

UNITED STATES DEPARTMENT OF DEFENSE

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JUDICIAL PROCEEDINGS PANEL

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PUBLIC MEETING

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FRIDAY
DECEMBER 12, 2014

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The Panel met in the Holiday Inn
Arlington at Ballston, Arlington Ballroom, 4610
Fairfax Drive, Arlington, Virginia, at 10:11
a.m., Hon. Elizabeth Holtzman, Chair, presiding.

PRESENT

Hon. Elizabeth Holtzman
Hon. Barbara Jones
Victor Stone
Tom Taylor
VADM(R) Patricia Tracey

WITNESSES

Ms. Phylista Dudzinski
Ms. Simone Hall
Ms. Marie Brodie
Ms. Gloria Arteaga
Sergeant First Class Bridgett Joseph
Lieutenant Commander Kelley Stevens
Petty Officer N.S.
Major William Ivins III
Ms. J.B.
Captain Christopher Mangels
Ms. R.S.
Lieutenant Kathryn DeAngelo
Airman V.T.
Captain Brian Stransky
Specialist A.S.
Vice Admiral M. Nannette DeRenzi
Lieutenant General Flora D. Darpino
Lieutenant General Christopher F. Burne
Rear Admiral Steven D. Poulin
Colonel John Baker

STAFF

Lieutenant Colonel Kyle W. Green, U.S. Air
Force - Staff Director
Maria Fried - Designated Federal Official

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1 P-R-O-C-E-E-D-I-N-G-S

2 (10:11 a.m.)

3 CHAIR HOLTZMAN: Good morning,
4 everybody. I would like to welcome everyone to
5 the December Meeting of the Judicial Proceedings
6 Panel. All five members of the Panel are here
7 today. Today's meeting is being transcribed and
8 also video-recorded by Army Television. The
9 meeting transcript and link to the video-
10 recording will be posted on the JPP's website.

11 The Judicial Proceedings Panel was
12 created by the National Defense Authorization Act
13 for Fiscal Year 2013, as amended by the National
14 Defense Authorization Act for Fiscal Year 2014.
15 Our mandate is to conduct an independent review
16 and assessment of judicial proceedings conducted
17 under the Uniform Code of Military Justice
18 involving adult sexual assault and related
19 offenses since the most recent amendment to
20 Article 120 of the UCMJ in 2012.

21 Today's meeting continues the Panel's
22 assessment of Special Victims' Counsel, or SVC,

1 programs established by each of the military
2 services in 2013.

3 In this morning's first session we
4 will hear perspectives about the military's SVC
5 Program from representatives of Protect Our
6 Defenders, an advocacy organization dedicated to
7 reforming the U.S. military systems related to
8 the issue of rape and sexual assault.

9 Unfortunately, other advocacy
10 organizations were invited this morning but could
11 not attend. The Panel welcomes the perspectives
12 they wish to provide on issues we have been
13 tasked to evaluate.

14 Next, we'll hear from Sexual Assault
15 Response Coordinators from each of the military
16 services, who will share with us their
17 perspectives about what effects the SVC Programs
18 have had on providing support to sexual assault
19 victims.

20 Following our lunch break, we will
21 hear from SVCs and clients they have represented.
22 We are grateful that these clients agreed to meet

1 with us and share their experiences and
2 impressions of working with the SVCs. We think
3 it's important to hear and understand their
4 perspectives.

5 In volunteering to meet with us, some
6 of the presenters expressed concerns about their
7 privacy. To accommodate those concerns, we will
8 not video-record their appearance, although their
9 remarks will be transcribed. We will refer to
10 clients by their initials only in the transcript
11 and in the session.

12 We are also pleased to hear this
13 afternoon from the Senior Judge Advocates of each
14 of the military services. We look forward to
15 receiving their views on the SVC Programs and the
16 other topics the Panel has considered in its
17 previous meetings.

18 Each public meeting in the Judicial
19 Proceedings Panel includes time to receive
20 comments and input from the public. The Panel
21 did not receive any requests from the public to
22 appear at today's meeting. We received one

1 written comment, which was provided to the Panel
2 members and will be posted to the JPP website.
3 All materials received by the Panel members for
4 today's meeting and previous meetings are
5 available on the JPP website at jpp.whs.mil.

