

Statement by Ms. Amy Braley Franck
U.S. Senate Armed Services Committee
Subcommittee of Personnel
March 25, 2021

1. Chairman Gillibrand, Ranking Member Tillis, and Members of the Committee, I thank you for this opportunity to address sexual abuse in the United States Military. This paper concerns my standing up to the sexual abuse problems within the U.S. Army Reserve's (USAR) 416th Theater Engineer Command (TEC), specifically: my involvement with senior Army leadership all the way to the Army Chief of Staff General James McConville, and the direct retaliation I continue to suffer for working to protect soldiers from a most abusive environment.

2. The 416 TEC's Victims' Advocate (VA) is a GS-9 position (equivalent to a sergeant major). I had just completed serving as U.S. Cyber Command's Sexual Harassment and Assault Response Prevention (SHARP) program manager at the rating of GS-13 (equivalent to a major). The reason for the relocation from Fort Belvoir, Virginia was to be with my husband who has a very successful aviation business located near Chicago, Illinois. My passion of "Care of the Soldier" resulted in my accepting a USAR position junior to my qualifications and rating at Cyber Command.

3. I came to the 416th TEC possessing outstanding credentials gained from my previous experience, to include:

- SHARP Program Manager, U.S. Army Cyber Command, Fort Belvoir, VA
- SHARP Program Manager, U.S. Army Africa, Vicenza, Italy
- Brigade Sexual Harassment and Assault Response and Prevention/SARC, Fort Meade, MD
- Sexual Harassment and Assault Response and Prevention VA, Fort Bliss, TX
- Manager of Child Advocacy Center and Certified Forensic Interviewer, Columbus, GA
- Social Services Case Manager, Investigator, Atlanta, GA

4. Per its website, the 416th TEC declares itself as an *Army Reserve Command that conducts theater-level engineer operations supporting a joint force executing unified land operations while providing a trained and ready combat-capable force supporting mission requirements. Headquartered in the Chicago suburb of Darien...The 416th TEC leads 135 units in 37 states across the United States, encompassing three brigades, 15 battalions, and more than 13,000 Soldiers.*

5. Also its website declares its motto as *Serving by Building*. This motto is applicable to its engineering construction mission. As to be displayed in this document, the 416th TEC comes up far short at all command levels in building professional supervisors dedicated to "Army Values," "Consideration of Others," and the principles associated with "Duty, Honor, and Country."

6. Shortly after assuming my duties at the 416th TEC, **I learned of felony-level sexual misconduct, illegal cover-up investigations, as well as intentional failure to report the incidents to U.S. Army Criminal Investigation Command (CID) as required by regulation.**

More appalling command inquiries are directed against the whistle-blowers, rather than the predators. General officers of the 416th refused to heed my warnings and to this day continue failing to comply with regulations designed to protect soldiers and hold predators accountable.

7. Established within regulations are procedures to follow when a sexual assault is discovered. This includes notification to CID when an assault is identified, no matter who reports it. Instead throughout the 416th, commanders from captain to major general, are ignoring this mandate and are complicit in covering up the crimes.

Victims are required to stand in the same formations with their predator. Work in the same areas as their attackers. **Command negligence, incompetence, and cover-ups commencing at the two-star command level and snowballing downward are felt the most at the company, and in turn, the junior officer and enlisted levels.**

8. Nowhere are the problems created by the 416th TEC command climate more clearly documented than at the 739th Engineer Company, based in Granite City, Illinois. Within this command was a female soldier who had been doubly raped by the same predator; once inside the Army Reserve center raped with a broken collar bone, the second time receiving a broken arm and bashed face during the assault.

