

TOWARD A PORNOGRAPHY-FREE MILITARY: ‘GOOD ORDER
AND DISCIPLINE’ THROUGH A CULTURE OF RESPECT

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I. INTRODUCTION	2
II. THE PROBLEM: A PORNIIFIED CULTURE, A PORNIIFIED MILITARY.....	3
A. <i>A Pornified Culture</i>	3
B. <i>A Pornified Military</i>	4
III. THE CORROSION OF GOOD ORDER AND DISCIPLINE: PORNOGRAPHY, DEHUMANIZATION OF WOMEN, AND UNIT COHESION IN THE MODERN MILITARY	6
A. <i>The 21st Century Military, and the Women Who Lead It</i>	6
B. <i>Dehumanization in the Ranks</i>	7
C. <i>Unit Cohesion</i>	8
D. <i>The Military, Internet Pornography, and the Digital Revolution</i>	12
IV. THE SOLUTION: CREATING A CULTURE OF RESPECT IN THE U.S. MILITARY	13
A. <i>First Things First: Toward a Pornography-Free Military Workplace</i>	13
B. <i>Knowing Your Enemy: Training to Understand the Danger of Pornography</i>	17
C. <i>Breaking the Chain — Pornography and the “Continuum of Harmful Behaviors”</i>	20
V. CONCLUSION	21

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I. INTRODUCTION

The U.S. military, the greatest fighting force in the world, is locked in a persistent battle. That battle, a subject of ever-increasing congressional and media attention, involves the problem of sexual harassment¹ and assault² in its ranks. Lawmakers have appropriated hundreds of millions of dollars over the last decade for sexual assault prevention and response (SAPR) training, educational initiatives, and resources for victims, and yet sexual harassment and assault remain prevalent, intractable problems.³ But even as debates have raged about how to best confront these issues, leaders have been curiously—and perilously—inattentive to the pervasive and largely unaddressed problem of widespread pornography use in the U.S. military.

Part II of this paper will document the widespread consumption of pornography in the United States, which has reached pandemic proportions due to the mass availability of pornography on the Internet and ubiquitous digital devices.⁴ It will further highlight the devastating effects of this pornified culture on the U.S. military, where it has infected military sexual culture writ large and wreaked havoc on the personal and professional lives of service members.⁵ Part III will examine the corrosive effect of pornography on unit cohesion in a modern military where women are an essential part of the fighting force from the highest echelons of the Pentagon to the front lines of combat infantry units.⁶ Finally, Part IV will discuss concrete recommendations for addressing the problem of pornography in the military and establishing an enduring culture of respect.⁷

1. See Wesley Morgan, *Shanahan Orders Clampdown on Sexual Assault, Harassment*, POLITICO (May 2, 2019), <https://www.politico.com/story/2019/05/02/shanahan-military-sexual-harassment-1297816> (“Acting Defense Secretary Pat Shanahan wants to make sexual harassment a military crime in its own right and is calling on top commanders to stamp out sex assault and harassment as the Pentagon releases a damning new report showing the problem is getting worse.”).

2. See Dave Philipps, *‘This is Unacceptable.’ Military Reports a Surge of Sexual Assaults in the Ranks*, N.Y. TIMES (May 2, 2019), <https://www.nytimes.com/2019/05/02/us/military-sexual-assault.html> (“Sexual assault in the American military surged in the last two years, driven almost entirely by a 50 percent increase in assaults on women in uniform, according a survey released on Thursday by the Defense Department.”).

3. See *id.* (noting 20,500 estimated instances of “unwanted sexual contact” in the military, “an increase of 38 percent from the previous survey in 2016.”); see also CHERYL LAWHORNE SCOTT & DON PHILPOTT, *SEXUAL ASSAULT IN THE MILITARY* 3 (2014) (“[D]espite four decades of sexual harassment laws, numerous military task forces and recommendations, and a policy of zero tolerance, the situation does not appear to have improved. Some argue it has gotten even worse.”).

4. See *infra* Part II.

5. See *id.*

6. See *infra* Part III.

7. See *infra* Part IV.

II. THE PROBLEM: A PORNIIFIED CULTURE, A PORNIIFIED MILITARY

A. A Pornified Culture

We live in a culture that has been “pornified.”⁸ Recent studies have indicated that 64% of young people between ages thirteen and twenty-four actively seek out pornography on a weekly basis.⁹ A survey of over 10,000 Americans by the Kinsey Institute found that 77% of respondents had looked at pornography at least once during a given thirty-day period.¹⁰ A behemoth pornography industry has risen to meet such demand. While reliable data is contested, the global pornography industry had an estimated worth of over 96 billion dollars in 2006, of which the U.S. market accounted for 13 billion dollars.¹¹ The exponential growth of online pornography has fueled the staggering expansion of the industry. Forty million Americans regularly visit pornographic websites.¹² The popular pornography website Pornhub averaged eighty-one million visitors per day in 2017, with nearly twenty-five billion searches performed.¹³ The Internet now hosts 700–800 million individual pornographic pages, three-fifths of which originate in America.¹⁴

Among its other devastating effects, the COVID-19 pandemic has laid bare the magnitude and scope of global pornography addiction. Pornhub’s research arm, “Pornhub Insights,” recently rhapsodized about a worldwide pornography increase of nearly 13.7% as of March 20, 2020, as compared to prior averages.¹⁵ In Italy and Spain, where coronavirus-related quarantines and stay-at-home mandates were rigidly enforced, Pornhub use skyrocketed 57% and 61%, respectively, the day after it began offering free “premium” services.¹⁶ Pornhub’s stated reason for offering these free services—“to encourage people to stay at home and

8. See PAMELA PAUL, *PORNIIFIED* 15 (2005) (“Today, pornography is so seamlessly integrated into popular culture that embarrassment or surreptitiousness is no longer part of the equation.”).

9. NAT’L CTR. ON SEXUAL EXPLOITATION, *PORNOGRAPHY & PUBLIC HEALTH RESEARCH SUMMARY* 2 (Jan. 14, 2019), https://endsexualexploitation.org/wp-content/uploads/NCOSE_Pornography-PublicHealth_ResearchSummary_1-14-19_FINAL.pdf.

10. PAUL, *supra* note 8, at 23.

11. GAIL DINES, *PORNLAND: HOW PORN HAS HIJACKED OUR SEXUALITY* 47 (2010) (“The size of the porn industry today is staggering.”).

12. COVENANT EYES, *PORN STATS: 250+ FACTS, QUOTES, AND STATES ABOUT PORNOGRAPHY USE* 6 (2018), https://www.covenanteyes.com/lemonade/wp-content/uploads/2020/01/Porn_Stats_Jan2020.pdf.

13. Curtis Silver, *Pornhub 2017 Year in Review Insights Report Reveals Statistical Proof We Love Porn*, *FORBES* (Jan. 9, 2018), <https://www.forbes.com/sites/curtissilver/2018/01/09/pornhub-2017-year-in-review-insights-report-reveals-statistical-proof-we-love-porn/#24fa423324f5>.

14. *Naked Capitalism*, *THE ECONOMIST* (Sept. 26, 2015), <https://www.economist.com/international/2015/09/26/naked-capitalism>.

15. See *Coronavirus Update*, *PORNHUB INSIGHTS* (Mar. 25, 2020), <https://www.pornhub.com/insights/coronavirus-update>.

16. *Id.*

help flatten the curve”¹⁷—cloaks in benevolence a thinly veiled effort to cement and expand its addicted customer base. This pronounced increase in already widespread pornography use has led behavioral scientists to investigate the adverse personal and societal impacts of COVID-related increases in pornography consumption.¹⁸ In addition to the proliferation of pornographic material itself, the “mainstreaming”¹⁹ of pornography via popular media, from Howard Stern to *Sex and the City*,²⁰ has fueled an already meteoric rise. While paeans to “sexual freedom” abound, our culture appears devastatingly bound by the pornography it consumes.

