



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
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WASHINGTON, DC 20350-3000

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31 Mar 08

The Honorable Michael Turner
United States House of Representatives
Washington, DC 20515

Dear Congressman Turner:

This responds to your letter of March 11, 2008, to the Commandant of the Marine Corps concerning the late Lance Corporal Maria Lauterbach, U.S. Marine Corps. I am responding for General Conway.

I appreciate your concern in this matter. The Lauterbach family continues to have our sincerest condolences for their loss. The circumstances and allegations surrounding the death of Lance Corporal Lauterbach are the subject of an ongoing Judge Advocate General death investigation, as well as a Naval Criminal Investigative Service and civilian law enforcement criminal investigations.

The Marine Corps understands the Lauterbach family's desire to receive justice on behalf of their loved one. Please understand that we are also committed to assisting them in any way we can throughout this ongoing process. While the outcome of these investigations is still pending, the enclosed information is provided in response to your questions.

Again, thank you for your concern and I hope you find this information helpful. If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. S. Kramlich", is positioned above the typed name.

R. S. KRAMLICH
Lieutenant General
U.S. Marine Corps
Director, Marine Corps Staff

Enclosure:
(1) Comprehensive response

Response to Congressman Michael R. Turner's Questions

The Second Marine Logistics Group (2nd MLG), under II Marine Expeditionary Forces (II MEF), based at Camp Lejeune, NC, is the parent command of Lance Corporal (LCpl) Maria Lauterbach and Corporal (Cpl) Caesar Laurean.

First and foremost, II MEF mourns the tragic death of LCpl Lauterbach and her unborn child. Second, the command has consistently acted to preserve and protect the rights of both Marines, taking appropriate steps to investigate fully serious allegations of rape and, after LCpl Lauterbach's disappearance in December 2007, involving civilian law enforcement agencies to help resolve the situation. From the beginning, the command has acted to ensure both the victim and the accused are treated in full accordance with their rights and protections under the law. Today, the command remains actively involved in assisting civilian and military investigations and law enforcement activities to return Cpl Laurean to face charges in a court of law.

The following are in response to Rep. Turner's questions:

Background: On May 11, 2007, LCpl Maria Lauterbach reported two sexual encounters with Cpl Cesar Laurean. The first incident was alleged to have occurred on March 26, 2007, and the second on an undetermined date in early April 2007.

Q1. Doesn't a rape accusation inherently contain an element of force or threat?

A1. As defined in Article 120 of the Uniform Code of Military Justice, rape is defined as the sexual intercourse by a person, executed by force and without the consent of the victim.

In May 2007, when LCpl Lauterbach formally made allegations of rape against Cpl Laurean, the command was only made aware of two reported sexual encounters -- one sexual encounter characterized as consensual by LCpl Lauterbach and the other alleged by her to be rape.

LCpl Lauterbach never alleged any violence or threat of violence in either sexual encounter. She further described to Naval Criminal Investigative Service (NCIS) agents that Cpl Laurean did not threaten her with a weapon, physical violence or punishment if she refused to have sex with him. She also stated that she did not want to have sex with Cpl Laurean because he was married with a child.

At no time during meetings with the Naval Criminal Investigative Service (NCIS), military prosecutors, victim advocates or members of her command did LCpl Lauterbach allege any danger or threat of danger from Cpl Laurean.

Q2. What was done to protect the person of Maria Lauterbach?

A2. The command took the following steps to protect LCpl Lauterbach immediately upon notification of the allegations:

- (1) The commander reassigned her to a different work section across the base, approximately two miles from Cpl Laurean;
- (2) Assigned her a Uniformed Victim Advocate and co-located her with her Uniformed Victim Advocate, whom she was able to meet with regularly;
- (3) Issued Cpl Laurean a verbal order and written Military Protective Order (MPO) to cease all contact and to stay a minimum of 1000 feet from LCpl Lauterbach;
- (4) Gave LCpl Lauterbach a copy of the MPO and explained to her that the MPO is in place to protect her;
- (5) Advised LCpl Lauterbach to contact the command immediately if Cpl Laurean violated the MPO;
- (6) Ensured both Cpl Laurean and LCpl Lauterbach understood that the MPO was applicable on base as well as off base in the civilian community;
- (7) Excused LCpl Lauterbach from any event where Cpl Laurean might be present; (see A5)
- (8) Assigned LCpl Lauterbach a civilian victim advocate;
- (9) Supported LCpl Lauterbach's attendance at counseling and all medical appointments

From May through December 2007, there was no evidence of any violation of the MPO. LCpl Lauterbach was specifically asked whether she felt threatened or in danger from Cpl Laurean, and she specifically stated to her command, her uniform victim advocate, her civilian victim advocate, the NCIS investigative agent and the military prosecutor that she did not.