Her chain of command claims “this was consensual sex”. Concerning this incident, I referenced a memorandum signed by 739th Engineering Company Commander Captain (CPT) Joseph Ruhnke. In the memorandum CPT Ruhnke describes an incident that was reported to him on 5 April 2018:

a. CPT Ruhnke believes the first incident would have happened on Sep 16 – 17, 2017, as he describes in this memorandum as, *the weekend on 16-17 Sep to allow for Soldiers to perform any extra MUTAs that they had not used yet in FY17*. Considering that it took six months for CPT Ruhnke to learn that something illegal had occurred within his command, on government property, already reflects lack of confidence among the troops towards their leadership.

b. CPT Ruhnke further states in this memorandum that several members of the unit, declined to *file a complaint*. Upon learning of the occurrence, this was CPT Ruhnke’s problem for which he failed to accept ownership. CPT Ruhnke stated that he initiated a Commander’s Inquiry since he learned that the incident *happened at the Reserve Center, involved sex, and that (name blocked for this report) had engaged in another incident with (name blocked) in early April near her workplace in Springfield, IL. This alleged event involved physical abuse and possibly sex.* Two problems:

(1) The incidents were sexual assault; the second one resulted in the victim suffering a broken bone.

(2) By regulation he should have immediately initiated reporting to CID. It was not CPT Ruhnke’s place to initiate a command inquiry.

c. Concerning the victim and her attacker, CPT Ruhnke stated, *I will also complete counseling forms for both...and I will sit down with each of them separately at the next drill weekend (4-6May18).* (name blocked) *statutory military service observation ends on 18Jul18, so he has a few drills left with the unit. From my observations, his removal from the unit should improve trust and restore a better sense of personal safety for (name blocked).* *I do not know at this time if any others have been harassed or assaulted by (name blocked) in his time at the unit, and I do not believe the unit culture has enabled his alleged actions in any way.*

(1) Instead of notifying CID, the captain took it upon himself to execute written counselling statements on both the victim and the attacker. Furthermore, CPT Ruhnke’s long-term solution is to do next to nothing besides letting the attacker ride out his enlistment.

(2) Concerning the predator CPT Ruhnke’s further documents, *his removal should improve trust and restore a better sense of personal security for the victim.* If CPT Ruhnke had done his job in building a

command environment where predators feared attacking victims, a sense of trust would have already existed.

(3) CPT Ruhnke admits, *I do not know at this time if any others have been harassed or assaulted” by the predator...I do not believe the unit culture has enabled his alleged actions in any way.* Per the captain’s own statements in this memorandum, he admits that his failures to do his job to build a proper command climate which includes trust are the sources of problems in the unit.

9. I forced the reporting to CID once I learned of this violent set of rapes and that it had been previously covered-up. The sad reality is the victim continues to suffer without the command doing anything for her. I suffered retaliation for forcing the command to comply with existing regulations. An even grimmer reality is this was just one case of a multitude sexual abuses improperly handled within the 416th.

10. Further concerning the 739th Engineer Company, in a report titled, “SPC Jane Doe Rape info regarding primary communication held” dated 2017, Specialist (SPC) Sara Joachimstaler detailed the same brutal rape that was committed inside the USAR Center. SPC Joachimstaler further detailed both the lack of command action and how the victim was forced to remain in the same platoon/stand in the same formation as her assailant. She documents the 416th Inspector General (IG), Major (MAJ) Hill’s lack of concern.

11. SPC Joachimstaler documents that on *February 9, 2019, I was present for a scenario that resulted in a SHARP complaint, the complaint was against the CO and the ISG.* This incident details continual harassment against female soldiers. It includes the event where the staff sergeant who assaulted SPC Joachimstaler disguised rappelling preparation training as a means to constantly tie a rope belt around the buttocks of a junior enlisted female. As a witness willing to testify again against this non-commissioned officer, SPC Joachimstaler became a threat to, and a target, for harassment from her chain-of-command. SPC Joachimstaler’s document reconfirms again the lack of concern from 416th TEC IG MAJ Hill.

12. General officers of the 416th refused to heed my warnings. To this day they ignore regulations developed to create safe environments for all soldiers, prevent further abuse, hold predators accountable, or support those who has already suffered from sexual abuse and assault.

13. Eleven times I sent e-mails to the 416th TEC Commander, Major General (MG) Miyako Schanely. All these e-mails were “indications and warnings” that serious problems within the command needed MG Schanely’s direct involvement. Among those e-mails to MG Schanely I reported that sensitive information was being shared among 416th staffers with no respect of the victims, no regard for their privacy rights, and no compliance with Department of Defense and Department of the Army regulations, instructions, and mandates.