B. A Pornified Military

While the increasingly pervasive presence of pornographic material in our culture is not in doubt, the consequences of living in a pornified culture are not yet fully understood.²¹ What is clear is that members of the U.S. military, though famously characterized as a “specialized society” distinct from their civilian counterparts,²² are not impervious to the consequences of living, working, and even fighting in a pornified world.

Indeed, there is a growing body of evidence that many members of the U.S. Armed Forces are regular consumers of pornography, including child pornography.²³ According to Peter Smyczek and Kenneth Artz, two Air Force officers that have studied the relationship between pornography and sexual assault in the military, “[p]ornography has become the new drug of many Airmen.”²⁴ Laura Westley, a former Army officer and author of the memoir *War Virgin*, recounts that she “served alongside

17. *Id.*

18. See, e.g., Gemma Mestre-Bach et al., *Pornography Use in the Setting of the COVID-19 Pandemic*, 9 J. BEHAV. ADDICTIONS 1, 2 (2020) (“The above-described [coronavirus-related] patterns of pornography use raise questions about potential relationships to PPU [problematic pornography use] and health concerns.”).

19. See DINES, *supra* note 11, at 25.

20. *Id.* See also Catherine A. MacKinnon, *X Underrated*, TIMES EDUC. SUPPLEMENT 1, 1 (London) (May 20, 2005) (“Pornography is increasingly . . . making popular culture more pornographic . . . This effect is routinely observed and sometimes deplored, whether for sexually objectifying women yet more inescapably, or for taking away the sexiness of the forbidden. But if this movement is rarely documented, and even more seldom explained, the fact that pornography itself has become a popular feature of culture—the most mass of media—for some time is never faced.”), <https://prostitutionresearch.com/x-underrated/>.

21. See DINES, *supra* note 11, at ix (“What are the consequences of this [pornography] saturation for our culture, sexuality, gender identity, and relationships? The answer is that we don’t know for sure. One thing is certain: we are in the midst of a massive social experiment, only the laboratory here is our world and the effects will be played out on people who never agreed to participate.”).

22. *Parker v. Levy*, 417 U.S. 733, 743 (1974).

23. Peter J. Smyczek & Kenneth Artz, *Porn Consumption Contributes to Sexual Assault in the Military*, in *SEXUAL ASSAULT & MIL.* (Noah Berlatsky ed., 2015) (noting that Francis E. Warren Air Force Base in Wyoming was recently “struck by a rash of child pornography cases. . . Numerous Airmen were prosecuted for possession of child pornography [and the] legal office spent years prosecuting these tragic cases.”).

24. *Id.* at 37.

many people who were obsessed with porn,” and lamented that “paltry lessons on Army values did nothing to mitigate their need for salacious, sexual, masturbatory content.”²⁵ These personal observations are more than anecdotes. During an unannounced 2013 inspection of ninety-seven Air Force bases and facilities in the United States and abroad, approximately 32,000 items were deemed either “pornograph[ic], unprofessional material [or] inappropriate and offensive material.”²⁶ Over 600 items were specifically classified as pornographic, the majority of which were found at the “Air Education and Training Command,” responsible for overseeing Air Force training.²⁷ “[I]nappropriate or offensive” items included “suggestive items, magazines, posters, pictures, calendars, vulgarity, [and] graffiti.”²⁸ Air Force Chief of Staff General Mark A. Welsh III emphasized that such material “marginalizes great Airmen, degrades mission effectiveness and hurts unit morale.”²⁹ And yet, the trove of pornographic and inappropriate material found by the Air Force inspection is no anomaly.

To the contrary, widespread pornography consumption has left an indelible mark on “military sexual culture” writ large.³⁰ Studies have indicated that military personnel consume more pornography per capita than civilian counterparts of comparable age, education, and gender.³¹ Military therapists and chaplains now hear with “alarming regularity” from concerned military personnel that have become addicted to viewing pornography.³² And two decades of war in Iraq and Afghanistan have provided ample opportunity for deployed soldiers to access and become addicted to pornography.³³ According to Captain Diana Colon, an Army

25. See Laura Westley, *The Marine Scandal Confirms the Need to Address the U.S. Military's Porn Addiction*, FOREIGN POL'Y (Mar. 14, 2017), <https://foreignpolicy.com/2017/03/14/the-marine-scandal-confirms-the-need-to-address-the-u-s-militarys-porn-addiction/>.

26. Chris Carroll, *Air Force Finds Thousands of Inappropriate Items, Including Pornography*, STARS & STRIPES (Jan. 18, 2013), <https://www.stripes.com/air-force-finds-thousands-of-inappropriate-items-including-pornography-1.204422>.

27. *Id.*

28. *Air Force Releases Results of Health and Welfare Inspection*, U.S. AIR FORCE (Jan. 18, 2013), <https://www.af.mil/News/Article-Display/Article/109840/air-force-releases-results-of-health-and-welfare-inspection/>

29. *Id.*

30. See Madeline Morris, *By Force of Arms: Rape, War, and Military Culture*, 45 DUKE L.J. 651, 713–14 (1996).

31. *Id.*

32. See *Addicted to Online Porn — X-rated Internet Explosion Wreaks Havoc With Troops' Careers, Lives*, MIL. TIMES (Mar. 6, 2013), <https://www.militarytimes.com/2013/03/06/addicted-to-online-porn-x-rated-internet-explosion-wreaks-havoc-with-troops-careers-lives/> [hereinafter *Addicted to Online Porn*].

33. See generally Morris, *supra* note 30, at 716 n.233 (“[T]he relative isolation from women experienced by some male military personnel also might account for some part of the prevalence of pornography in the military environment.”); see also Patrick Novacosky, *War Porn: U.S. Military's Other Problem in Iraq*, NAT'L CATH. REG. (Sept. 18, 2006), https://www.ncregister.com/site/article/war_porn_us_militarys_other_problem_in_iraq (“[D]espite the prohibitions and blocking software on military computers, Father Mark Reilly,

therapist, these deployments have “created a new generation of dysfunctional pornography abusers.”³⁴ The following section will explore the corrosive effects of such pornography consumption on the good order and discipline of a modern military in which both men and women play vital roles.

III. THE CORROSION OF GOOD ORDER AND DISCIPLINE: PORNOGRAPHY, DEHUMANIZATION OF WOMEN, AND UNIT COHESION IN THE MODERN MILITARY

A. *The 21st Century Military, and the Women Who Lead It*

Women are an essential part of the U.S. Armed Forces. Women currently serve at the highest levels of military leadership. In 2009, General Ann Dunwoody became the first four-star general in U.S. military history.³⁵ These changes in military leadership have been paralleled by changes at the deck-plate level. In 2015, the Department of Defense repealed policies that formally barred women from direct combat roles—an increasingly arbitrary and tenuous distinction in light of women having “served on the deadly front line for years.”³⁶ Specifically, then-Secretary of Defense Ashton Carter “ordered the military to open all combat jobs to women who meet the validated occupational standards with no exceptions.”³⁷ That decision, long in the making but halting in finalization, reaffirmed a sharpened U.S. military focus on cultivating the best leaders, irrespective of gender.³⁸ Women have quickly proven their mettle in combat leadership. In August 2015, Captain Kristen Griest and First Lieutenant Shaye Haver became the first

who served as a marine chaplain in Iraq . . . said increasing numbers of both men and women serving in Iraq have access to porn, and have become addicted.”).