Q3. Who was the appointed victim advocate for Maria Lauterbach?

A3. A female commissioned officer was assigned as LCpl Lauterbach's Uniformed Victim Advocate. This officer was also the Officer-in-Charge (OIC) at LCpl Lauterbach's new assignment location. Additionally, LCpl Lauterbach was assigned a civilian victim advocate from the base community counseling center on May 14, 2007.

Q4. Besides the MPO, was Cpl Laurean subject to any "gag order" or was he free to discuss the rape claim with his fellow Marines in the Unit? What is the policy?

A4. The MPO prohibited communication between Cpl Laurean and LCpl Lauterbach. The command did not issue a "gag order," either formally or informally, that prohibited him from discussing the matter with anyone else; but as part of its investigative effort, NCIS, as is common practice advised Cpl Laurean not to discuss the investigation with anyone other than his attorney.

Q5. Even though LCpl Lauterbach was assigned to a different building on the same base, since she and Cpl Laurean were still assigned to the same unit, would they not still have some contact during unit assemblies, e.g., safety meetings, Marine Ball, other unit gatherings?

A5. Both LCpl Lauterbach and Cpl Laurean knew the terms of the MPO and understood that they were to report any contact with each other to

their command immediately. In addition, they were directed not to attend formations or unit events of any type (formal or informal) where one or the other was expected to be present. On several occasions, LCpl Lauterbach exercised this MPO protection by reporting to her command her concerns when she might encounter Cpl Laurean and was uncomfortable attending those formations or events. Her command excused her from these functions. LCpl Lauterbach's actions demonstrated to the command her understanding of the MPO.

Q6. Since they were still assigned to the same unit Service Company, Combat Logistics Regiment 27, would not LCpl Lauterbach still have regular contact with Marines who, in turn, would have regular contact (or, perhaps, were even close friends) with Cpl Laurean?

A6. Possibly, however, LCpl Lauterbach made no complaints nor did she raise any concerns to the command regarding contact or associations with mutual friends or co-workers. Given the relatively small number of persons in LCpl Lauterbach's and Cpl Laurean's work field (administrators), it is virtually impossible to eliminate third party associations. Even if the command had reassigned her to another base, she and Corporal Laurean would likely have had third party associations. Based on the facts known, the command had no evidence that would indicate that mutual friends or co-workers might be a threat to LCpl Lauterbach's safety.

Q7. Is it true that in unit meetings or other unit gatherings that members of the unit would on some occasions be assembled alphabetically?

A7. No, forming Marines alphabetically is not practiced in Service Company or Combat Logistics Regiment 27. In addition, the MPO directed LCpl Lauterbach and Cpl Laurean to not attend formations or unit events of any type, formal or informal, where one or the other was anticipated to be present.

Q8. Alphabetically, how many people in the unit were between Laurean, and Lauterbach?

A8. On December 14, 2007, the number of people in the unit whose name fell between Corporal Laurean and LCpl Lauterbach was zero (0).

Q9. How many people were in the unit?

A9. As of December 14, 2007, there were 528 Marines assigned to Service Company, Combat Logistics Regiment 27. The members of this company are organized in five different functional work groups (Postal, Disbursing, Legal, Exchange and Administrative) that are located in separate buildings at various locations throughout Camp Lejeune.

Q10. At any time did Maria request, either orally or in writing, a transfer from the unit to another base, or to another command?

A10. LCpl Lauterbach did not request verbally or in writing a transfer to another base or command. However she did request, and the command approved her request, to move off-base to prepare a home for the birth of her child.

Q11. From the period beginning on May 11, 2007, and continuing through Friday, December 14, 2007, did LCpl Maria Lauterbach report or describe orally or in writing to the chain of command any victim advocate, or any NCIS investigator any harassment or physical abuse such as:

- a. An on-base incident at dusk in late summer or early fall when an unidentifiable Marine came up behind Maria Lauterbach, called her name and when she turned, he punched her directly in the face? Even without a positive identification of the assailant, is this not a "threat of force" that should have received special attention because of the pending rape claim?

