

From: First Lieutenant Ariana B. Klay
To: Commanding General, Marine Corps Combat Development Command
Thru: Commanding Officer, Marine Barracks Washington

Subj: PERSONAL STATEMENT REGARDING DISSATISFACTION WITH THE COMMAND INVESTIGATION INTO SEXUAL HARRASSMENT, HAZING ALLEGATIONS, AND OTHER MISCONDUCT

Encl: (1) Cover letter for statements prepared in conjunction with legal counsel, James R. Klimaski and Associates
(2) Statement of Facts from Legal Counsel, James R. Klimaski and Associates
(3) Legal Analysis from Legal Counsel, James R. Klimaski and Associates

1. I am submitting this statement, in addition to the statements prepared by my legal counsel, in case those statements are deemed insufficient to prove I was sexually harassed and hazed while serving at Marine Barracks Washington. This statement responds directly to the opinions and recommendations of the Investigating Officer, LtCol Nicole Hudspeth. It demonstrates that her investigation (the Investigation) was distorted, illogical, retaliatory, and in violation of SECNAVINST 5300.26D (even going so far as to directly misstate this order in a key finding) and Marine Corps orders 1700.28 and P5354.1D W/CH 1. I reaffirm, as I stated in my original EO Complaint, that I was the victim of hazing and sexual harassment while serving at Marine Barracks Washington.

2. LtCol Hudspeth explained to me, on the phone, at least part of the reason she conducted a distorted, illogical, retaliatory investigation. She told me that I needed to let it go about Capt Wilson because decisions about him were made way above Col Montanus.

3. The treatment I received at Marine Barracks Washington was not just humiliating to me, it is also humiliating for the Marine Corps. Aside from the hazing and sexual harassment directly in this investigation, it has been shown that I was aggressively confronted by a Corporal (and I allege that he assaulted me and called me names such as "slut," "whore," and "WM"-walking mattress), I allege that I was sexually assaulted by a Major, and I was raped by a Captain, all within months within the same Command. I also allege that my supervisor was having sex with her supervisor, Maj Jones, and was likely hired because of this, and was having sex with multiple other officers and staff noncommissioned officers throughout the National Capital Region. My supervisor's web of sex and power, aside from the extremely damaging psychological impact it had on me and my entanglement in accusations about her sexual activities, also has created a chilling effect on the forthrightness of Marines in their fear that any misconduct within Marine Barracks Washington that they acknowledge will result in recognition of their own misconduct. The extent, criminality, humiliating nature, and corrupting influence of the conduct in the Commandant of the Marine Corps' own post could do grave damage to the Marine Corps' image if this conduct became publicly known. The Command has a strong incentive to deny such misconduct in order to protect its and the Marine Corps' image, and has attempted to do so with LtCol Hudspeth's investigation.

4. I request acknowledgement of hazing and sexual harassment at Marine Barracks Washington, with the faith that acknowledgement is necessary for proper consideration of personnel issues, some of which pertain to me, and

proper management of the Marine Corps so that others are not treated as I have been.

Facts

5. LtCol Hudspeth acknowledges the following:

- a. that Capt Brian Wilson, a senior officer outside my chain of command, angrily counseled me, confronted me, ordered me around, and read me my rights, all while I was deeply and visibly distressed, to accuse me of having adulterous sex with Capt Bowman in Center House and in spite of the fact that the woman, my supervisor, who was sleeping with Capt Bowman interrupted the interchange (Hudspeth, pp. 4-7).
- b. that Marines at Marine Barracks Washington circulated rumors that I was having sex with enlisted Marines, had a gang bang, and had sex in a bar with an enlisted Marine (Hudspeth p. 9);
- c. that there were rumors at Marine Barracks Washington that I had sex in Center House that began after a senior officer, Capt Brian Wilson, made a disproved accusation that I had committed adultery in Center House (Hudspeth p. 9);
- d. that Marines from Marine Barracks Washington confronted me in a negative manner with statements about me being a "whore" or "slut" and/or acting aggressively against me on at least three verifiable instances (Hudspeth p. 10);
- e. that I worked in an environment in the Protocol Office at Marine Barracks Washington where my direct supervisor was having sex and/or making out--sometimes publicly (in the case of making out), sometimes on the premises of Marine Barracks Washington, and sometimes in instances of infidelity with significant others and spouses--with a minimum of six senior officers in the Command and possibly others in and outside the Command (Hudspeth pp. 20-22);
- f. that there is no evidence to substantiate that I committed the sexual acts that are the basis of the rumors and the epithets of "whore" and "slut" that Marines at Marine Barracks Washington used against me (Hudspeth, entirety of report);
- g. that I had complained about my treatment and/or was extremely distressed on multiple occasions throughout my time at Marine Barracks Washington, beginning in December 2009, as exemplified by the following instances LtCol Hudspeth acknowledges:
 - i. That I was crying while Capt Wilson was berating me and accusing me of adultery (Hudspeth p. 5);
 - ii. That I had reported to the Barracks Executive Officer, LtCol Henger, on multiple occasions and even while crying, that I felt embarrassed and upset over the rumors about me having sex in Center House (Hudspeth, p. 11);
 - iii. That I had described how I felt belittled by Capt Wilson and humiliated and discomfited by the rumors to my direct

