacts work productivity, unit cohesiveness, and mission readiness. Retaliation towards victims can cause depression, anxiety, and suicidal thoughts. I am yet to meet a victim of sexual assault who reports that she is looking forward to her future military career. Ultimately, such pressure can necessitate psychiatric hospitalizations, intensive therapies—unfortunately only reinforcing to the community that the victim has something wrong with her. I have seen extreme examples such an Air Force Airman who was jailed, prosecuted, and sentenced for drug use/misconduct prior to testifying as a sexual assault victim in a court-martial, and a guilty finding. More common examples include losses of

friendships and alienation. In this era of technology, there are so many ways to reject a person. A soldier could de-friend a victim, while the victim continues to see pictures of the same person socializing with her perpetrator.

The affected individuals cope through novel or difficult experiences by trying to make meaning out of them. A disclosure of sexual assault can be bewildering, as others may not know the offenders in that light. We know that offenders can be very good soldiers, family members, and even friends. Offenders can be charming, smart, kind, and intelligent. Nobody wants to recognize or believe that this person they thought they knew has a very different side to them or is capable of a violent sexual assault. We don't know each other's secrets, but we somehow still assume we know someone. We don't need new facts because we trust our prior more positive experiences with that offender more. It is much easier to cling to the good that we knew in a person rather than confront the potential sadistic or dark tendencies an offender may have. Since our days on the playground, we have never given rewards out to each other for telling on someone. Aligning with the powerful bully has its benefits, while standing with the victim takes courage. There is the potential for a herd mentality to develop that swarms around and protects that bully. You might also risk getting ostracized with the victim if you try to defend those who are perceived to be more powerless or helpless. After all, there is usually plenty to rationalize—wasn't she flirtatious? Wasn't she drunk? Can he really be that bad of a person?

I won't attempt to belabor the psychological underpinnings, but needless to say, such rationalizations and attempts at coping with painful experiences lead to dramatic ripple effects following an allegation of sexual assault. People will judge. Relationships will change. The military is also unique because it has a rank structure, and you often live near those with whom you work. It has been my experience that it is extremely hurtful for a victim when they feel command is standing up for their perpetrator. Everyone is watching each other, and learning from these experiences in close proximity. Imagine a future victim who has watched the retaliation or negative community reaction to a prior victim. It would seem likely that present retaliation is going to negatively influence future allegations of sexual assault. It would seem likely that retaliation is going to negatively influence a victim's ability to reach the finish line of testifying against her offender.

In regards to solutions, in my opinion, I think this day has highlighted that we still have a lot more to discover about retaliation within the military following sexual assault allegations. We know it happens, but more data is needed to better understand how it affects such victims and where are the best places to intervene. I believe the education regarding the presence of sexual crimes in the military has been extensive. Perhaps, the next level of education will concern the effects of retaliation. I would recommend that the issue of retaliation become part of upcoming training and education programs. Further, leadership can have a significant positive effect to be on guard for retaliation. Rather than simply accepting that retaliation is a natural consequence of a sexual assault allegation, leadership can support victims and inquire about the presence of retaliation, and pro-actively give victims outlets to report such retaliation. Senior command may not be the best outlets to report retaliation, as it is possible that victims may perceive command to

be part of the retaliation. While leadership may not be able to control the Facebook behavior of soldiers, they can sensitively consider the more subtle effects of a sexual assault allegation on their group dynamics and mission readiness. Given how palpable retaliation feels in the courtroom, I would venture that it wouldn't take much investigation to find obvious signs of retaliation prior. Perhaps, starting with the fact that retaliation is more likely than not following an alleged sexual assault, leadership can begin to consider it at an earlier stage. Leadership needs to be convinced that it is in everyone's interest to limit retaliation.

I commend this panel for examining these important issues, and look forward to any further questions you may have. Thank you.

If I can be any further assistance, please call 916-734-7389.

Respectfully,

A handwritten signature in black ink, appearing to read "Matthew Soulier", written in a cursive style.

Matthew Soulier, M.D.  
Board Certified in Adult, Child and Adolescent Forensic Psychiatry  
Associate Clinical Professor  
Division of Psychiatry and the Law  
Training Director, Child Psychiatry Residency  
Department of Psychiatry & Behavioral Sciences  
University of California, Davis Medical Center