34. See *Addicted to Online Porn*, *supra* note 32; see also PAUL, *supra* note 8, at 249 (“For most people, pornography wreaks a subtle but real emotional, and in some cases physical, devastation.”).

35. See, e.g., C. Todd Lopez, *Female Flag Officers Honor First Woman Four-Star*, U.S. ARMY (Feb. 9, 2009), https://www.army.mil/article/16632/female_flag_officers_honor_first_woman_four_star (“More than 50 retired and current female general and flag officers attended a lunch in honor of Gen. Ann E. Dunwoody . . . [who] became the first female officer in U.S. military history to earn a fourth star.”).

36. Katie Rogers, *Kristen Griest on Course to Become First Female Army Officer Trained to Lead Troops Into Combat*, N.Y. TIMES (Apr. 28, 2016), <https://www.nytimes.com/2016/04/29/us/kristen-griest-on-course-to-become-first-female-army-officer-trained-to-lead-troops-into-combat.html> (“Unofficially, women had served on the deadly front line for years, but they were barred from direct combat in roles such as tank or infantry officer until December 2015. . . .”).

37. KRISTY KAMARK, CONG. RSCH. SERV., R42075, WOMEN IN COMBAT: ISSUES FOR CONGRESS 14 (2016).

38. See Rogers, *supra* note 36 (statement of U.S. Army spokesman Lt. Col. Jerry Pionk) (“We are at a time and a place in the world where we need to have the best leaders from everywhere, and that includes women.”).

two women to graduate from Army Ranger School, a daunting crucible of physical fitness and mental toughness.³⁹ Less than a year later, following graduation from the Army's Maneuver Captain Career Course, Griest became the first woman formally designated to lead a combat infantry unit.⁴⁰ These achievements were hard earned, involving a decades-long "struggle to break through the attitudinal and societal barriers shaped by old but strongly maintained traditions and myths about the military institution and women's proper roles in it."⁴¹ Women are a crucial part of the twenty-first century fighting force. Indeed, during the prior two decades of warfare, women "have served with valor and continue to serve on combat aircraft, naval vessels, and in support of ground combat operations."⁴² Given the diverse, critical duties performed by women across military specialties and at all echelons of the chain of command, it is essential to explore the broader implications of women serving in what has become a "pornified" military force.

B. *Dehumanization in the Ranks*

Research on the effect of pornography consumption has traditionally focused on consequences to individual relationships, such as marriage and family life.⁴³ However, researchers have begun to explore if, and to what extent, pornography consumption influences organizations and businesses.⁴⁴ For example, Nathan W. Mecham, Melissa F. Lewis-Western, and David A. Wood of Brigham Young University, recently published research in the *Journal of Business Ethics* indicating that pornography consumption "increases viewers' dehumanization of others" within organizations.⁴⁵ This conclusion follows naturally from documented "[h]igh levels of dehumanizing acts [that] occur in the most popular pornographic material."⁴⁶ Such dehumanization—the "psychological process of viewing and treating others like objects or as means to an end"⁴⁷—leads to a cascade of outcomes detrimental to organizational success. These include "increased propensity to delegitimize others, increased aggression, and decreased willingness to

39. *Id.*

40. *Id.*

41. MAJOR GEN. JEANNE HOLM, *WOMEN IN THE MILITARY* 508 (1992).

42. KAMARK, *supra* note 37, at Summary.

43. *See, e.g.*, Kirk Doran & Joseph Price, *Pornography and Marriage*, 35 J. FAM. & ECON. ISSUES 489 (2014); Lorne Campbell & Taylor Kohut, *The Use and Effects of Pornography in Romantic Relationships*, 13 CURRENT OP. PSYCH. 6 (2017); Colin Hesse & Kory Floyd, *Affection Substitution: The Effect of Pornography Consumption on Close Relationships*, 36 J. SOC. & PERS. RELATIONSHIPS 3887 (2019).

44. *See, e.g.*, Nathan W. Mecham et al., *The Effects of Pornography on Unethical Behavior in Business*, 168 J. BUS. ETHICS 37 (2019).

45. *Id.* at 39.

46. *Id.* at 42.

47. *Id.*

work with others productively.”⁴⁸ While studies generally disclaim the establishment of a causal relationship between pornography consumption and crimes of sexual violence, more modest empirical claims that pornography “undermines women’s credibility” and “helps to form and reinforce the view that women are sex objects” find broad support.⁴⁹ As noted by Madeline Morris, a law professor and expert on issues of military culture, rape, and war, “there is reason to believe the apparent heightened pornography consumption in the military environment may reflect the prevalence of normative sexual and gender attitudes within military culture that place women in the role of sexual targets or adversaries and men in the role of sexual consumers.”⁵⁰

Setting issues regarding causation and sexual violence aside,⁵¹ the more “modest” claim—if it can be so characterized—that pornography undermines women’s credibility or relegates them to the position of sexual object should give military leaders great pause. Indeed, views which undermine women’s personal dignity and trivialize their organizational contributions diametrically oppose the notions of respect and honor that pervade military “core value” statements. Further, they are anathema to the most basic notions of good order and discipline. If dehumanizing women and undermining their credibility are the demonstrable fruits of pornography consumption, we might query why the military has not yet taken an axe to the poisonous tree.

C. Unit Cohesion

The effects of pornography on interpersonal relationships have particularly pernicious implications for the military environment, where men and women serve alongside one another for extended periods of time

48. *Id.* at 50 (internal citations omitted).

49. See *Pornography and Censorship*, STAN. ENCYCLOPEDIA PHIL. (Oct. 1, 2012), <https://plato.stanford.edu/entries/pornography-censorship/>. See also MacKinnon, *supra* note 20, at 3 (“Pornography changes its consumers, who then go everywhere under its influence. . . . Excellent social science research over the past 25 years has documented the effects of exposure to pornography. . . . Consuming pornography, with some individual variation, produces attitudes and behaviors of discrimination and violence, particularly against powerless others.”).

50. Morris, *supra* note 30, at 716. Professor Morris is not alone in underscoring the “normative sexual and gender attitudes” that have historically pervaded military culture. See, e.g., EUGENE R. FIDELL ET AL., *MILITARY JUSTICE CASES AND MATERIALS* (3d ed. 2020) (“Because of the intensity of many military working environments, the armed forces’ history of enforcing rigid assumptions about gender and military service, the strict hierarchies of rank and power within the ranks, and the overwhelmingly male demographics of military forces, military organizations possess all of the risk factors identified as likely to produce high rates of sexual harassment.”).