supervisor, Suzanne Brick, continually throughout the summer of 2010 (Hudspeth, p. 12);

- iv. That I had described my concerns about the Center House incident and the negative perceptions about me to LCDR Rice (Hudspeth p. 12);
- v. That I had complained about Capt Wilson's treatment of me and the rumors about me having sex in Center House to several other Marines in the command (Hudspeth p 12);
- vi. That I had complained to LtCol Henger about the working environment in the Protocol office as early as December 2009 (Hudspeth p. 14);
- vii. That I had complained to LCDR Rice that I was uncomfortable (Hudspeth p. 14);
- viii. That I attempted to deploy to Afghanistan with VADM Harward's staff in 2009 and 2010 (Hudspeth pp. 15-16);
- ix. That I expressed to VADM Harward that I had issues with "a civilian leader" who I did not want to continue working for (Hudspeth pp. 15-16);
- h. That Capt Wilson discussed his accusation that I had been having sex with Capt Bowman with LtCol Filson, Capt Lawrence, Capt Deal, Ms. Brick, and LtCol Henger (Hudspeth, p. 7).
- i. And, that Capt Brian Wilson, a senior officer at Marine Barracks Washington outside my chain of command, misunderstood his use of Article 31B rights when he read them to me during his accusations of adultery against me (Hudspeth, p. 27).
- j. An additional fact, included in the witness statements though not highlighted by LtCol Hudspeth, is that Capt Dan Young overheard Capt Wilson telling someone that "he knew what he saw" and was "venting."

6. LtCol Hudspeth recommends disciplinary action against me.

- a. LtCol Hudspeth's fourth of seven recommendations is: "Initiate disciplinary action against Lt Klay for her disobedience of a lawful order, e.g., Maj Barclay's order to cease contacting witnesses and Lt Klay's subsequent contact of LCpl Summerton." (Hudspeth, p. 32)
- b. LtCol Hudspeth's fifth of seven recommendations is "Counsel Lt Klay for her unprofessional conduct and uniform appearance." (Hudspeth, p. 32)

7. The facts that are the basis for LtCol Hudspeth's recommendation for disciplinary action against me are:

- a. That I contacted at least 14 witnesses and discussed the facts of the investigation(s) (Hudspeth, p. 25).
- b. That I contacted LCpl Summerton (Hudspeth, p. 25).

8. Significant portions of the investigation report deal specifically with my character in a negative manner (Hudspeth, throughout the investigation).
9. There is no discussion of anything positive about my character in the investigation, despite the existence of evidence of this and the Command's otherwise bewildering decisions, if put only in the context of LtCol Hudspeth's investigation, to put me in charge of Protocol for Tuesday evening parades (a major/GS-13 job), lead the seating and greeting of VIPs (such as generals, admirals, members of Congress, senior government executives, celebrities, assistant secretaries, and undersecretaries) from the center of the parade deck at Friday evening parades, and not to let me leave the Command for deployment to Afghanistan (Hudspeth, throughout the investigation).
10. The investigation report includes no discussion of my experience of and my perception of other commands, before and after serving at Marine Barracks Washington (Hudspeth, throughout investigation).
11. Nothing in the investigation report, other than a description of Capt Wilson's actions during his accusations against me, acknowledgement that he had a sexual relationship with my supervisor, and acknowledgement that he used the word "chicks" and chewed gum during his interview, relate to Capt Wilson's character (Hudspeth, throughout investigation) even though I made my chief complaint about Capt Wilson's actions against me and there is documented evidence of Capt Wilson's record of hazing and sexual misconduct.
12. Nothing in the investigation report relates to the character of Maj Jones, my supervisor's supervisor, who I allege to have had an adulterous relationship with my supervisor and to have likely had a lead role in her unfair hiring over more qualified job applicants, and in her protection within the Command (Hudspeth, throughout investigation).