6 Thank you very much for your
7 attention. And I believe we are ready to begin
8 our first session, and --

9 MS. FRIED: Madam Chair?

10 CHAIR HOLTZMAN: Yes.

11 MS. FRIED: If I may, thank you for
12 your comments, and as you indicated, the meeting
13 is now open.

14 CHAIR HOLTZMAN: Thank you very much.

15 So I guess my comments now ex post
16 facto are legitimate.

17 (Laughter.)

18 CHAIR HOLTZMAN: Good, thank you, I
19 don't have to repeat them all.

20 Okay. Our first Panel consists of
21 non-military perspectives on the SVC Program, and
22 we are very pleased to have Colonel Don

1 Christensen, Retired, of the U.S. Air Force who
2 is the new president of Protect Our Defenders.

3 Colonel Christensen, I read a little
4 bit about you in a recent New York Times magazine
5 article, which was highly complimentary, so I
6 look forward to hearing your comments on the SVC
7 Program. Thank you very much.

8 COL (RET) CHRISTENSEN: Thank you,
9 Chairwoman Holtzman. And Robert Draper is an
10 excellent writer, he can make anybody look good.

11 Good morning and thank you for the
12 opportunity to speak about the SVC Program. Let
13 me start by saying that I am a big supporter of
14 the Program, and Protect Our Defenders has been a
15 champion of the Program from its inception.
16 Protect Our Defenders has filed amicus briefs in
17 several important appellate cases involving
18 victims' rights, including LRM v. Kastenberg.

19 Thanks to the efforts of Congress,
20 military survivors of sexual assault now have the
21 right to a confidential advisor to help guide
22 them through the complex and adversarial process.

1 The SVC Program has given our military survivors
2 a voice where they had none. However, this does
3 not mean the program is without challenges or
4 need of improvement, nor will it impact the
5 degradation of mission readiness caused by the
6 failures to structurally reform the broken
7 military justice system.

8 To his credit, the former Air Force
9 Judge Advocate General, Lieutenant General
10 Richard Harding, was the first of the Services'
11 Judge Advocate Generals to provide survivors with
12 a military counsel. When he did so, many but not
13 most of the senior leaders of the Air Force JAG
14 Corps opposed him. He was also opposed by the
15 other Services. I admire Lieutenant General
16 Harding for his determination to initiate this
17 new program in the face of such opposition.
18 Unfortunately, the opposition of the SVC Programs
19 are still prevalent.

20 Within a few days of the Air Force
21 launching the SVC Program, I had the opportunity
22 to meet with the Joint Services Committee to talk

1 to them about what the Air Force was doing. I
2 also at that time told them that this was a sea
3 change, and that in order for the program to
4 work, the Joint Services Committee needed to
5 propose changes to the Manual to codify the role
6 of the SVC.

7 The members of the Joint Services
8 Committee were dismissive of the Air Force, and
9 they were not interested in many of the Rules of
10 Courts-martial. Instead, they talked about doing
11 a study to see if there was a need for the SVCs.
12 Now, almost two years later, the Joint Services
13 Committee still has not proposed rules governing
14 the SVC's role in the court-martial process.
15 Rather it has been left to the appellate courts,
16 trial judges, and staff judge advocates to ad hoc
17 define the role of an SVC.

18 The results have been haphazard
19 implementation of the programs throughout the
20 Services, with an ill-defined role of the SVC in
21 the courts-martial process.

22 I remember while preparing the

1 Government's response for the LRM appeal talking
2 to a very senior member of the Air Force JAG
3 Corps. He told me the SVC Program was
4 unnecessary because "the prosecutor represents
5 the victim."

6 I was stunned that such a senior
7 member of the JAG Corps did not understand the
8 ethical limitations that would prohibit a trial
9 counsel from representing the victim or providing
10 the victim legal advice. I bring this brief
11 history up so that this Panel may understand that
12 many in the Services vehemently opposed the
13 creation of the SVC Program, and many continue to
14 resist it today.