51. Cf. Cass R. Sunstein, *Words, Conduct, Caste*, 60 U. CHI. L. REV. 795(1993) (“[I]t is reasonable to think that there is a causal connection between pornography and violence against women. . . . [A] review of the literature suggests a reasonable legislature could conclude that pornography does increase the incidence of sexual violence against women.”).

in close quarters, often under stressful and dangerous conditions that demand a baseline of mutual trust and respect.⁵²

This is because pornography consumption by military members lays waste to unit cohesion. Though there is some variance in the definition of unit cohesion, it is commonly understood to encompass elements of both “task cohesion” and “social cohesion.”⁵³ Task cohesion refers to a shared commitment among unit members to achieve a common goal, and social cohesion describes the emotional bonds between the members of a unit.⁵⁴ Unit cohesion is now widely recognized by military leadership as the *sine qua non* of combat effectiveness.⁵⁵ What is it about pornography that poses this existential threat to unit cohesion? At bottom, pornography withers unit cohesion because it works at cross purposes with its core elements—mutual respect and trust. As noted in the 2009 Report of the Defense Task Force on Sexual Assault in the Military Services, mutual respect and trust create the very foundation upon which unit cohesion is built.⁵⁶ Indeed, the Task Force concluded that “[a] military unit’s cohesion is a key contributor to mission success. Cohesion requires a quality of relationships among group members that sustains their will and commitment to each other, their unit, and the mission. In this vein, *trust and mutual respect are fundamental elements of unit cohesion.*”⁵⁷

Pornography corrodes respect and trust on separate, destructive planes that can negatively impact both men and women in the U.S. military. Specifically, pornography denigrates women and distorts men’s ability to have constructive relationships with them.⁵⁸ In her comprehensive study of the societal and personal impacts of pornography, author and journalist Pamela Paul concluded that pornography “damages relationships and interactions between men and women personally, professionally, and socially [while making] women feel inferior.”⁵⁹ Where such repercussions are exacerbated by increasing pornography consumption, in garrison as well as war zones, unit cohesion and the respect it is built upon necessarily falter.

The adverse consequences of pornography consumption on military unit cohesion have played out on the national stage to devastating—even

52. See KAMARK, *supra* note 37, at 30 (“[W]omen have been integrated into military units for extended periods with close-quarter environments for much of the recent history of the military.”).

53. ROBERT J. MACCOUN & WILLIAM M. HIX, *SEXUAL ORIENTATION AND U.S. MILITARY PERSONNEL POLICY: AN UPDATE OF RAND’S 1993 STUDY* 139 (2010).

54. *Id.*

55. DEF. TASK FORCE, U.S. DEP’T DEFENSE, *SEXUAL ASSAULT IN THE MILITARY SERVICES* 9 (Dec. 2009), https://www.sapr.mil/public/docs/research/DTFMSAMS-Rept_Dec09.pdf.

56. *Id.*

57. *Id.* (emphasis added).

58. See PAUL, *supra* note 8, at 255 (“Pornography has a corrosive effect on men’s relationships with women More than ever, it aids and abets sexually compulsive behavior in ways that can become seriously disruptive and psychologically damaging.”).

59. *Id.* at 249.

criminal—effect. Though pornographers assiduously deny the increasingly apparent harms of their product,⁶⁰ the use and dissemination of pornography is shaking the foundations of good order and discipline in the U.S. military.⁶¹ Nowhere has this been more apparent than the 2017 “Marines United” scandal. “Marines United,” the name of an online Facebook group consisting of some 30,000 all-male active duty and veteran Marines, became the repository for sharing thousands of naked photographs of female Marine Corps members.⁶² The Marines United site amassed online profiles featuring nude and non-nude images of Marine women as well as surreptitious “creepshots,”⁶³ along with the female Marines’ names and duty stations, without their knowledge or consent.⁶⁴ The images were accompanied by obscene comments, including suggestions that some of the women depicted should be raped.⁶⁵

The deleterious effects of the Marines United scandal on the Marine Corps specifically, and the Department of Defense generally, were predictable—and palpable. Then-Secretary of Defense and retired Marine Corps General James Mattis decried the Marines United scandal for its evident “[l]ack of respect for the dignity and humanity of fellow members” of the military, which is “unacceptable and counter to unit cohesion.”⁶⁶ Some female Marines, including those whose non-nude social media photos were imported to the Marines United group page without their consent, decided not to re-enlist as a result of the visual content and commentary found on the site.⁶⁷ Commentators have also argued that the “degradation of women in the military reflected by the Marines United scandal” threatens national security by undermining the full integration of women into our military forces.⁶⁸ In a modern military where women serve in every branch of service at all levels of the chain of command and participate in direct combat as well as support roles, can

60. *See id.* at 251 (“Pornographers consistently deny the harm inflicted by pornography—on its users, on relationships, on society overall . . .”).

61. *See* Schlesinger v. Councilman, 420 U.S. 738, 757 (1975) (“[T]he military must insist upon a respect for duty and a discipline without counterpart in civilian life.”).

62. Dave Philipps, *Inquiry Opens Into How a Network of Marines Shared Illicit Images of Female Peers*, N.Y. TIMES (Mar. 6, 2017), <https://www.nytimes.com/2017/03/06/us/inquiry-opens-into-how-30000-marines-shared-illicit-images-of-female-peers.html>.

63. *See* Elliot Ackerman, *Inside the Nude Photo Scandal That Rocked the Marine Corps*, ESQUIRE (July 11, 2017), <https://www.esquire.com/news-politics/a55981/marines-nude-photo-scandal/>.

64. Philipps, *supra* note 62.

65. *Id.* (“[T]he comments went just as far toward sexual assault and rape and degrading [sic] as your imagination can go.”).

66. Michael R. Gordon & Helene Cooper, *Their Intimate Photos Were Shared. Now the Marine Corps Wants Them to Speak Up*, N.Y. TIMES (Mar. 10, 2017), <https://www.nytimes.com/2017/03/10/us/politics/marine-corps-women-photos-facebook.html>.

67. *See* Philipps, *supra* note 62.

68. Jeannette Haynie & Kyleanne Hunder, *The Marines United Scandal Should be Seen as a National Security Issue*, FOREIGN POL’Y (Apr. 13, 2017), <https://foreignpolicy.com/2017/04/13/the-marines-united-scandal-should-be-seen-as-a-national-security-issue/>.

unit cohesion survive among forces besieged by pornography, the defining feature of which is the degradation of women?⁶⁹ Some have argued convincingly that it cannot. As former Marine Sergeant Alexander McCoy recently described in the *New York Times*, the widespread pornography circulation he observed among Marines has created:

[An] environment that encourages things like the Marines United Facebook group . . . I don't believe that this behavior is simply the inevitable consequence of having an organization with large numbers of young men. Rather, it is the result of tolerating a culture where female Marines are treated with contempt, defined solely as sexual objects unworthy of the job and as distractions to the men.⁷⁰

The Marines United scandal has left an indelible mark on its victims, sparked a wave of criminal and administrative punishments for its instigators, and sowed distrust among female servicemembers.⁷¹ As Sergeant McCoy suggested, the Marines United scandal is a product of a U.S. military that has been infected by pornography. Indeed, following a Naval Criminal Investigative Service Investigation that resulted in the takedown of the original Marines United Facebook group, a new group dubbed "Marines United 2.0" emerged to "reconstitute the original cache of explicit photos," utilizing the cloud storage service Dropbox and "public pornography sites likes Pornhub."⁷² The seeds of the Marines United scandal sprouted against a backdrop of what Marine General Glenn Walters has called a "negative subculture."⁷³ The hallmarks of this

69. See Sunstein, *supra* note 51, at 811 ("[P]ornography promotes degrading and dehumanizing behavior toward women. Significantly, this behavior includes a variety of forms of illegal conduct, prominent among them sexual harassment. The pornography industry operates as a conditioning factor for some men and women, a factor that has consequences for equality between men and women.").

70. Alexander McCoy, *More Than Just Marines Behaving Badly*, N.Y. TIMES (Mar. 8, 2017), <https://www.nytimes.com/2017/03/08/opinion/more-than-just-marines-behaving-badly.html>.

71. As of March 2018, seven courts-martial and fourteen non-judicial punishments were held, and twenty-eight adverse administrative actions were taken, against Marines in connection with the Marines United scandal. See Shawn Snow, *Seven Marines Court-Martialed in Wake of Marines United Scandal*, MARINE CORPS TIMES (Mar. 1, 2018), <https://www.marinecorpstimes.com/news/your-marine-corps/2018/03/01/seven-marines-court-martialed-in-wake-of-marines-united-scandal/>.