14. The worst possible response from MG Schanely: she instructed me to deal with Brigadier General (BG) Michelle Link, who was directly tied to these problems. The toxicity of the 416th TEC, the command’s failure to comply with mandates, willingness to retaliate against honest brokers and whistle-blowers, and the failures of MG Schanely resulted in my required need to alert higher command representatives of the problems.

15. Desperate to get help to the victims that clearly was not going to come from within the 416th TEC environment, on November 19, 2019 I sent an e-mail to Commander of the United States Army Reserve, Lieutenant General (LTG) Charles Luckey. I addressed activities within the 416th TEC including:

- a. Commanders conducting their own investigations into sexual assault allegations, a violation of CID regulations requiring immediate notification.
- b. The e-mailing case info to unauthorized individuals.
- c. 416th TEC G-1 (Personnel) attempting to reverse a soldier's expedited transfer.
- d. Ongoing retaliation reported and not addressed.

16. I also addressed my efforts to engage MG Schanely and BG Link on these problems. Other command environment problems were further addressed. This e-mail to LTG Luckey served as his "indication and warning" that serious problems exist within his subordinate command.

As the Commander of all Army Reserve operations and troops, LTG Luckey had the option to do the harder right, or the easier wrong. **The Commander is responsible for everything that happens, or fails to happen. He/She is held accountable for those actions.** Not until Congressional and media involvement occurred did he chose the easier wrong.

17. **The response to my Nov. 19, 2019 e-mail to LTG Luckey was swift. On Nov. 20, 2019, I received "Notice of Suspension from Serving in a Position of Significant Trust for Ms. Amy Franck"**. Signed by Colonel (COL) Gregory Gregory Toth (416th G-1/Personnel). Paragraph 2 of the suspension letter states, *This action is due to the fact you are under investigation for possibly violating the D-SACCP code of professional ethics provided on the DD Form 2950 or 2950-1. This suspension and reassignment will remain in effect until sufficient facts are gathered to determine whether you will be reinstated or permanently removed from the position of significant trust.*

18. **This statement of "significant trust" is totally hypocrisy. In this corrupt and dysfunctional command, I was the person fighting for our troops. Today marks almost sixteen months since Colonel Toth suspended me. Yet he still has NOT gathered "sufficient facts" to justify his actions. I remain in suspended status.**

19. On November 22, 2019 I sent LTG Luckey an e-mail titled, "Retaliation". Below are the four points of my e-mail:

- a. *I received a call yesterday that I had upset people for shining light on this issue...*
- b. *Concerning 416th Command Staff manipulation of facts, The command issued a memorandum stating that Ms. Taylor was never suspended from her credentials during the investigation but from her duties. How can this be true when there is email documentation...Ms. Taylor has never stopped performing SARC duties to include taking cases and inputting them into DSAIDS and ICRS.*
- c. *However, I am suspended for reporting these violations.*
- d. *Please see attached screen shots of pictures where all of the SHARP awareness items were thrown out all over the floor and my supervisor Ms. Moore stated that we were not allowed to hang them.*

20. **Being informed of my immediate suspension, following my notification to LTG Luckey, the command's manipulation of facts, and the trashing of SHARP material were more than enough "indications and warnings" for LTG Luckey to become personally involved addressing 416th TEC problems.**

21. The first attempt by LTG Luckey was to assign BG Susan Henderson, an officer junior to MG Schanely to conduct a 15-6 Command Inquiry. **Regulations make it clear that a junior officer cannot investigate a senior.** It was obvious that the general officers of the 416th TEC (Schanely and Link) were being protected. This

was almost as blatant as BG Link having previously assigned COL Rodney Abrams, a long-term ally, to conduct an investigation on people subordinate to her.

22. On January 10, 2020 the Associated Press (AP) published the article by Todd Richardson, titled, “Army Reserve leaders accused of mishandling assault claims”

<https://apnews.com/article/737a0e63504cb998b728ccd76ef41126>. Points covered were:

- a. Problems with both the administration and the execution of the 416th TEC’s Sexual Harassment/Assault Response Prevention (SHARP) program were identified. Addressed was the command’s illegal practice of appointing officers within the command to conduct investigations rather than reporting sexual assaults to military law enforcement investigators.
- b. A major excuse commanders do NOT choose to report the incidents to professional military law enforcement is that law enforcement officers are outside their chain of command. The key advantage to not documenting and reporting the truth: they don’t have worry about the truth’s negative impact on their annual evaluations. The second reason: commanders choose first to protect their friends/allies/peers, over their troops.