15 As a result of this hostility to the
16 program, final improvements have not been made.
17 CAAF decided LRM almost 18 months ago, yet
18 despite the fact that CAAF recognized the right
19 of a victim to be heard through counsel, no steps
20 have been made to define SVC's role through
21 changes to the Rules for Court-Martial.

22 As a result of this neglect, SVCs face

1 a continual struggle to be heard in court, to
2 receive evidence needed to represent their
3 survivors, to have access to motions filed by the
4 parties, or to be consulted prior to the
5 scheduling of Article 32 hearings, Article 39(a)
6 sessions, or the court itself.

7 For the SVC Program to be effective,
8 it is time for these reforms to be made. The
9 Rules for Court-Martial must be amended to
10 empower SVCs to fully represent their clients.
11 It is time to stop the guessing game as to what
12 the SVC's role will be in the process. These
13 Rules need to make it clear that the SVC is
14 entitled to discovery of evidence and access to
15 motions filed before the court.

16 Forcing survivors to file FOIA
17 requests to receive evidence is simply
18 unacceptable. It must be clear at what times the
19 SVC may advocate before the court and to what
20 extent the SVC's schedule must be considered when
21 setting dates for hearings. To leave that at the
22 whim of the SJAs and the judges is simply unfair

1 to the victims and the judges.

2 As a former military judge, I can tell
3 you judges prefer to have clear rules rather than
4 guessing what the right answer is. In addition
5 to defining the role of the SVC in an adversarial
6 process at the court, it is equally important for
7 the clarity in helping a survivor navigate the
8 often hostile world of the chain of command.

9 The just-released RAND survey found
10 that 62 percent of military women who reported a
11 sexual assault faced retaliation, often from the
12 chain of command. Protect Our Defenders hears
13 all too often the stories of survivors who have
14 faced punishment, discharge and being ostracized.

15 SVCs tell us that they are often
16 powerless to help survivors overcome this
17 retribution. Moreover, SVCs tell us they have
18 been victims of retaliation themselves. Some
19 have told us while advocating for their client
20 they have been warned to "watch your rank" or
21 told by their superior that sometimes the
22 interest of the service comes before the interest

1 of their client.

2 Currently, SVCs cannot assist
3 survivors with complaints to Congress or the IG.
4 Moreover, SVCs are severely restricted in
5 representing clients who face adversarial or
6 criminal proceedings. This must be changed.

7 Finally, while we have many dedicated
8 SVCs, the services are not selecting experienced
9 counsel to fill these roles. SVCs have often
10 never prosecuted or defended a sexual assault or
11 rape case. For many, their first exposure to a
12 sexual assault case comes when they are advising
13 their first client who is a survivor.

14 The SVC Program is an important step,
15 in providing the few victims who report, a
16 confidential advisor, someone who is in their
17 corner to fight to protect their privacy rights.
18 But those who thought the program was a solution
19 to addressing the scourge of sexual assault and
20 rape are not correct. This mischaracterization
21 misleads Congress and the American public. It is
22 a cruel disservice to our servicemen and women

1 who are victims of sexual assault and too often
2 re-victimized by retaliation from their commands
3 and their units.

4 The time has come to strengthen this
5 promising program and to fundamentally reform the
6 system. This is a force protection issue. Delay
7 continues this epidemic and its corrosive effect
8 on the strength and well-being of our forces.

9 And thank you, I'll be happy to take
10 any questions.

11 CHAIR HOLTZMAN: Thank you very much,
12 Colonel Christensen. We will begin with Mr.
13 Taylor.

14 MR. TAYLOR: Thank you very much,
15 Madam Chairman. Thank you, Colonel Christensen,
16 for your 23 years of service to our country.
17 Like the Chair, I also read and enjoyed reading
18 about you and congratulate you on sticking with
19 something that you think is really important.

20 You mentioned that there is still
21 opposition to this idea of SVCs, and you seemed
22 to put part of that at the -- place part of it,

1 at least, in the responsibility of the JSC. Do
2 you perceive that that has changed any in light
3 of the statute authorizing the SVCs?