72. Jared Keller, *'Marines United' is Now Sharing Explicit Videos of Servicewomen on Porn Sites*, TASK & PURPOSE (Mar. 9, 2017), <https://taskandpurpose.com/news/new-marines-united-facebook-nudes-porn-sites>.

73. *Task Force to Address Gender Bias, Harassment, Social Media Misconduct Continues to Make Progress*, U.S. MARINE CORPS (July 10, 2017), <https://www.marines.mil/News/Press-Releases/Press-Release-Display/Article/1242163/task-force-to-address-gender-bias-harassment-social-media-misconduct-continues/>.

subculture include mass consumption of pornography⁷⁴ and exchanges of intertwined commercial pornography and explicit private photographs.⁷⁵

D. *The Military, Internet Pornography, and the Digital Revolution*

The Marines United scandal is just one example of the U.S. military's broader addiction to pornography. This proliferation of pornography consumption across the military services has been exacerbated by the "digital revolution"⁷⁶—shorthand for the now ubiquitous presence of smartphones, wireless internet access, webcams, and electronic portable storage devices. As noted in a 2016 study reported in the *Journal of Sex Research*, such sweeping technological advances have "made pornography cheaper, more accessible, and easier to discretely consume."⁷⁷ And because the touchstone of this revolution is "anytime and anywhere" access to digital content,⁷⁸ soldiers can and do possess, view, and distribute pornographic content in every conceivable environment, from warzones⁷⁹ to training centers.⁸⁰

To be sure, there have been distinct advantages to a more digitally connected military force. Remote-learning modules and other online education platforms have played a crucial role in educating the military workforce. For example, the newly established Naval Community College will be "a predominantly online, distance education, fully accredited learning experience."⁸¹ Moreover, studies chaired by the

74. Jeffrey D. Moe, *Preparation for Deployment and Life During Deployment*, in AMERICAN MILITARY LIFE IN THE 21ST CENTURY 123 (Eugenia L. Weiss & Carl Andrew Castro eds., 2018) ("In combat zones, pornography use is known to be widespread Even the highest levels of military leadership have been caught viewing pornography on deployments.").

75. See, e.g., McCoy, *supra* note 70 ("On overseas basis, Marines circulated hard drives that held everything from pirated copies of popular TV shows to pornography. Among the pornography, there was almost always a collection of photos of fellow naked service members.").

76. See, e.g., Eric Schmidt & Jared Cohen, *The Dark Side of the Digital Revolution*, WALL ST. J. (Apr. 19, 2013), <https://www.wsj.com/articles/SB10001424127887324030704578424650479285218>; see also Glenn S. Gerstell, *I Work for N.S.A. We Cannot Afford to Lose the Digital Revolution*, N.Y. TIMES (Sept. 10, 2019), <https://www.nytimes.com/2019/09/10/opinion/nsa-privacy.html> (describing the "unknown challenges presented by the general onrush of technology—the digital revolution or so-called Fourth Industrial Revolution—that will be our future for the next few decades.").

77. Joshua Price et al., *How Much More XXX is Generation X Consuming? Evidence of Changing Attitudes and Behaviors Related to Pornography Since 1973*, 53 J. SEX. RES. 12, 12 (2016) ("These dramatic changes in the ease of access have contributed to the conventional wisdom that the current generation of young adults are much more likely to consume pornography than previous generations.").

78. See Tayana Panova & Xavier Carbonell, *Is Smartphone Addiction Really an Addiction?*, 7 J. BEHAV. ADDICTION 252, 256 (2018) ("The physical, mobile aspect of the smartphone facilitates problematic Internet behaviors (i.e. obsessive social media use, porn, and gambling addiction) by making them accessible anytime and anywhere and therefore increasing how often they are used").

79. See *supra* notes 28–32 and accompanying text.

80. See *supra* notes 26–29 and accompanying text.

81. Courtney Mabeus, *Naval Community College Takes Shape Without Bricks, Mortar or its Most Prominent Champion*, NAVY TIMES (Nov. 28, 2019),

National Academies of Sciences, Engineering, and Medicine have found that military members' readily available Internet and smartphone access can be a key resource for deployed soldiers to communicate with family, maintain connections with "shipmates" from past deployments, search for housing, or find a new job.⁸² The same study highlighted, however, that along with these benefits come formidable dangers.⁸³ Specifically, these "digital developments can also be new channels for deception, inappropriate content, misinformation, information overload, abuse and harassment (e.g., cyberbullying, revenge porn, trolling), and distractions from real-world obligations and face-to-face interactions."⁸⁴

Without discounting the benefits identified above, this article urges that U.S. military leaders have paid insufficient attention to the gravity of such countervailing dangers. The following section recommends a three-part strategy that will both address the dangers of readily available, massively consumed pornography in the U.S. military and build a culture of respect that refuses to tolerate it.

IV. THE SOLUTION: CREATING A CULTURE OF RESPECT IN THE U.S. MILITARY

A. *First Things First: Toward a Pornography-Free Military Workplace*

Leaders cannot begin to create a lasting culture of respect in the military workplace until that workplace is free of pornography. While tremendous investments have been made to better educate military members about issues related to sexual harassment and sexual assault in the last decade, comparatively little has been done to ensure that the military workplace—from the base exchange to the flight deck, and everywhere in between—is free from harmful, degrading, or harassing material, including pornography.

A poignant illustration of the problem is the Department of Defense's lukewarm implementation of the 1996 Military Honor and Decency Act ("Act"), which prohibited the "sale or rental of sexually explicit material on property under the jurisdiction of the Department of Defense," including military exchanges.⁸⁵ The DOD implemented the Act through the establishment of a Resale Activities Board of Review ("Board"), tasked to review materials sold or rented on military property, and to withdraw those materials deemed "sexually explicit," the "dominant

<https://www.navytimes.com/education-transition/2019/11/29/naval-community-college-takes-shape-without-bricks-mortar-or-its-most-prominent-champion/>.

82. NAT'L ACAD. SCI. ENG'G MED., STRENGTHENING THE MILITARY FAMILY READINESS SYSTEM FOR A CHANGING AMERICAN SOCIETY 124 (Keneth W. Kizer & Suzanne Le Menestrel eds., 2019).

83. *Id.*

84. *Id.*

85. 10 U.S.C. § 2489(a).

theme of which depicts or describes nudity, including sexual or excretory activities or organs, in a lascivious way.”⁸⁶ In successfully defending the Act under First Amendment challenges in both the Second and First Circuit Courts of Appeal, the Government argued that the sale of sexually explicit materials in military exchanges “risks sending a message that the military approves or endorses these materials,” which could tarnish “the military’s image of honor, professionalism, and proper decorum.”⁸⁷

The Board lost sight of those arguments. While it prohibited titles including *Hustler*, *Playgirl*, *Naughty Neighbors*, and *Mature Nympho* from sale on military property, it continued to allow the sale of *Playboy*, *Penthouse*, and *Celebrity Skin*,⁸⁸ the latter of which specializes in nude images of celebrities taken without their consent.⁸⁹ By allowing *Playboy*, *Penthouse*, and *Celebrity Skin* to be sold in military exchanges worldwide, are we to understand that the military was okay with “sending a message” that it “approves or endorses” *these* materials? Is there a principled basis, grounded in notions of “professionalism” and “proper decorum,” for allowing the sale of nude images of women (*Playboy*) on military bases, but not nude men (*Playgirl*)? If the military hopes to establish a durable culture of respect, the answer to both questions must emphatically be *no*.

