

**Prepared Testimony of Brian Clubb, J.D., USMCR (Ret.), Military & Veterans Advocacy Program, Battered Women's Justice Project**

I would to thank Chairwomen Speier, Ranking Member Kelly, and the members of this subcommittee for the opportunity to speak on this important topic.

I am the coordinator of the Military & Veterans Advocacy Program for the Battered Women's Justice Project. The Battered Women's Justice Project is a national, non-profit organization that provides technical assistance and training on the subject of domestic violence. We develop and promote innovations in policy and practice that improve the response to domestic violence by the civil, criminal, and military justice systems.

My program, funded through a grant from U.S. Department of Justice's Office on Violence Against Women (OVW), focuses on how military and veteran-related domestic violence should be handled in the criminal and civil justice systems, how those systems and the military response intersect with each other, and helps victims and survivors navigate these systems and connect with assistance. Prior to obtaining this grant in 2010, our organization participated in the DoD Task Force on Domestic Violence in the 2000s and assisted the Marine Corps in developing its Service policy on domestic violence in the 1990s.

There are notably positive aspects to both the military's prevention of and response to domestic violence – many of them the result of recommendations made by the DoD Task Force. In addition, I am often told by military-related victims about their positive interactions with and assistance provided by Family Advocacy Program victim advocates. However, the recent DoD Inspector General report on military law enforcement identified numerous areas where the Services are falling short. Based on hundreds of contacts with military-related victims and survivors, as well as the advocates and attorneys that assist them, there are number of issues we have identified that straddle prevention and response and impact victim safety.

Several involve civilian protection orders (CPOs). *10 U.S.C 1561a*, known as the Armed Forces Domestic Security Act, requires that CPOs be given the same force and effect on military installations as they have in the jurisdiction in which they were issued. This law has been incorporated into DoD policy through Department of Defense Instruction 6400.6 and one tool the instruction gives installation commanders is the authority to establish CPO registration procedures. I commonly hear from victims that they either do not know who to notify on military installations that they have a CPO or that they have only given a copy to a command representative of the restrained servicemember. While the latter is a recommended action, installation commanders, more so than individual unit commanders, and military law enforcement who work for installation commanders, have broader authority to enforce CPOs. Registration procedures can ensure that installation commanders and military law enforcement know about CPOs and that knowledge aids them in enforcement. While I have not done a survey of all DoD and Service installations, I am only aware of one installation that has such procedures.

Commanding officers also have the authority to issue military protection orders (MPOs) to any servicemember under their command and have wide discretion as to whether or not to do so. My experience is that the exercise of this discretion ranges from issuing MPOs on any allegation of domestic violence in a "better safe than sorry" approach or issuing none at all. Commanding officers sometimes issues verbal orders, which while they have the authority to do so, does not provide protected parties

with a written copy nor the placement of a copy in the servicemember's record book, as required under DoD policy for MPOs, plus it avoids that requirement to submit MPOs to the National Criminal Investigative Center under certain circumstances. This latter requirement was in response to *10 U.S.C § 1567a* which mandated that commanding officers notify appropriate civilian authorities when any party to an MPO does not live on a military installation. Unfortunately, the recent DoD IG report did not look at the Services compliance with this policy. Whether this policy complies with § 1567a's direction to report MPOs to "appropriate civilian authorities" is debatable.

Another concern about MPOs is expiration dates. *10 U.S.C § 1567*, states that MPOs shall remain in effect "*until such time as the military commander terminates the order or issues a replacement order.*" Several years ago, DoD began a process to revise the standard MPO form in part to eliminate expiration dates. However, that process has stalled and in the interim, DoD has not issued any guidance regarding this subject. Arguably, commanding officers violate federal law every time they sign an MPO that includes an expiration date on the existing form.

Regarding both CPOs and MPOs, there is the issue of firearms. There is much research that establishes the use of firearms in domestic violence homicides and we know that firearms are the most common manner of death in civilian as well as military domestic homicides. As a result, federal law and many state laws restrict the possession of firearms by those who are subject to CPOs. However, we have no data as to how or if the military is enforcing personal firearm restrictions against servicemembers or against civilians on military property nor whether commanding officers include firearms restrictions when they issue MPOs.

The last topic I would like to address is collaboration between military installations and the local communities in which they are located. Collaboration is crucial as military-related victims and their abusers are often navigating two, different and sometimes conflicting systems. When these two systems do not actively work together, effectively share information, and evaluate their processes, there can be many negative consequences to include decreased safety of the victim and others. DoD policy is that commanders, military law enforcement, victim advocates, and others who are part of the military response should collaborate with their civilian counterparts, but while military FAP programs and their civilian counterparts generally work very well together, my experience is that the levels of collaboration between military installations and local communities, as a whole is, at best spotty. Admittedly, collaboration takes a willingness of all parties and regardless of DoD policy directing collaboration, commanders and those that work for them, cannot force those in civilian communities to do so. Our organization previously partnered with the National Center on Domestic and Sexual Violence and DoD on a multi-year project to create a military-civilian coordinated response model. That work identified the difficulties in establishing and maintaining military-civilian collaboration to include jurisdictional issues, different reporting systems, confidentiality, and, of course, cost. If we are again awarded the grant that funds our program, our plan is to work more in this area and attempt to re-energize interest in this subject.