4 COL (RET) CHRISTENSEN: Well, I can't
5 speak to the current make-up of the JSC since I
6 haven't had any conversation recently, but my
7 past conversation with members of the JSC did not
8 indicate to me that they were in any hurry to get
9 the RCMs done. If they are working on that, that
10 would be a fantastic first step, but I would say,
11 after 18 months, that the time is now that they
12 have these rules in place.

13 MR. TAYLOR: Well, before leaving
14 active duty, you were talking with what you
15 described as senior members of the Air Force
16 legal community. Do you believe that there's
17 been any change in the attitudes of those people,
18 at least based on the statute and the fact that
19 we are a country governed by the rule of law?

20 COL (RET) CHRISTENSEN: There has been
21 a change in attitude on some, but there are many
22 in the senior leadership who still don't think it

1 was the right thing to do, who still think it was
2 an unnecessary step, who still think that they
3 should not be involved in the court-martial
4 process.

5 There is definitely hostility towards
6 it. General Harding was very strong about his
7 belief in the SVC Program and I think set a great
8 example, but I would have to say that there were
9 other senior officers subordinate to him that did
10 not share that view.

11 MR. TAYLOR: So do you believe that
12 this is a matter of culture that will change
13 slowly over time, or is it a matter of people
14 having to move out of a system and being replaced
15 by those who feel differently about it?

16 COL (RET) CHRISTENSEN: I think it's
17 a matter of culture. The one thing great about
18 the military is when they are told they have to
19 do something, they do it. Right now, although we
20 have statutory provisions establishing the SVC,
21 it has not established rules of how that is going
22 to actually practically work in the court-martial

1 process.

2 Once those rules are in place, then those who are
3 dismissive of the program will have to follow
4 along.

5 MR. TAYLOR: Thanks. Thank you, Madam
6 Chair.

7 CHAIR HOLTZMAN: Thank you. Judge
8 Jones?

9 JUDGE JONES: Yes, thanks.
10 Congratulations, Colonel. I wonder about one
11 thing, and that is resources. Because we have
12 heard not just that there aren't enough
13 experienced lawyers to staff SVC, but, in some
14 instances, there has even been some question
15 about the level of experience for prosecutors and
16 defenders. Is any of the opposition, or was any
17 of it, based on just the fact that there aren't
18 enough lawyers? And whether it was or it wasn't,
19 what is your opinion about that?

20 COL (RET) CHRISTENSEN: Sure. Well,
21 there is definitely that claim, that there is not
22 enough attorneys, but I find that a little bit

1 ironic since we just forced about 100 JAGs out of
2 the Air Force who were Special Victims' Counsel,
3 Senior Trial Counsel and Special Victims'
4 Prosecutors, Defense Counsel.

5 I think that is a priority. You know,
6 the Chief of Staff of the United States Air
7 Force, if he wants to make this a priority, he
8 says he does, he could have said we are going to
9 keep those 100 attorneys --

10 JUDGE JONES: Are you saying, as part
11 of a downsizing, the choice was made to get rid
12 of the lawyers?

13 COL (RET) CHRISTENSEN: Yes, yes. And
14 we just went through a process where we forced
15 out, I believe, 13, I believe, I could be wrong,
16 maybe 13 -- 13 senior O-6s, including four
17 members of our judiciary who were forced to
18 retire early. And then we also had, like I said,
19 about 100 of our younger captains who were right
20 in the sweet spot and where we want people to be
21 who prosecute, defend, and represent clients.
22 That's a priority issue.

1 JUDGE JONES: I don't suppose you have
2 any suggestion about what could really be done
3 about that?

4 COL (RET) CHRISTENSEN: Sure. Well,
5 number one is the Service Chiefs of Staff can
6 come out and say this is a priority for us. The
7 JAG Corps makes up, I think, it's something like
8 two percent of the officer corps. It's a very
9 small percentage. So when you're looking at
10 making cuts to the overall Service, this is a
11 drip, it's an accounting error.