So far, the DOD’s tepid approach does not inspire confidence. Indeed, exchange systems operated by the U.S. Navy and Marine Corps continue to market *Playboy* and *Penthouse*, preferring the euphemistic “adult sophisticate” categorization to the more direct—and more accurate—label of pornography.⁹⁰ While the Army and Air Force Exchange Service (AAFES) decided in 2013 to discontinue the sale of all pornographic magazines, including *Playboy* and *Penthouse*, the Services squandered the opportunity to take a principled stand in doing so.⁹¹ Rather, AAFES Public Affairs Chief Army Lt. Col. Antwan C. Williams stated in wooden terms:

86. See *PMG Int’l Div., L.L.C. v. Rumsfeld*, 303 F.3d 1163, 1166–67 (9th Cir. 2002) (upholding the constitutionality of the Military Honor and Decency Act); see also *Gen. Media Commc’ns, Inc. v. Cohen*, 131 F.3d 273 (2d Cir. 1997) (accord).

87. *Cohen*, 131 F.3d at 283–84.

88. Adam Liptak, *Military Sales of Sex Materials Can Be Banned*, N.Y. TIMES (Sept. 17, 2002), <https://www.nytimes.com/2002/09/17/us/military-sales-of-sex-materials-can-be-banned.html>.

89. See, e.g., *Aniston Sues Over Nude Photos*, ABC NEWS (Jan. 6, 2006), <https://abcnews.go.com/Entertainment/story?id=116322&page=1>.

90. See Jeanette Steele, *Does Playboy Belong in Modern Military?*, SAN DIEGO UNION-TRIB. (July 31, 2013, 7:13 PM), <https://www.sandiegouniontribune.com/military/sdut-magazines-military-stores-sales-2013jul31-story.html>.

91. See Alissa Robertson, *Military Bans Porn Sales Over Money, Not Morality*, WORLD (Aug. 5, 2013), https://world.wng.org/2013/08/military_bans_porn_sales_over_money_not_morality (“While the Department of Defense announced Tuesday that it will no longer sell adult magazines, it wasn’t for moral reasons. . . . To make its stance more pronounced, the Department of Defense declared last week that *Playboy*, *Penthouse*, and *Nude Magazine* were not sexually explicit.”).

According to the Audit Bureau of Circulations, digital magazines continue to expand their presence in the industry. Like their civilian counterparts, exchange shoppers' increased reliance on digital devices to access content virtually has resulted in a sustained decrease in demand for printed magazines. The decision to no longer stock the material is a business decision driven by the time, money and energy required to facilitate buying habits, combined with decreased demand.⁹²

Worse, Williams seemed to acknowledge, even tacitly endorse, the notion that soldiers could simply utilize “digital devices” to access the same content “virtually.” Given the dangers of ubiquitous online pornography discussed above, this careless language is inexcusable.⁹³ Just as inexcusable is the anodyne couching of long overdue pornography removal from military exchanges as a pure “business decision.”

Some have argued that the DOD's stilted handling of pornography sales is of a piece with a systemic, cultural tolerance of disrespectful and offensive material. Others go further, “cast[ing] the Pentagon's sexual assault problem as a reap-what-you-sow situation” exemplified by the DOD's soft-pedaled implementation of the Military Honor and Decency Act.⁹⁴ In either event, the distressing results of the 2013 Air Force inspection at nearly 100 bases and installations,⁹⁵ discussed *supra*, suggest the acute respect deficit in some military workplaces. As you will recall, the inspected Air Force installations each averaged *more than 300* items declared “pornography, unprofessional material [or] inappropriate [and] offensive material.”⁹⁶ Moreover, across the U.S. military it is still possible to find soldiers hanging up pornography, as well as “pinups” in various states of undress,⁹⁷ apparently indifferent to the soldiers—male and female—that necessarily transit through those spaces. Others “openly peruse pornography that humiliates women.”⁹⁸ Such action would trigger prompt firing from any major company in the United States. One would

92. Cheryl Pellerin, *Military Exchanges Remove 891 Magazines from Stores*, MARINES (July 30, 2013), <https://www.hqmc.marines.mil/News/News-Article-Display/Article/553494/military-exchanges-remove-891-magazines-from-stores/>.

93. See generally Connor Simpson, *The Internet Made the Military Stop Selling Playboy*, ATLANTIC (July 31, 2013), <https://www.theatlantic.com/national/archive/2013/07/internet-made-military-stop-selling-playboy/312664/> (“The military will finally stop selling nudie magazines at on-post shops run by the Army and Air Force Exchange Service after years and years of protest, but only because soldiers are moving to the millions of free porn sites on the Internet . . .”).

94. Steele, *supra* note 90.

95. See Carroll, *supra* notes 26–27 and accompanying text.

96. *Id.*

97. See HELEN BENEDICT, *THE LONELY SOLDIER* 126 (2009) (“[L]ike prisoners, soldiers surround themselves with souvenirs from home, along with, in the case of many men, pinups and pornography.”).

98. *Id.* at 50.

rightfully query why such behavior is still tolerated in some segments of our nation's Armed Forces.

More can, and must, be done. The Air Force's comprehensive 2013 inspections were a good start, but they are just that. There have been other promising developments. A similar "comprehensive visual inspection of all Department of the Navy Workplaces," authorizing command seizure of contraband including "patently lewd, lascivious, obscene, or pornographic materials," was ordered just six months after the Air Force inspections.⁹⁹ Importantly, the Navy's order further directed that military commanders continue to conduct such inspections "on a regular basis, not less than annually."¹⁰⁰ This latter mandate makes clear that an essential feature of establishing a culture of respect is a commander that proactively, vocally, and—if necessary—punitively refuses to tolerate degrading, offensive, and pornographic material in the military workplace.

Commanding officers, ultimately responsible for the good order and discipline of their units, are uniquely positioned to establish and safeguard a culture of respect. This will take more than carrying out a mandated inspection to remove pornography. Commanders must establish a culture where such materials would not be tolerated, inspection or not. Thus, despite the DOD's unfortunate ambivalence in implementing the Military Honor and Decency Act, commanding officers can make clear that there is no place for pornographic or lewd materials in their units.¹⁰¹ When that culture is established, others in the command will be empowered to exercise similar "intrusive leadership" to uphold the norms of mutual respect and trust that are the lodestar for unit cohesion.¹⁰²

99. Mark Thompson, *The Navy's Mission to Search and Destroy Smut*, TIME (June 12, 2013), <https://nation.time.com/2013/06/12/the-navys-mission-to-search-and-destroy-smut/>.

100. *Visual Inspection of All USMC Work Spaces*, MARINES (June 14, 2013), <https://www.marines.mil/News/Messages/Messages-Display/Article/895599/visual-inspection-of-all-usmc-work-spaces/>.

101. See BENEDICT, *supra* note 97, at 227 ("Studies have shown that commanders who ban pornography, treat their female soldiers with respect, and insist that other soldiers do likewise significantly reduce sexual persecution.").

102. See U.S. COAST GUARD, SEXUAL ASSAULT PREVENTION, RESPONSE, AND RECOVERY STRATEGIC PLAN 11 (2018–2022), https://www.uscg.mil/Portals/0/seniorleadership/COC/2018/SAPRR%20Plan_2018.pdf ("All Coast Guard members must be aware and understand . . . the importance of their individual role in achieving a workplace free of sexual assault and other concerning behaviors. Early identification of concerning behaviors and proactive, intrusive leadership to address them maintains unit cohesion and a positive command climate. Prevention also requires enhanced knowledge and skills to accurately assess risks or developing situations and the employment of effective tools to intervene, as appropriate.").