23. Anchoring on the AP article, on January 15, 2020 both US Senators representing Illinois sent to joint letter to SecArmy Ryan McCarthy concerning the 416th TEC.

- a. In the opening paragraph, the Senators Duckworth and Durbin state, *...The Associated Press provides a troubling report about 416th leadership disregarding sexual assault prevention and response instruction, and calling into question the Army’s commitment to appropriately preventing and responding to such challenges.*
- b. In addition to addressing specific violations identified in the AP article, Senators Duckworth and Durbin advised, *We urge you to pursue a comprehensive review of the troubling charges brought to light by this article and provide clarity on an ongoing Army investigations into handling of sexual assault claims by the 416th.*

24. On February 6, 2020 Sec Army responded to the Senators’ inquiry.

- a. In paragraph 2, **SecArmy Ryan assures the Senators, *The Army leadership views the matter raised in your letter with the utmost seriousness; and in accordance with Army Regulation 15-6, has appointed a General Officer to conduct an investigation into those matters.***

(1) Before the year 2020 is over, SECArmy’s McCarthy’s comment *The Army leadership views the matter raised in your letter with the utmost seriousness* would be totally discredited.

(2) Two months after SecArmy McCarthy made this claim PFC Vanessa Giullen’s murder, butchering, and the Army’s subsequent incompetent handling of this case will result in a series of investigations culminating with an independent study. **This is just after the instillation received the “Army positive command assessment report”.**

(3) The end result of external attention proved SecArmy McCarthy handled the sexual abuse no differently, or better than his predecessor Francis Harvey, who failed to handle the Walter Reed medical treatment scandal over a decade early. Harvey’s boss Robert Gates had no problem firing someone for incompetence and failing to ensure troops received proper care.

(4) SecArmy McCarthy states *Army leadership has appointed a 15-6 General Officer to conduct an investigation into those matters. As will be proven, on the same date SecArmy McCarthy made this*

claim, a proper 15-6 General Officer had not been appointed. That action occurred forty days later, only after I continued more pushing.

b. In paragraph 3, SecArmy McCarthy states, *The Commander, 416th TEC, a Reserve General Officer, is on-station at her unit headquarters in Illinois to directly support all aspects of the investigation. She is providing clear and engaged leadership on this important matter, ensuring victims are afforded their full protections and services, and taking immediate corrective actions as necessary.*

(1) MG Schanely had received eleven very detailed warnings (via e-mail) that her SHARP program was broken. MG Schanely did not provide *clear and engaged leadership on this important matter, ensuring all victims are afforded their full protections and services, and taking immediate corrective actions as necessary.* By owning the SHARP program and doing nothing to resolve the serious problems reported to her by me, MG Schanely made herself the root-cause of existing and future problems.

(2) As stated, before the Knapp Commission by New York City Police Department (NYPD) Detective Frank Serpico, “Corruption cannot exist unless it is tolerated by management.” By acting like Francis Harvey to not become directly engaged in addressing a serious problem, SecArmy McCarthy joined ranks with MG Schanely as yet another member knowingly “tolerating mismanagement.”

25. On February 12, 2020 Senator Duckworth’s staff sent me a letter addressing the response from the Army. Two comments stand out:

- a. *Both our offices received an acknowledgement dated February 2, 2020 that an investigation is on-going.”*
- b. *USAR Response: We received confirmation that the 416th TEC has a SARC in place to cover down on those duties.*
- c. Problem: it has already been identified that the Sexual Assault Response Coordinator (SARC) was not up to the challenges of her job: therefore, she was part of the problem.