12 We reduced our end strength, I
13 believe, by 22,500. One hundred JAGs is, like I
14 said, that's an accounting error. They really
15 want to take this seriously? Say we're going to
16 keep those JAGs, we're going to put them in those
17 positions.

18 At the time we stood up the SVC
19 Program, eight of our SVCs were forced out of the
20 Air Force. At the time we stood up our Special
21 Victims' Prosecutors program, we forced Special
22 Victims' Prosecutors out of the Air Force.

1 Our Area Defense Counsel, I believe it
2 was almost 14 or 20 of them were forced out of
3 the Air Force. Area Defense Counsel do a vital
4 role for the military justice system. And this
5 is where our best prosecutors come from, this is
6 where we could have got our best Special Victims'
7 Counsel from, but the priority was reduction
8 versus making sure we had these people in place.

9 I lost my only woman Special Victims'
10 Prosecutor, and, you know, there's a lot that a
11 woman brings as a prosecutor that a man can't
12 bring in a lot of different cases. Only one I
13 had, fantastic lawyer, forced out because of a
14 priority decision.

15 I do think that there is a way to take
16 care of the errors, and that is called litigation
17 tracks. In other words, the JAG Corps of each
18 Service need to come up with a program where we
19 take military justice seriously and we train and
20 we make it a career decision to train people who
21 will be good prosecutors, good defense counsels,
22 and then build a foundation for people to have

1 the qualifications to be judges.

2 JUDGE JONES: Am I right that the Navy
3 has something along that model?

4 COL (RET) CHRISTENSEN: Yes.

5 JUDGE JONES: Or maybe that is their
6 model?

7 COL (RET) CHRISTENSEN: Yes. That is.
8 I'm not an expert on what the Navy does, but I
9 know that that is what their ideal is.

10 JUDGE JONES: So I take it what you're
11 saying is, as each service is given a number or a
12 percentage of downsizing that they have to do,
13 there are still discretionary decisions made as
14 to where to apply those metrics or whatever you
15 want to call them.

16 COL (RET) CHRISTENSEN: Absolutely.
17 And if I could give you an example where that
18 discretion occurs currently, and it just was
19 reported yesterday, and it was something that was
20 before Congress, currently our three and four
21 star generals and some two star generals have a
22 total of 300 enlisted aides that do their

1 laundry, go shopping for them, clean their house.
2 That was a higher priority to keep enlisted aides
3 than it was to keep Special Victims' Counsel. So
4 it is a priority issue. You know, four star
5 generals are very well paid. They can hire
6 someone to clean their house.

7 JUDGE JONES: That is a pretty stark
8 example.

9 You mentioned the fact that it would
10 be good to have rules, and you mentioned a number
11 of areas where rules would be a good idea:
12 entitlement to discovery, access to motions, just
13 notice and consultation issues. Have you drafted
14 or begun to draft or are thinking of drafting
15 proposals?

16 COL (RET) CHRISTENSEN: Yes.

17 JUDGE JONES: And you'll give them to
18 us?

19 COL (RET) CHRISTENSEN: Yes, be happy
20 to do that.

21 JUDGE JONES: Okay, thank you.

22 CHAIR HOLTZMAN: Admiral Tracey.

1 VADM(R) TRACEY: Thank you for that,
2 Colonel. There are differences in how officers
3 and enlisted can be reduced, so let's not
4 oversimplify that.

5 COL (RET) CHRISTENSEN: I agree, but
6 it is still an end strength.

7 VADM(R) TRACEY: So is there a -- do
8 you have a point of view on whether the line and
9 the JAG Corps are similarly opposing the place of
10 a Special Victims' Counsel?

11 COL (RET) CHRISTENSEN: I can't speak
12 to how the line is reacting to the Special
13 Victims' Counsel. From my conversations with a
14 number of Special Victims' Counsel, they hear --
15 it's a wide range.

16 We have some Special Victims' Counsel
17 say the commanders have treated them great and
18 that they're very supportive. I've had other
19 Special Victims' Counsel tell me that senior,
20 more senior officers in the line have been very
21 dismissive of their views and told them that they
22 need to remember that they're talking to a

1 colonel, and so it's a wide range.