Definitions

13. Hazing: MCO 1700.28 states that "hazing is defined as any conduct whereby one military member, regardless of Service or rank, causes another military member, regardless of Service or rank, to suffer or be exposed to an activity which is cruel, abusive, humiliating, or oppressive."
14. Sexual Harassment: SECNAVINST 5300.26D states that sexual harassment is "a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career; or,
 - b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or,
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment. This definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only

be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive. ("Workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day.) Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

15. Reasonable person standard: SECNAVINST 5300.26D defines the reasonable person standard as "an objective test used to determine if behavior meets the legal test for sexual harassment. The test requires a hypothetical exposure of a reasonable person to the same set of facts and circumstances; if the behavior is offensive, then the test is met. The reasonable person standard considers the complainant's perspective and does not rely on stereotyped notions of acceptable behavior within that particular work environment."

16. Reprisal: SECNAVINST 5300.26D defines reprisal as follows: "In general, reprisal is taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against a military member or civilian employee for participating in the EEO or EO appeal process."

Conclusions

17. Based on the above facts and definitions, Capt Wilson's accusations that I had been having sex with Capt Bowman in Center House, and his subsequent assertions that this was true despite his accusations being disproved, was hazing.

- a. Capt Wilson's accusations constitute hazing because, consistent with the definition of hazing, they were cruel, abusive, humiliating, and oppressive.
 - i. It is humiliating to be loudly berated, ordered around especially outside regular duty hours, and read one's rights by an officer outside the chain of command and with no authority for arbitrarily asserting power over another Marine, for adulterous sex with another officer, in spite of confessions from the people who actually performed the sex, on the premises of one's workplace. No reasonable person would find it acceptable for his wife, daughter, girlfriend, or any woman he is aware of to be treated this way at her workplace. Even had Capt Wilson actually had real evidence making investigation of sexual misconduct appropriate, he was not the Marine to conduct it, he had no authority to do so, and the aggressive, abusive manner in which he treated an "innocent until proven guilty" Marine was wholly inappropriate, cruel, abusive, and humiliating.
 - ii. It is humiliating to work in a place where you have an unwarranted reputation as a "slut" and "whore" guilty of a "gang bang."

- iii. It is reasonable that Capt Wilson's accusations against me, his sharing of those accusations, and his later assertions "that he knew what he saw" started and enflamed the rumors of the gang bang and that I was a slut and whore.
- iv. I felt humiliated. This is clearly evidenced by LtCol Hudspeth's acknowledgement that I was crying, greatly distressed, and had complained of the incident to LtCol Henger, Suzanne Brick, and LCDR Rice on numerous occasions over a wide period of time.
- v. Hazing does not include "mission or operational activities." Capt Wilson's activities do not qualify for this. As an officer outside my chain of command, Capt Wilson had no authorization to conduct an investigation into incidents he did nothing about while he was Officer of the Day and present during my supervisor's sex with Capt Bowman. Nor did Capt Wilson have authorization to berate an accused Marine of career-ending highly sensitive crimes he had not proven she committed. Capt Wilson was not conducting "mission or operational activities" when he made his accusations and berated me and spoke of me having adultery to other Marines. He was hazing me and sexually harassing me.

18. Based on the facts and definitions, the Command has committed reprisal against me for my complaint of sexual harassment.