B. *Knowing Your Enemy: Training to Understand the Danger of Pornography*

The preceding discussion of removing pornography from the military workplace had as its focus the harms inflicted on *others* by the presence of pornography. While military leaders must establish and defend a culture in which pornography is not tolerated in the military workplace, they must also educate service members about the pronounced harms of pornography to the *user*, irrespective of where that pornography is consumed. Military-focused publications such as *Navy Times*, *Army Times*, and *Military Times* have sounded the alarm regarding the devastating personal and professional consequences of pornography use and addiction. Indeed, these publications have recently detailed the many ways in which pornography use and addiction have left a trail of depression,¹⁰³ broken marriages,¹⁰⁴ and ruined careers¹⁰⁵ across the military services.

The military's silence regarding the harms of pornography use stands in sharp contrast to its approach to other demonstrably harmful behaviors, and especially to behaviors with an adverse impact on mission readiness. For example, American service members in the Vietnam War "used drugs more heavily than any previous generation," including widespread use of heroin, amphetamines, and marijuana.¹⁰⁶ Such rampant addiction among servicemembers was shocking to the public and spurred the Nixon Administration's creation of the Special Action Office of Drug Abuse Prevention.¹⁰⁷ At the same time, military leaders initiated prompt, sweeping measures to address drug use, many of which remain in effect today.¹⁰⁸ For example, the DOD began its "urinalysis" drug testing program in 1971, and various formulations of a zero-tolerance policy on drug use are still in force across the military services.¹⁰⁹ In accordance

103. See *Addicted to Online Porn*, *supra* note 32 (describing "a former Marine Force Recon specialist . . . disgusted with himself, but inexplicably drawn into it even as he shut out his family and sank into depression.").

104. See *id.* ("Online erotica has been a marital minefield since the dawn of the Internet. But with the explosion of Web 2.0—social networking sites, video sharing, blogs, wikis, and mash-ups—the seamy side of Porn 2.0 is picking of military marriages and promising careers like a shadow army of well-placed snipers.").

105. See Meghann Myers, *Strike Group Boss Watched Porn for Hours on Navy Computer: Report*, NAVY TIMES (Mar. 8, 2016), <https://www.navytimes.com/news/your-navy/2016/03/09/strike-group-boss-watched-porn-for-hours-on-navy-computer-report/> ("Relieved on Jan. 9, 2016 as commander of Carrier Strike Group 15, [Rear Admiral Rick] Williams admitted to viewing explicit photos and videos multiple times for as long as nine hours while underway on the amphibious ship Boxer in 2015 . . .").

106. See Adam Janos, *G.I.'s Drug Use in Vietnam Soared—With Their Commander's Help*, HISTORY (Aug. 29, 2018), <https://www.history.com/news/drug-use-in-vietnam>.

107. *Id.*

108. E.g. Stephen L. Mehay & Rosalie Liccardo Pacula, *The Effectiveness of Workplace Drug Prevention Policies: Does 'Zero Tolerance' Work?* 6 (Nat'l Bureau of Econ. Research, Working Paper No. 7383, 1999), <https://www.nber.org/papers/w7383>.

109. See *id.*

with these zero tolerance policies, a positive urinalysis test typically results in criminal punishment or administrative separation proceedings.¹¹⁰

Importantly, however, the military has also instituted an array of drug and alcohol abuse *prevention* programs, which educate soldiers on the risks of substance abuse and addiction.¹¹¹ Specifically:

DOD mandates that substance abuse education be provided to all service members. Each military service operates a substance abuse prevention program that provides a wide range of education and training services targeted to individual service members, health care providers, and unit commanders. Prevention efforts also include the anonymous Drug Take Back program at every military treatment facility (MTF), active health surveillance for at-risk service members, and annual screenings for problematic substance use behaviors.¹¹²

The military has taken a similarly holistic approach to addressing previously widespread instances of service members abusing alcohol and driving under the influence.¹¹³ Moreover, these prevention programs are increasingly attuned to the reasons soldiers may turn to substance abuse as a coping mechanism, including post-traumatic stress disorder, financial difficulties, deployment-related stress, and family struggles.¹¹⁴ These education and prevention strategies are further complemented by visible, vocal command leadership, including officially designated “command drug and alcohol representatives” to provide resources related to substance abuse prevention and treatment.¹¹⁵ The results have been

110. *Id.*

111. *See, e.g.*, UNDER SEC’Y FOR PERS. & READINESS, U.S. DEP’T DEF., DRUG ABUSE PREVENTION, <https://prhome.defense.gov/ForceResiliency/DDRP/Prevention/> (providing links to resources including, among others, the Army Center for Substance Abuse Programs, Navy Alcohol and Drug Abuse Prevention Program, Center for Substance Abuse Treatment, and the Deployment Health Clinical Center).

112. BRYCE H.P. MENDEZ, CONG. RSCH. SERV., 7-5700, SUBSTANCE ABUSE PREVENTION, TREATMENT, AND RESEARCH EFFORTS IN THE MILITARY 2 (2018).

113. *See* Lizette Alvarez, *Home from the War, Many Veterans Battle Substance Abuse*, N.Y. TIMES (July 8, 2008), <https://www.nytimes.com/2008/07/08/world/americas/08iht-vets.1.14322423.html> (“The military is working to transform a culture that once indulged in heavy drinking as part of its warrior ethos into one that discourages it and encourages service members to seek help.”); *see also id.* (statement of Lt. Col. George Wright, U.S. Army) (“The army takes alcohol and drug abuse very seriously and has for tried for decades to deglamorize its use. With the urgency of this war, we continue to tackle the problem with education, prevention, and treatment.”).

114. *See generally* INST. MED., SUBSTANCE USE DISORDERS AND THE U.S. ARMED FORCES 57 (Charles P. O’Brien, Maryjo Oster, & Emily Morden eds., 2013) (“Studies have suggested that multiple deployments and high levels of stress associated with combat exposure and injury may increase the likelihood of behavioral and mental health issues among service members, including drug and alcohol abuse, posttraumatic stress disorder (PTSD), and depression.”).

115. *See, e.g.*, *Substance Abuse Prevention Program* (SAPP), U.S. COAST GUARD, <https://www.dcms.uscg.mil/Our-Organization/Assistant-Commandant-for-Human-Resources->

encouraging. From 2009 to 2016, “the number of new alcohol or substance abuse diagnoses per year has been on a declining trend,” which the DOD attributes to the “education, prevention, and treatment programs it has developed over the past decade.”¹¹⁶

The military has wisely invested in educating service members about the risks and harms of drug and alcohol abuse. Further, it has established a robust support structure to assist and treat servicemembers struggling with addiction. Finally, it has fully integrated and reinforced these support structures through visible command leadership, fostering trust and removing past stigmas associated with seeking help. This comprehensive approach to educating soldiers about the risks of substance abuse should serve as the model for training soldiers to understand the risks of pornography, to recognize pornography’s adverse personal and professional consequences, and to defeat pornography addiction. Former Army officer Laura Westley, reflecting on her own experiences in the military, noted that:

It’s taken years for me to realize that many of my war buddies were suffering from an addiction on par with alcoholism or drug abuse. So if substantial and comprehensive rehabilitation are used to combat alcohol and drug abuse, then the same measures should also be used to address pornography.¹¹⁷

To be sure, such measures are a necessary, but not sufficient, component of the broader effort that will be required to unseat the pervasive presence of pornography in military culture. But understanding pornography’s harms is a critical first step. Societal views on cigarettes provide an instructive example. Once a glamorized staple of popular culture, cigarette consumption plummeted in the United States once the truth regarding its addictive properties and devastating health consequences were made known.¹¹⁸ In like manner, the military has an obligation to make the addictive grip of pornography and its very real mental and physical health consequences clear.¹¹⁹ Given the rise of online

CG-1/Health-Safety-and-Work-Life-CG-11/Office-of-Work-Life-CG-111/Substance-Abuse-Prevention-Program-SAPP-Office-of-Work-Life-CG-111/ (last visited Nov. 16, 2021) (describing the role of the U.S. Coast Guard’s Substance Abuse Prevention Specialists and Command Drug and Alcohol Representatives).