A11a. On May 29, 2007, LCpl Lauterbach's Uniformed victim advocate notified NCIS that she reported being punched in the face by an unknown assailant in her barracks parking lot. Due to the pending rape investigation, the incident received special attention. LCpl Lauterbach was interviewed by NCIS and indicated the assault occurred on May 24, 2007. LCpl Lauterbach provided a physical description of the individual. She stated she was certain the assailant was not Cpl Laurean and the physical description did not match Cpl Laurean. LCpl Lauterbach indicated she suffered bruising and swelling to her face as a result of the incident. At the time of the interview, NCIS personnel noted no swelling, bruising, or other physical indicators. NCIS still examined and photographed the barracks parking lot; however, no items of evidentiary value were recovered.

- b. An on-base incident in late summer or early fall when an unknown individual "keyed" - (actually, the individual may have used a screwdriver or other tool) - and put a deep gash in her car from the front end to the rear end?

A11b. LCpl Lauterbach reported the incident to her Uniformed victim advocate, who, in turn, notified NCIS. The civilian victim advocate advised NCIS that LCpl Lauterbach reported that her car had been keyed sometime between the May 11, 2007, rape allegation to NCIS and the May 24, 2007, alleged assault by the unknown assailant. The victim advocate related that LCpl Lauterbach was unable to provide any specific information about the incident. NCIS advised the civilian victim advocate to have LCpl Lauterbach report the vandalism incident to the Provost Marshal's Office (PMO). She did not report the incident to PMO.

- c. If either of these facts were true, why were they not mentioned in the Opening Statement put out by the Marines on January 15, 2008?

A11c. The opening statement provided the context of the press release and discussed the chronology of the events leading up to the disappearance of LCpl Lauterbach, as well as the status of the ongoing investigations. Both of these incidents were addressed during the press conference.

Q12. From the period of April 10, 2007 through May 12, 2007, did LCpl Lauterbach have any attendance issues, administrative counseling or discipline, or any other factor that would reflect on her performance during this time period?

A12. During the dates in question, which immediately preceded LCpl Lauterbach's allegations, she did not exhibit any unusual performance or conduct. During this same time period, LCpl Lauterbach was counseled for missing a section Physical Training (PT) session on the morning of April 24, 2007. LCpl Lauterbach claimed she overslept and was later counseled that same day for failing to show up for work at 7:00 a.m. Her rationale for failing to show up for work at 7:00 a.m. was that her alarm clock was broken. These were relatively minor incidents that occurred on a single morning. The command saw no change in her behavior or personality that might indicate unusual stress or events in her life.

Q13. Are there any documents to reflect that proceedings were initiated, considered or otherwise contemplated that LCpl Maria Lauterbach would be given an administrative and/or medical discharge based in part on her performance from April 1, 2007 through May 11, 2007, or based in part on her medical condition and/or treatment during her time in the Marines?

A13. LCpl Lauterbach did not have any pending legal or administrative actions which would likely lead to a discharge. To the command's knowledge, she was not undergoing any medical treatment which would likely lead to a medical discharge.

Q14. In view of the confirmation of pregnancy on June 27th, why was no DNA sample taken from Cpl Laurean between the period of June 27th and November 5, 2007?

A14. LCpl Lauterbach reported the incidents to NCIS one month after the alleged sexual assault occurred. Due to the time lapse between the incidents and reporting date, a sexual assault examination was not performed by medical personnel. At the time of the report, the Naval Hospital did conduct a well-woman examination which included a pregnancy test. The pregnancy test was negative. During her interview, LCpl Lauterbach indicated she did not save any clothing which might have contained DNA related to the alleged rape. Because no evidence could be collected from LCpl Lauterbach that would provide a DNA comparative sample to link Cpl Laurean to the alleged assault, coupled with the negative pregnancy test, investigators had no reason to seek Corporal Laurean's DNA at that time.

LCpl Lauterbach did test positive for pregnancy on June 27, 2007. NCIS decided to postpone taking a sample of her child's DNA until its

birth due to the invasiveness of the DNA testing procedure (amniocentesis). Later, on November 5, 2007, LCpl Lauterbach informed the military prosecutor she was certain the child was not Cpl Laurean's based upon a recent Obstetrics Gynecological (OBGYN) examination and recalculated conception date. Accordingly, there was no investigatory or evidentiary reason to obtain Cpl Laurean's DNA.