- a. As described, the investigation includes an attempted character assassination of me while disregarding the character of any male officer related to the investigation. Other than descriptions of witnesses' conduct during interviews and the sexual relations of at least six senior male officers with my supervisor, LtCol Hudspeth's report includes no background information on the character of anyone in the investigation but Suzanne Brick and me, both of us female. Furthermore LtCol Hudspeth only reports on negative accusations about me despite the existence of ample positive information about me. This is particularly surprising given that the investigation was not started because of complaints about me, but rather because of complaints about how I was treated by others, especially Capt Brian Wilson.
 - i. MCO P5354.1D W/ CH 1 (Marine Corps Equal Opportunity Manual) identifies the Commander's responsibility to "ensure that EO complaints received by the chain of command are promptly investigated in a fair, impartial manner, and are appropriately resolved without fear of reprisal, intimidation, or retaliation."
 - ii. The above-described character assassination of me and concurrent inattention to the characters of the senior male officers actually being accused of harassment, hazing, and/or sexual misconduct with my supervisor is unfair, intimidating, and not impartial.
 - iii. LtCol Hudspeth's investigation therefore violates MCO P5354.1D W/ CH 1 and commits reprisal.

- b. The investigation recommends disciplinary action against me without proper cause.
- i. LtCol Hudspeth states that I contacted witnesses, and then contacted LCpl Summerton after Maj Barclay ordered me not to, and therefore I should be subjected to disciplinary measures for disobeying a lawful order (Hudspeth, p. 32).
 - ii. When I first contacted people within the Command regarding statements about my treatment at Marine Barracks Washington, I was doing so in accordance with the Navy's Equal Opportunity policy.
 1. The Command had just given me its first completed attempt at an investigation of my sexual harassment complaint, so my investigation was then, as I knew it, complete.
 2. I followed SECNAVINST 5350.16A (Equal Opportunity Policy within the Department of the Navy) in preparing my appeal of this report. That order states that an appeal may include additional documentation, "such as statements of witnesses." I contacted witnesses to collect such statements for this appeal.
 3. The Command, through Col Montanus and Maj Barclay, expressed displeasure about the interference of their investigations from this contact. It was not clear to me that this reaction constituted an order against contact with a Marine for the purpose of providing names of Marines spreading sexual rumors about me to the investigating officer.
 4. *The Manual for Courts-Martial* (Article 134, Wrongful interference with an adverse administrative proceeding, Explanation) states that: "Examples of wrongful interference include wrongfully influencing, intimidating, impeding, or injuring a witness, an investigator, or other person acting on an adverse administrative action; by means of bribery, intimidation, misrepresentation, or force or threat of force delaying or preventing communication of information relating to such administrative proceeding; and, the wrongful destruction or concealment of information relevant to such adverse administrative proceeding."
 5. My contact requesting statements included no such interference. It was an attempt to collect facts in accordance with the Navy's policy on preparing an appeal for an EO complaint. The Command's intimidating response interfered with this.
 - iii. Later, when I spoke with LCpl Summerton, which is the contact LtCol Hudspeth recommends disciplinary action for, I was not interfering. I asked LCpl Summerton for the names of Marines who had been slandering me as a whore to

aid in LtCol Hudspeth's investigation. My communication to LCpl Summerton did not include "bribery, intimidation, misrepresentation, or force or threat of force delaying or preventing communication of information" or "the wrongful destruction or concealment of information."

- iv. In this incident, the only interference for the purpose of impeding information was the Command's above-described intimidation of me. Given the UCMJ's position regarding interference with an investigation, it is unclear that if there was an order against me contacting a Marine to ask for the names of Marines spreading sexual rumors about me, that such an order was lawful. Such an order would be intimidating and would impede information.
 - v. If I disobeyed Maj Barclay's order, it was an accident. I was unaware that his direction to me not to interfere with the investigation included the intent that I be barred from asking a Marine for the names of Marines who had spread sexual rumors about me so that I could provide this information to the investigator.
 - vi. MCO P5354.1D W/ CH 1 (Marine Corps Equal Opportunity Manual) identifies the Commander's responsibility to "ensure that EO complaints received by the chain of command are promptly investigated in a fair, impartial manner, and are appropriately resolved without fear of reprisal, intimidation, or retaliation."
 - vii. Given this analysis, the disciplinary action the Command recommends is retaliation for my sexual harassment complaint.
- c. The investigation recommends that I be counseled for my unprofessional conduct and uniform appearance.
- i. I acknowledge that I drank excessively while serving at Marine Barracks Washington. For this reason, I have quit drinking, and the investigation fails to acknowledge this, as the Command failed to check on me after I had checked myself into alcohol rehabilitation.
 - ii. If the Command were truly concerned about alcohol consumption in this investigation, it would have investigated it fairly and impartially and thereby described the large incidence of alcohol abuse among male officers at Marine Barracks Washington in the context of weekly mandatory late night drinking events, as well as my own alcohol abuse. The investigation only singles out me—the female lieutenant who has already quit drinking—because it is committing reprisal.
 - iii. The investigation also includes retaliatory comments about my workout clothes—which are typical for females—and my skirt—which I wore according to regulation and which was tailored by Mr. Yi, who is the tailor for all officers' uniforms. These criticisms are particularly absurd given the Command's placement of me in the center of the parade