26. **The “investigation” referenced in previous paragraph was not legitimate.** As noted in “Second Supplement to Appointment of Investigating Officer (IO) – Army Regulation (AR) 15-6 Administrative Investigation,” dated February 11, 2020 BG Susan Henderson was appointed as the investigation officer.

a. Paragraph 2 of this appointment order states, *...you are directed, should you discover evidence of actions of reprisal or retaliation involving any personnel assigned to the 416th Theater Engineer Command or its subordinate units...*

b. In this order, USAR Deputy Commander MG A.C. Roper assigned a brigadier general to investigate a major general and all her subordinate commands. For obvious reasons this act is forbidden by Army regulations. **This illegal activity is what SecArmy McCarthy was passing off to Senators Duckworth and Durbin as a legitimate investigation.**

c. It should be recognized that within days after SecArmy McCarthy sent his response to the above senators, MG A.C. Roper felt the need to send supplemental instructions to BG Henderson.

d. THE USAR had no intention of investigating MG Schanely nor BG Link. This fact is documented by maintaining a junior general as the investigation officer, who could neither hold them accountable for their misconduct or failures.

27. On March 14, 2020 I provided a very detailed analysis to LTG Luckey and Army Chief of Staff General McConville in an e-mail titled, “Illegal activities in the SHARP program continue despite allegations brought by staff, victims, and concerns of Senators.” On courtesy copy were LTG Pede, the Army’s SHARP program James Hellis, and many congressional offices. Numerous other issues were thoroughly explained detail. **All the**

aforementioned were serious indications and warnings that should have resulted in the immediate involvement of LTG Luckey and GEN McConville.

28. On March 14, 2020 LTG Luckey responded with a one-liner, *I acknowledge your concerns and will ensure that they are investigated and addressed with deliberation and dispatch.* On March 15, 2020 I responded to LTG Luckey, with GEN McConville on courtesy copy, questioning his *I acknowledge your concerns...* comment. Also included in the e-mail was the following:

- a. *The problem is that everyone from MG Schanely through you and the CSA have **acknowledged my concerns since Feb 2019 to date at all levels of leadership with no action.** The clients I serve, myself and other interveners have been left with no support.*
- b. *Why is it so difficult for multiple General Officers to tell subordinates to stop breaking the law and to abide by them as well?*
- c. *There is a clear disparity in the management and accountability within the program depending upon Commanders' biases and attitudes as to what is important whether that be law, policy, advocacy and/or soldier care.*

29. On March 27, 2020 Assistant Judge Advocate General BG R. Patrick Huston signed a personal letter to me.

- a. The letter acknowledges that Army Chief of Staff GEN McConville has received my letter concerning the 416th TEC's SHARP program.
- b. Per BG Huston's letter, *The Chief of Staff is concerned by the allegations you raised. He directed the Army Staff to fully support the U.S. Army Reserve Command's efforts to ensure a fair and impartial investigation and to address the concerns and systemic issues you identified.*
- c. In this letter I received a written pledge from BG Huston that *...representatives from my office will update you on the status of the investigation by April 15, 2020.*
- d. BG Huston concludes with, *The U.S. Army is committed to the full implementation of the SHARP program at each of its posts, camps, and stations, and in each of its units – across all components of our Total Army – while ensuring justice in each individual case.*

30. Twenty-six days after BG Huston signed this letter Vanessa Guillen's death, and subsequent bungling at all levels of the Army, the rise of the "I am Vanessa" movement, the Fort Hood independent study, and scandals **continue to this day** to prove just how **flawed the Army's commitment is to "zero tolerance"** and the full implementation of the SHARP program.

31. Only after my continued pushing these issues forward, the engagement of Senator Duckworth, Senator Durbin, as well as the media, did on March 30, 2020 LTG Luckey sign an order appointing active component LTG Evans to conduct the Command Inquiry. This action raised several new red flags.

32. It would be naïve to believe my communication to the Chief of Staff did not make an impact. Friday, March 27, 2020, BG Huston signed his letter to me. The following Monday, March 30, 2020 USAR Commander LTG Charles Luckey signed the letter appointing LTG Jason Evans, HQDA Deputy G-9, as the new 15-6 investigating officer.

- a. Unless within the organizational chain-of-command, **no USAR officer of any rank has the authority to assign an active component officer, especially of equal rank, to do anything. LTG Luckey was just the appointment signatory.**
- b. The decision for whom was selected to do the investigation must come from either the Army Chief of Staff, or Vice Chief of Staff.
- c. With the appointment of LTG Evans came the long overdue acceptance that MG Schanely was responsible for what happened within her command. This is especially true considering she had been warned, in writing, the existence of serious problems. Warned eleven times.