Q15. The Marines have reported that Cpl Laurean denied having any sexual contact or any sexual conduct with LCpl Lauterbach. Did Cpl Laurean refuse to give a DNA sample?

A15. Cpl Laurean was not asked to provide a DNA sample. Due to the lack of any physical evidence linking LCpl Lauterbach to Cpl Laurean, no probable cause existed to obtain a DNA sample from Cpl Laurean, as explained in question 14.

Q16. Did the Marines at any time request Cpl Laurean to submit a DNA sample?

A16. No.

Q17. It has been reported that in October 2007 Cpl Laurean had assured NCIS officer Megan Grafton that he would submit a DNA sample when the baby was born. Under these circumstances, why was no DNA sample taken from Laurean in October?

A17. NCIS had no contact with Cpl Laurean in October and no such assurance by him was ever articulated.

Q18. The family would like copies of the medical records of Maria Lauterbach, beginning with the rape report on May 11, 2007, and continuing forward.

A18. These records remain part of an ongoing State and Federal criminal investigation and are not releasable until the investigations are complete.

Q19. Is there any system to notify civilian authorities when a person who is the subject of an MPO moves off base? Was this done?

A19. The MPO is a lawful order issued by a commander to someone subject to his orders under the Uniform Code of Military Justice (UCMJ). This order is also provided to the person protected by the MPO. The MPO is designed to ensure that the service member takes specific steps to ensure compliance with the MPO regarding the protected person. Even if the protected person or subject moves/lives off base, the MPO is still enforceable by military authorities. The MPO is effective because military members are subject to the Uniform Code of Military Justice regardless of their physical location. There is no system to notify civilian authorities when a person who is the subject of an MPO moves off base.

Q20. Is there any system to advise a Marine "protected" by an MPO that she might seek a civilian protective order if she moves off base? Was this done?

A20. Because the federal protection afforded by an MPO applies regardless of a service member's location on or off base, LCpl Lauterbach was not advised to seek a civilian protective order when she moved off base. The MPO is a protective measure initiated by the commander rather than at the request of LCpl Lauterbach. If LCpl Lauterbach had identified to her command that she was being threatened by Cpl Laurean, the command would have taken additional protective steps. Also, if she had expressed that she was threatened by Cpl Laurean off base and desired protection from the civilian law enforcement, the command would have advised her to seek relief from the State court. From May through December 2007, there was no evidence of any violation of the MPOs.

Q21. When LCpl Lauterbach did not report for duty on Monday, December 17, 2007, why, in view of the pending rape claim against a fellow Marine, was no attempt made to search for her?

A21. When LCpl Lauterbach did not report for duty on December 17, 2007, the command made search attempts to locate her. All early indications were that LCpl Lauterbach had gone into an unauthorized absence status on her own volition:

- (1) She left a note which read "Dan, sorry but I could not take this Marine Corps life anymore. So I am going away. Sorry for the inconvenience. Maria.";
- (2) Her roommate indicated that when he found the note he looked in LCpl Lauterbach's room and noted missing clothing and personal hygiene items;
- (3) He also noted that her car was missing.

Notwithstanding, command representatives were:

- (1) Sent to LCpl Lauterbach's residence in an attempt to locate her;
- (2) Representatives were also instructed to see if her vehicle was at the residence;
- (3) Search attempts were also made by attempting to contact LCpl Lauterbach via her cell phone;
- (4) The following morning, LCpl Lauterbach's mother was contacted by LCpl Lauterbach's OIC, informed that she did not report for duty on December 17, 2007, and asked if she possibly knew of her whereabouts. Mrs. Lauterbach responded in the negative.

All search attempts to locate LCpl Lauterbach were unsuccessful.

Q22. Under those same circumstances, why was no attempt made to question Cpl Laurean?

A22. Cpl Laurean no longer worked with LCpl Lauterbach and as far as the command knew no longer associated with her. At the time of her disappearance, there was no evidence to indicate that Cpl Laurean had anything to do with LCpl Lauterbach's unauthorized absence status.

Q23. Was any mechanism in place to trigger a special reporting requirement up the chain of command when the victim of a claimed sexual assault goes UA?