116. MENDEZ, *supra* note 112, at 1.

117. *See* Westley, *supra* note 25.

118. *See* PAUL, *supra* note 8, at 254 (“Just as cigarette smoking was glamorized and encouraged in popular culture throughout most of the twentieth century, and then discouraged and regulated once its harm became clear, Americans need to be informed about pornography’s negative impact—about how its unabashed acceptance is not a step forward for women, nor a harmless diversion for me, nor a step toward a more open and liberalized sexuality.”).

119. *See* Peter J. Smyczek & Kenneth Artz, *Sexual Assaults in the Military: Porn is Part of the Problem*, PUB. DISCOURSE (June 14, 2013), <https://www.thepublicdiscourse.com/2013/06/10360/> (“[I]t would be foolish to ignore the well-documented risks associated with pornography consumption. As with any other highly addictive

pornography, the military should also integrate pornography-specific studies into broader research regarding the adverse effects of excessive personal technology use (“PTU”) on troop health and operational mishaps.¹²⁰ In light of the extraordinary strain placed on modern military members and their families, including two decades of war on multiple fronts, it has never been more important for military leaders to fix a weather eye on the devastation that pornography wreaks on personal and military readiness. It is incumbent upon those leaders to ensure that every servicemember is aware of the dangers of pornography and is supported in their effort to break the grip of pornography addiction.

C. *Breaking the Chain—Pornography and the “Continuum of Harmful Behaviors”*

Part III of this paper discussed the unsettled debate regarding the existence of a causal relationship between pornography consumption and sexual assault.¹²¹ Assuming *arguendo* that a causal relationship has not been established, military leaders must still recognize that pornography—present in the workplace or privately viewed—is part of a broader “continuum of harmful behaviors” that can and in some cases does lead to sexual assault. Indeed, the Defense Advisory Committee on Women in the Services (DACOWITS) has described this continuum as beginning with sexual harassment such as vulgar pictures and sexual comments, escalating to inappropriate advances, and in some cases concluding in sexual assault, including sexual bribery, fondling, and rape.¹²² As noted in the 2018 DACOWITS Annual Report, it is incumbent upon military leaders to take prompt action to break this chain of harmful behavior.¹²³ This includes decisive action to identify and redress not only “substantiated incidents of gender discrimination and sexual harassment, but also the reported incidents across the continuum of behaviors that lead to the more serious offenses.”¹²⁴ The DACOWITS Report echoes similar conclusions reached by the RAND Corporation in its landmark

substance, the prudent course would be to warn our military members about these risks. The military, serving the paternal role it does, already deals with alcohol and narcotic consumption in similar and ordered fashion. Leadership should also take action to help those already addicted to pornography before their lives or careers (or the lives of others) are ruined by this addiction.”)

120. For a thoughtful analysis of the need to study and address excessive personal technology use (“PTU”) in the military, see Captain Peter Ryan, *Technology: The New Addiction*, PROCEEDINGS (Sept. 2018), <https://www.usni.org/magazines/proceedings/2018/september/technology-new-addiction>.

121. See *supra* notes 49–51 and accompanying text.

122. See DEF. ADVISORY COMM. ON WOMEN SERVS., U.S. DEP’T DEF., 2018 ANNUAL REPORT 33, <https://dacowits.defense.gov/Portals/48/Documents/Reports/2018/Annual%20Report/DACOWITS%20Annual%20Report%202018.pdf>.

123. See *id.* (“The importance of understanding how inappropriate behaviors start and develop into more serious transgressions that ultimately harm unit climate and cohesion among Service members cannot be overstated.”).

124. *Id.*

Workplace Study Regarding Sexual Assault and Sexual Harassment in the U.S. Military, which found that command-level “interventions designed to correct workplace norms and standards” were instrumental in rectifying the “pathology of order and discipline that produces sexual assault.”¹²⁵

Military JAG officers are uniquely positioned to see how this continuum of harm plays out in practice. Indeed, documenting occurrences along the continuum, and the horrific culmination, is often part and parcel of sexual assault prosecution. CDR Bryan Blackmore, a U.S. Coast Guard trial counsel and Chief of Military Justice, has argued convincingly that “efforts to prevent sexual assault must include directly addressing behaviors found at the lower end of the sexual violence continuum, starting with the enabling offense of sexual harassment.”¹²⁶ Importantly, CDR Blackmore specifically includes “unwanted exposure to pornography” among these “lower-end” behaviors.¹²⁷ Similarly, U.S. Air Force Captain Megan Schmid has noted that “destructive aspects of the military culture,” including misogynistic behavior that subordinates female service members, are the “source of military sexual assault.”¹²⁸ The unmistakable message of pornography is subordination and objectification of women.¹²⁹ It therefore has no place in a modern military that is predicated on the contributions and equal status of women. Until the presence and adverse impacts of pornography in the life and culture of the U.S. military are acknowledged and squarely confronted, the problem of sexual assault in its ranks will remain.

V. CONCLUSION

Congressional and military leaders have led robust efforts to address the problem of sexual harassment and assault in the U.S. Armed Forces. The progress that has resulted from these measures is laudable. However, these sweeping efforts have overlooked pornography and its corrosive effect on good order and discipline. Indeed, pornographic publications continue to be sold at hundreds of military bases, and a distressing number of laissez-faire military commanders continue to tolerate these

125. ANDREW R. MORRAL ET AL., 5 *SEXUAL ASSAULT AND SEXUAL HARASSMENT IN THE U.S. MILITARY* 78 (2018), https://www.rand.org/content/dam/rand/pubs/research_reports/RR800/RR870z7/RAND_RR870z7.pdf.

126. See Bryan Blackmore, *Sexual Assault Prevention: Reframing the Coast Guard Perspective to Address the Lowest Level of the Sexual Violence Continuum—Sexual Harassment*, 221 MIL. L. REV. 75, 80 (2014).

127. *Id.* at 106.

128. See Megan Schmid, *Combating a Different Enemy: Proposals to Change the Culture of Sexual Assault in the Military*, 55 VILL. L. REV. 475, 506 (2010).

129. See PAUL, *supra* note 8, at 262 (“The sexual acts depicted in pornography are more about shame, humiliation, solitude, coldness, and degradation than they are about pleasure, intimacy, and love. . . . Pornography is, at its core, the commercialization of women, turning men into consumers and women into a product to be used and discarded.”).

materials in their ranks. If the U.S. Armed Forces want to seriously address the scourge of sexual assault, they must establish and defend a culture that refuses to tolerate pornography in the military workplace. Moreover, military leaders should recognize that like substance abuse and addiction, pornography use and addiction exacts physical and psychological harms that degrade mission readiness and unit cohesion. Accordingly, it is incumbent upon military leaders to educate service members about the risks of pornography and provide comprehensive assistance to break the chains of addiction. Further, the U.S. military must better understand the role of pornography in a broader continuum of harmful behavior that leads to sexual assault. Military leaders must take decisive action against pornography to replace that continuum of harm with an enduring culture of respect.