33. Failure to include LTG Luckey as a subject of the Command Inquiry, letting LTG Luckey sign the appointment order, and then allowing LTG Luckey to dictate the scope of the investigation, LTG Evans' report was contaminated from the very beginning.

- (1) Without being able to address “the whole truth, all the truth, and nothing but the truth,” it was impossible for LTG Evans to develop a thorough and unbiased report. This failure proves a long historical toxic military pattern of continuing to protect senior officers at the expense of their subordinates.
- (2) Because of my direct engagement to GEN McConville, cc'ing numerous sexual abuse victims' advocates in Congress and the media, the “senior officer protection bar” was raised, removing immunity from Brigadier General Link and MG Schanely.

34. The bar should have been raised one more level, exposing LTG Luckey to face accountability should he be found at fault for failing to fulfill his command responsibilities.

35. Less than one-hundred days after signing the appointment letter, while the investigation was picking up momentum, on July 1, 2020 LTG Luckey retired. **Four very troubling facts stand out about this retirement:**

- a. **It happened with almost no warning.**
- b. **Army Chief of Staff General GEN James McConville officiated the retirement ceremony.**
- c. **No identified replacement for LTG Luckey's position was announced.**
- c. **It was conducted at Fort Meyer, next to the Pentagon in Virginia instead of at a USAR headquarters troop formation at Army Reserve Headquarters at Fort Bragg, North Carolina**

36. Justice delayed is justice denied. To this day, this Report still remains in GEN Michael Garrett's, Commander of Forces Command office. **Per Sec Army McCarthy, thirty members of the 416th TEC, including “eighteen field and general grade officers, have been adversely identified in this report”.**

37. **Yet, per direct conversation between then Secretary of the Army Ryan McCarthy and Senator Durbin, the LTG Evans' investigation has been completed for well over half a year, June 2020. I was denied this report inspite of ongoing, multiple formal requests as to the investigation's status. We were always told “the report is not completed”.**

38. On Feb 3, 2021, LTG Luckey's eventually successor as USAR Commander, LTG Jody Daniels signed, “Appointment of Investigating Officer (IO) – Army Regulation (AR) 15-6 Administrative Investigation”.

- a. This order re-appoints COL Rodney Abrams as the investigating officer, the same officer that had been previously appointed to investigate me by BG Link.

b. As mentioned COL Abrams and BG Link also have a long history together, to include War College classmates, both holding civilian jobs in the same HQDA office, and a 416th TEC affiliation.

39. Now in the 416th TEC environment of practiced incompetence, cover-ups, and whistle-blower retaliation, **COL Abrams is conducting what amounts to an internal investigation**, ordered by LTG Daniels. Her enclosed “List of Issues,” comes across like a shopping list – with focus added.

40. Little of LTG Daniels’ list correlates with a subsequent list of questions COL Abrams sent to my attorney, Gregory Schwed. This raises another red flag that COL Abrams is going to solicit answers to LTG Daniels’ list from sources, other than myself.

41. **Because I refused to either become part of the corruption and continued to be a whistle-blower, the hostility of the 416th TEC staff deliberately and calculating further intensified over the past fifteen months.**

Rumors and lies have been enabled to be grow and multiply. Like COVID, those rumors and lies protected in the petri dish of the 416th TEC have spread, mutated, infected a population, and become more vicious with every set of lips past through.

42. **I am being savagely punished for engaging senior Army leadership to do their fundamental job, Force Protection, one of five major mission command functions.** Unlike the 416th TEC command leadership, I dedicated myself to complying with the regulations that were developed to protect our soldiers and ensure proper actions were taken when violations were detected.

43. **In the past fifteen months my victims neither received required care, nor any support as demanded by military regulations and federal law. All senior leadership were fully aware in writing of these terrible facts and failures.** Is there any doubt why our troops don’t trust senior leadership? Our victims were ignored and manipulated like “expendable, cheap board game pieces”.

44. **I am now in my 450th day of suspension without being provided “sufficient facts.”** As I close, I reference another comment make before the Knapp Commission by NYPD Detective Frank Serpico, “We must create an environment where the dishonest officer fears the honest one, not the other way around.”

45. Members of the Senate Armed Services Committee, Subcommittee on Personnel, I thank you for allowing me to testify and to submit this supporting document.