deck at Friday evening parades, wearing the skirt the investigation criticizes, and greeting and seating VIPs. The comments about my attire can therefore only be attributed to the Command's intent to commit reprisal against me for making a complaint of sexual harassment.

19. Based on the above facts and definitions, I was sexually harassed at Marine Barracks Washington.

- a. The verbal or physical conduct I was subjected to were of a sexual nature:
 - i. Capt Wilson's beratement of me and accusations about me having adulterous sex in Center House, without proof or authority and in spite of the confession of the people who had been having sex, were of a sexual nature.
 - ii. The rumors in Marine Barracks Washington about me having a "gang bang" in Center House, having sex with junior and senior Marines, and having sex in the bathroom of a bar with an enlisted Marine were of a sexual nature.
 - iii. The epithets I was called at Marine Barracks Washington that include "slut" and "whore" were of a sexual nature.
- b. Submission to or rejection of sexual conduct by a person in Marine Barracks Washington was used as a basis for career or employment decisions affecting that person.
 - i. This is a reasonable conclusion based on the facts.
 1. My supervisor, Suzanne Brick, had sex with multiple senior officers at Marine Barracks Washington--and these are likely only a sampling of the full number of officers who will not admit their sexual misconduct. It is reasonable to conclude that these sexual relationships formed at least part of the basis for the Command's career and employment decisions regarding her and her power over me and others in the Command. Such decisions may include hiring Suzanne, giving her power over me, and not letting me deploy to Afghanistan.
 2. It is reasonable to conclude that multiple Marines may not be forthright in this investigation--which may be used as a basis for career or employment decisions--because of their concerns about the impact on their careers of knowledge about their inappropriate sexual conduct that I allege.
 3. Capt Wilson, a former sexual partner of Suzanne as acknowledged by LtCol Hudspeth (Hudspeth, p. 21), initiated disciplinary action against me that could end my career, and persisted despite Suzanne's confession that she had committed the sexual acts he was accusing me of. Capt Wilson's sexual relations with Suzanne and sexual jealousies of Capt Bowman

likely impacted his decision to attack me and ignore Suzanne's and Capt Bowman's confessions.

- c. The conduct of a sexual nature was unwelcome.
- i. No reasonable person would "welcome" false accusations and beratement about adultery, false rumors about gang bangs and sex with junior and senior Marines, and the sexual epithets "whore" and "slut." I certainly did not.
 - ii. No reasonable person would want to work for a supervisor whose sexual relationships within the workplace—with at least six senior Marine officers at Marine Barracks Washington according to LtCol Hudspeth—created unfair power dynamics, incentives for dishonesty, and misperceptions about their own conduct. I certainly did not.
 - iii. LtCol Hudspeth acknowledges that I had complained about my treatment and/or was extremely distressed on multiple occasions throughout my time at Marine Barracks Washington, beginning in December 2009. See paragraph 4.f and paragraphs 4.f.i-4.f.ix, above. These describe instances of me crying and complaining about Capt Wilson's treatment, the rumors and treatment of me, and the environment in the Protocol Office. I addressed these complaints as high as the Battalion Executive Officer, LtCol Henger, and as early as December 2009. I also took concrete action to get out of this environment by requesting to deploy to Afghanistan on three occasions, practicing feverishly for drill try-outs, and requesting to attend adjutant school.
- d. The described conduct had the effect of unreasonably interfering with my work performance and created an intimidating, hostile or offensive working environment. A reasonable person would perceive and I, the victim, do perceive, the environment at Marine Barracks Washington to have been hostile and offensive.
- i. Interference with my work performance included:
 1. Attempted disciplinary action against me;
 2. Severe distress, distraction, depression, and insomnia;
 3. Lack of respect from enlisted Marines who perceived me to be a "slut" and "whore" who engages in adulterous gang bangs and other adulterous acts with junior and senior Marines in the Command;
 4. Assault and aggressive behavior from an enlisted Marine (Cpl Gillespie) who repeated accusations related to Capt Wilson's and called me derogatory sexual epithets.
 5. Inability to trust senior officers who had been having sex with my supervisor;