A23. All instances of service members going into an unauthorized absence status are reported up the chain of command expeditiously, accompanied with all known facts. There is no special reporting requirement when a victim of alleged assault goes UA. In this case, the Uniformed Victim Advocate notified NCIS that LCpl Lauterbach had been entered into a UA status. On December 19, 2007, the Onslow County Sheriff's Dept entered her into the National Criminal Information database as a "missing person."

Q24. Was a request made orally or in writing to accelerate - perhaps through the use of a DD Form 553 - Maria Lauterbach's status from "UA" to "deserter" in order to activate a more intense search for her?

A24. Yes. The same day her absence became known, a request to enter LCpl Lauterbach into a Deserter status was made to the Marine Corps Absentee Collection Center (CMC, POS-40). This was an extraordinary attempt to locate her in a more expedient manner due to her advanced stage of pregnancy.

Q25. Was any such request approved?

A25. No, the request was disapproved by Headquarters Marine Corps.

Q26. If denied, what were the reasons?

A26. The request was denied due to LCpl Lauterbach not meeting the established criteria for desertion. To be classified a deserter, one of the following criteria must be met: member in unauthorized absence status for over 30 days; member is an escaped prisoner; member is fleeing to a foreign country; member possesses a top secret security clearance, or member's location is known.

Q27. Was any mechanism in place to trigger a special reporting requirement up the chain of command when the victim of a claimed sexual assault does not appear at a scheduled OB appointment?

A27. No. Victims of sexual assault in the Marine Corps are afforded special privacy protections. The victim's privacy is also protected by minimizing the number of people who know about the victim's status. This avoids unwarranted victim stigmatization and reduces the potential for further humiliation of the victim by persons who don't have a legitimate need to know. Due to these protective privacy regulations, the OB clinic at the Camp Lejeune Naval Hospital is not notified that a Marine is the victim of an alleged sexual assault.

Q28. At the January 15th press conference, the Marines described LCpl Lauterbach as a "solid" Marine and Cpl Laurean as a "stellar" Marine. What facts justified the different descriptions?

A28. The generalized description of these two Marines used at the press conference was based on indicators of overall military character. Laws protecting the privacy rights of all Marines limit the amount of information the USMC can release. The command assessed both Marines' overall military character based upon objective and subjective information. Objective information included ratings based upon the standard metric of rating performance of all Marines such as proficiency and conduct markings, awards, physical fitness tests, and counseling entries. This information, with the exception of awards, is protected and could not be released. Subjective information included observations from their leaders and peers which were indicative of their quality of service. The assessment of military character is an important aspect of judging performance and future potential of a Marine. Based on publicly available information, the command can release that Cpl Laurean was meritoriously promoted to Corporal, had received the Navy Achievement Medal, a Letter of Appreciation, a Meritorious Mast and a Good Conduct Medal during his service. Based on publicly available information and a privacy waiver provided by the executor of LCpl Lauterbach's estate, the command can release that LCpl Lauterbach's Proficiency and Conduct Marks were 4.3/4.2 out of 5.0/5.0. She achieved a second class Physical Fitness Test score (a score of 223 out of 300). LCpl Lauterbach also received formal adverse counseling entries for both tardiness and integrity issues.

Q29. I understand that Cpl Laurean's wife, Christina Laurean, has recently been put on active duty status with the Marines. What was the date of her activation? What were the reasons for her activation? Is she currently the subject of any restrictions or investigation?

A29. Like all Marines, LCpl Christina Laurean's personal administrative information is protected. At this time, the command can release the following information: During 2007, she was an activated reservist working at MEF Headquarters Group (MHG). Her activation orders were due to expire in January 2008. In October 2007, she voluntarily submitted an application to return to the active component of the Marine Corps. Similar to other Reserve Marines, LCpl Laurean was recruited by a prior service recruiter who had a requirement to recruit Marines to meet existing personnel requirements of the Marine Corps as part of increasing the size of the Marine Corps to 202,000. LCpl Laurean's request was approved and she formally joined the active component on January 4, 2008. She was originally assigned to Recruiting Station, Raleigh NC. When her package was approved, she was transferred and assigned to Headquarters Group, II Marine Expeditionary Force as a personnel clerk. To our knowledge, she is currently not the subject of any investigation.