

Testimony of  
**Ms. Bonnie O'Neill**

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My following statements may seem like a plea for help, but how, as a mother, could I address you otherwise. I am overwhelmed to be here, and my aim is one I have had in mind for close to nine years. I was notified of my daughter Kerry's death in work on December 1, 1993, an occurrence not imaginable previously even in my most horrible nightmares.

Kerry was the youngest of my three children, with a brother, Ed, and a sister, Kristen who was just one year older than Kerry and her constant companion. Since our family had no military background, I found Kerry's desire to apply to the USNA surprising.

Her final selection possibilities included some extremely prestigious colleges. Kerry decided to combine some suspense with humor by waiting until May 1, the deadline for admission to the Naval Academy, to make her announcement of college selection to us. We were all on edge. She designed a selection form with a box in front of each college and on the morning of May 1 this form was hanging on my bedroom door with the USNA checked.

Kerry said she had made her choice because she wanted the combination of academics with the opportunity of serving her country. Although I had always let Kerry know I would accept any decision she made, internally I was quite apprehensive. I realized, as she did, her future would be very difficult and demanding. I knew I had to trust the military with Kerry's life. Her next four years constantly challenged her and yet she responded to all of the challenges, excelling in every aspect of her naval career. We were all so very proud of her accomplishments!

Kerry graduated in the top 5 per cent of her class. In addition she excelled at sports, receiving twelve varsity letters in four years. Although she was a walk-on in track, she was the first female division II All-American in women's cross country and the first female athlete to qualify for NCAA Division I championships at the Academy. Kerry set Academy records in cross country and other track events. She was honored in her senior year by receiving the award of the top honor for a female athlete - the Vice Admiral William P. Lawrence Sword. Kerry was selected to serve as a representative of the USNA in the Australian Navy during her final summer at the Academy. But most important Kerry was a sincere, kind and loving woman with high aspirations. People whose lives she touched will always remember her.

Upon graduation from the Academy, Kerry received an appointment in the Civil Engineering Corps. After training in California, she was stationed at Coronado Naval Base and received a position of leader on a reconstruction project at the base. She loved the Navy and the Naval base. She once said to me 'I wake up with the sun in the morning and run with the sun going down at night...and I love my freedom!'

I am presenting this background to you to emphasize the possibilities Kerry's life held. Then came December 1, 1993 and her life was abruptly ended by her ex-fiancée, George Smith, who also graduated from the USNA. They were serving at different naval installations, working in entirely different jobs, near San Diego, California. Smith seemed to be unable to deal with the ending of the engagement. As the time got closer to his serving his first tour of duty on a submarine, Smith's erratic behavior got more pronounced - he followed Kerry around and appeared uninvited where she was socializing with other people. While this was disturbing, it did

not seem all that unusual to people considering Smith's situation.

But two days before Smith was to start his first submarine tour, Kerry was obviously concerned and asked a friend, John Dye, at the office at which she worked to visit her that evening.

Unfortunately he could not. Then while working out at a gym, Kerry met Lt. Alton Grizzard, another friend from the Academy who was well known as having been the quarterback on the Academy's football team, and asked for help. Grizzard agreed and paid her a visit, during which they watched a movie. George Smith appeared uninvited and he and Kerry had a heated discussion in the lobby of the Bachelor Officer's Quarters where she lived at the Coronado Naval base.

Smith went back to his apartment and in fact telephoned me at midnight California time, which was 3 a.m. in Pennsylvania, as I was sitting up with a sick friend. He told me that Kerry was dating another man and asked what he could do. I told him to give her time to make her mind up, that she was only 21 years old. I have had to live with the memory of that phone call ever since. George did not listen to me and returned to Kerry's BOQ, carrying two loaded handguns past the guard to her room. He fired seven shots killing Kerry and Alton Grizzard, and Smith then killed himself. A great emptiness grew in the lives of her family, friends, and associates.

As the months went on, our family requested the results of the Navy's investigation into these murders. The Navy supplied that information, and this is what we discovered:

? Kerry had been killed by Smith a day before he was to report for his first submarine duty tour.

? The Navy also found that Smith was psychologically unfit for submarine duty. He had a serious personality disorder, was extremely aggressive and could not control his behavior under stress. In addition he could not deal with the months of isolation from friends and family and lack of apparent control of his personal situation that submarine duty involves.