6. And, lack of accountability for my supervisor based on her power from sexual relationships within the Command and in the region.
- ii. Elements of my environment at Marine Barracks Washington that a reasonable person, as well as I, the victim, perceive to be intimidating, hostile, and offensive include:
 1. Epithets of "slut" and "whore" used against me within the Command.
 2. Cruel beratement, humiliation and attempted NJP by a senior officer (Capt Wilson) for an adulterous crime he had not proven, which the actual perpetrators confessed in the midst of the beratement, and for which he had no authority to initiate an investigation.
 3. Follow-on assertions from Capt Wilson that I had committed adultery.
 4. Rumors about me having sex with junior and senior Marines and having a gang bang.
 5. My subjection to an unqualified supervisor who built a web of power for herself through sex with senior officers.
 6. The Command's refusal to let me deploy to Afghanistan despite my tearful complaints about the hostile environment at Marine Barracks Washington.
 7. The Command's directives to me to ignore the sexual rumors about me.
 8. The Command's failure to take appropriate action about the hostile environment it was aware of.
 9. The Command's intimidating reprisal against me, as described in detail in paragraph 17 and the related subparagraphs.

Response to LtCol Hudspeth's Opinions

20. Opinion A, that it is unsubstantiated whether the actions of Captain Brian J. Wilson on or about 24 April 2010, in which he allegedly confronted First Lieutenant Klay about observations he claimed to make regarding her lying in bed with First Lieutenant Matthew J. Bowman in Center House, amounted to hazing or sexual harassment.

- a. The analysis in paragraphs 16 and 18, and the associated subparagraphs, adequately refute this.

21. Opinion B, that it is unsubstantiated whether discussions by or among Marine Barracks Washington personnel regarding sexual activity by First Lieutenant Klay, if they occurred, amounted to hazing or sexual harassment.

- a. LtCol Hudspeth makes this argument by misstating Navy policy on sexual harassment and by making other illogical arguments that contradict the reasonable person standard for sexual harassment and her findings of fact. Details are below.
- b. To make her argument, LtCol Hudspeth first acknowledges the wrong of unwelcome sexual rumors about me having sex with enlisted Marines at Marine Barracks Washington. Then, however, she misquotes the Navy's policy on sexual harassment in order to set up a logic test for the existence of sexual harassment that she believes my case does not meet. In addition, she neglects to mention her findings of fact about Marines calling me a "slut" and "whore" (though this omission would not impact her conclusion given her reliance on a faulty logic test). This part of her argument against their being sexual harassment is invalid because of her misstatement of the Navy's sexual harassment policy.
 - i. LtCol Hudspeth sets up the logic test that the victim must perceive the actions as severe AND pervasive. She is misstating the law, though, because SECNAVINST 5300.26D states that the actions must be severe OR pervasive. By distorting a legal definition, LtCol Hudspeth is able to describe severely disturbing behavior—Marines openly calling me a "slut" and a "whore" and falsely describing me having sex with enlisted Marines including in such places as the bathroom of a bar—but then deny that it is harassment because it does not meet her test for pervasiveness, according to which I must complain about specific individual actions for them to be deemed pervasive and therefore sexual harassment. She picks actions I did not specifically complain about to the letter (though these actions are of the exact nature of actions I complained about happening one to three times per week at Marine Barracks Washington in my statements in support of my EO complaint), concludes that the actions were therefore not pervasive, and then concludes that they were therefore not harassment. Her argument is invalid, though, because she misrepresents Navy policy and her argument lacks common sense.
 - ii. SECNAVINST 5300.26D states "that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive." The harassment must be severe OR pervasive. Disgusting rumors about a female officer having adulterous sex with enlisted Marines, including in such places as the bathroom of a bar, and the use of epithets such as "slut" and "whore" to describe any female are extremely severe. Any reasonable person would agree. I, the victim, consider it very severe any time a Marine calls me or anyone a slut or a whore or describes disgusting sexual rumors about me or anyone as if they were true, even if their doing so is not "pervasive" enough that I hear it directly and immediately. To agree with LtCol Hudspeth's recommendation is contrary

to Navy policy and is to state that it is not sexual harassment to call female officers sluts and whores and spread untrue fantastical rumors about their disgusting adulterous and fraternizing sex lives IF the victims of the slander do not hear it and therefore make it qualify for LtCol Hudspeth's "pervasive" standard. That is patently untrue and against good order, discipline, and the Navy's sexual harassment policy and common sense.


- c. The second part of LtCol Hudspeth's statement that this harassment was unsubstantiated is equally problematic. This time, she states that rumors about the Center House incident, which she could not use her false pervasiveness test against because I clearly complained very loudly about them, did not meet the "unwelcome" standard she set. Why was her "unwelcome" test not met? Precisely because the rumors were so unwelcome to me that I asked Marines about them. As I show in paragraph 4.f and its nine associated subparagraphs, ways in which I expressed how unwelcome this was included my repeated complaints and actions such as crying over a period of months. LtCol Hudspeth's statement here is therefore illogical, contrary to her findings of fact, and invalid.
- d. It is also important to note that the circularity of LtCol Hudspeth's logic and her distortion of Navy policy are indicative of the bias and retaliatory nature of her report. She first states that when there were unwelcome sexual actions against me, they were not pervasive enough (in spite of the fact that that her severe AND pervasive standard is not part of Navy policy) for them to constitute sexual harassment, because I did not specifically complain about the instances she mentions. Then she goes the other way, stating that when the actions were so pervasive that I complained constantly, they were not unwelcome, precisely because I was complaining so much.

22. Opinion C, regarding whether First Lieutenant Klay reported hazing, sexual harassment, or other misconduct and, if so, whether Marine Barracks Washington personnel appropriately processed her complaint.

- a. LtCol Hudspeth states that it is unsubstantiated that I made a complaint about Ms. Brick's alleged hostile work environment prior to the formal EO complaint. I continue to allege that I complained about this explicitly and tearfully to LtCol Henger in December 2009, but I do not consider LtCol Hudspeth's statement that she could not find evidence to corroborate my statement to be untrue, as I believe LtCol Henger is lying in his statement that I did not complain of the hostile work environment in the Protocol Office.
- b. I agree with LtCol Hudspeth's conclusion that it is substantiated that the Command took inadequate measures regarding the rumors associated with the Center House allegations.

23. Opinion D, that it is unsubstantiated regarding whether misconduct occurred by members of the Protocol Section and whether this misconduct amounted to hazing or sexual harassment.

- a. I do not object to LtCol Hudspeth's inability to substantiate that there was hazing in the Protocol Section.
- b. I object to her conclusion that it is unsubstantiated that there was sexual harassment in the Protocol Section.
- c. LtCol Hudspeth demonstrates Ms. Brick's incompetence and sexual misconduct, but she does not fully demonstrate the degree to which senior officers covered for her, protected her, and even hired her based on her sexual favors. I continue to allege, that given the power and protection that was given to Ms. Brick, and the absence of any conduct by her to earn such power other than her sex with a web of senior officers and staff noncommissioned officers in Marine Barracks Washington and the national capital region, that performance of sexual favors, to quote SECNAVINST 5300.26D, was "implicitly a term or condition of a person's job, pay, or career" at Marine Barracks Washington, and that such conduct had the effect of "unreasonably interfering with [my] work performance" and, especially when Ms. Brick's sexual favors contributed to the false allegations against me of being a "slut" and "whore" who participates in gang bangs, created "an intimidating, hostile or offensive working environment."

 June 1st 2011

A. B. KLAY