? The Navy was made aware of this because two months earlier it had required Smith, like all candidates for submarine duty, to take a psychological screening test. The results of the screening, under normal procedure, would have dictated whether further psychological testing would be necessary. Smith's results were so unusual and departed so far from normal that in its later investigation the Navy concluded that, in Smith's case no such further psychological testing would have been necessary to immediately disqualify him for submarine service.

? These results showed Smith to be more than four standard deviations above normal (above the 99.99 percentile) in aggressive and destructive behavior and more than two standard deviations above normal in six other categories, including low situational control, impulsive behavior, and negative motivation. These are obviously not impressive traits for a future nuclear engineer scheduled to report for duty on a nuclear submarine. George responded to test questions with answers such as 'I know how to make people uneasy when I want to. I can get away with anything when I want.'

But with the screening test abnormal results so pronounced, why didn't Smith's obvious mental unsuitability for submarines disqualify him for submarine duty? Why was screening performed if normal procedures wouldn't be followed for USNA graduates? If Smith were disqualified, he would not have been under the severe pressure that caused him to kill Kerry, himself, and Alton Grizzard. If those deaths didn't occur that December 1, could numerous military lives aboard a submarine have been sacrificed in the future when Smith suffered acute stress?

The answer was and remains shocking and amazing to me - it is that in violation of the Navy's procedures the psychological screening test results were not read or scored by the Navy's civilian psychologist whose job it was to do that. Thus the evil in those results was not discovered until a subsequent investigation - until after Kerry's life, Smith's life, and Grizzard's life, and their future

naval careers, had been lost.

I think that someone needs to assume responsibility for this. The Navy had appropriate procedures, which had identified Smith's very erratic and troubling mental problems, even though he may have appeared to be normal to those who knew him. But Dr. John Wallace, the Navy's civilian psychologist, just did not read them. Although Dr. Wallace at first claimed he never received these results until after Kerry's death, he indicated during the investigation that that while testing of enlistees was worthwhile, that for officers who had attended the Naval Academy it was unnecessary.

The Navy finally read Smith's test results after Smith had killed three naval officers. Lieutenant Commander E. C. Calix, a Navy psychologist, performed the review and concluded that the test results showed that Smith should have been screened psychologically before being allowed to serve on a submarine, but also that the results, and other evidence of Smith's behavior showed clearly, without further testing, that Smith was not suited for submarine duty (including false answers to certain background questions -on which Smith falsely stated, for example, that he had been married for six months).

The test evaluation, according to the Navy regulations, should have triggered further counseling and psychological evaluations, which most certainly would have necessitated additional treatment. Smith needed their help. If the Navy's procedure had been followed, my daughter's death most likely would not have occurred. The correct steps defined by the Navy were not followed.

The Navy admitted the negligence and oversight in their investigation, knowing that the Supreme Court's Feres Doctrine would protect them from legal responsibility. I can't imagine why any entity - whether a person, a business, or a military service - should not be held accountable for its careless actions. Kerry had devoted her life to the military and because of this fact her death was accepted without any possible repercussions. The rights of a civilian were denied her.

Dan Joseph and his firm, Akin, Gump, Strauss, Hauer, and Feld, did everything in their power to right this situation. For several years, we went from the District Court to the Third Circuit Court of Appeals, to the Supreme Court, and every appeal was denied. How could this injustice be perpetuated! We were told that the Supreme Court interprets the laws, but Congress is the country's lawmaker! We were told that the Feres Doctrine is not based on any part of what Congress wrote in the Federal Tort Claims Act, and that if that statute would have applied as it was written, the Navy would have been responsible for its failure to read the test results. I think that the Congress, which we elect, understands these issues better than the Supreme Court and I ask that the Congress do away with the Court's doctrine.

I am here because I need your help for the future. We have lost our case and there is no way we can change that. I am trying to prevent what happened to Kerry from happening to others in the future. All of you, unless you have lived through a similar situation, could not possibly imagine the pain and frustration Kerry's family has endured. My goal today is to do what I can to prevent this from happening to others - to ask you to require that the United States assume responsibility for their actions when not in time of war. This will reduce the amount of negligence, which the Feres Doctrine licenses. The Feres Doctrine should be repealed. We have lost Kerry, but her death will then not be in vain.