2 And sometimes we've had Special
3 Victims' Counsel tell us that when they brought
4 allegations of retaliation to the commander,
5 they've refused to do anything about it. We've
6 had other cases when they've brought those
7 allegations of retaliation, the commander has
8 been very supportive.

9 VADM(RET) TRACEY: And are you
10 suggesting in your statistics around the
11 distribution of reductions in the JAG Corps that
12 the people who have these particular focuses were
13 targeted for reduction?

14 COL (RET) CHRISTENSEN: I am not
15 saying they were targeted. There were
16 approximately 100, and I think about
17 approximately -- that were reduced. And there
18 were approximately, I would say, 30 to 40 that
19 were in military-justice-specific specialties
20 that were reduced. I am not saying they were
21 targeted, I'm just saying it was a priority
22 issue.

1 I know they'll say that they were
2 overmanned career fields. But we took on the
3 Special Victims' Counsel Program. Within the Air
4 Force, I believe they are up to 40 Special
5 Victims' Counsel. And that was something I think
6 General Welsh could have easily said, hey, this
7 is a new program, it's an important program, it's
8 something we're selling to Congress as the savior
9 of military justice, I want to make sure it's
10 adequately staffed.

11 I know from talking to my friends that
12 are still in the JAG Corps that they are having
13 difficulties finding the people with the right
14 qualifications to be filling the roles of the
15 officers we just forced out.

16 VADM(RET) TRACEY: Okay. For the
17 record, I mean, there -- it isn't any -- the
18 process for reducing officers is very different
19 from the process for reducing enlisted personnel,
20 so there are a lot more restrictions on how an
21 officer can be identified for forced reduction
22 than there are for enlisted personnel. So it

1 would be important not to convey that --

2 COL (RET) CHRISTENSEN: I am not
3 trying to convey that, but this was an end
4 strength number --

5 VADM(RET) TRACEY: Yeah.

6 COL (RET) CHRISTENSEN: -- and it was
7 an end strength decision, so.

8 VADM(RET) TRACEY: And to meet that
9 decision is a lot harder, that number in officers
10 is a lot harder than it is for an enlisted number
11 to be met.

12 COL (RET) CHRISTENSEN: And I
13 understand that completely, Admiral. All I'm
14 saying is the Chief of Staff does have the
15 ability to set priorities, and the Chief of Staff
16 -- we are a very small part of the entire Air
17 Force structure, and he could have set a
18 different priority.

19 CHAIR HOLTZMAN: Thank you. Mr.
20 Stone.

21 MR. STONE: Thank you. If I can turn
22 back for just a moment to the question that Judge

1 Jones was asking you about your view about a need
2 for some rules to set more definite guidelines in
3 a whole bunch of areas. If I heard you correctly
4 at the beginning, I think you said that it did
5 not appear to you that the Joint Services
6 Committee was moving quickly enough to get some
7 rules, any rules, that address this in place.

8 I wonder if you could briefly tell me
9 what alternative ways there are to get those
10 rules in place and if they are any quicker. We
11 heard other witnesses say, well, maybe the
12 Judges' Benchbook. But I don't myself know if
13 that is quick or slow. Are there any alternative
14 pathways, or is there any way to raise the
15 profile with the Joint Service Committee of the
16 need for rules?

17 COL (RET) CHRISTENSEN: Well, I don't
18 think the Judges' Benchbook is the answer. The
19 Judges' Benchbook is guidance, it's not binding
20 on anyone. You know, that's a clear precedent
21 from our highest courts, so a judge would have
22 discretion to either follow the Benchbook or not

1 follow the Benchbook. They go away from it at
2 their own risk, but when it came to something
3 like establishing rights for an SVC, they would
4 probably be pretty free to ignore what it said.

5 I think this is just a question of
6 priority, again. If the Judge Advocate Generals
7 make it clear that the Joint Services Committee,
8 we need these rules, we need them now. It's been
9 18 months since LRM, it's been almost two years
10 since we've established this program, why are
11 there not rules?

12 And I can tell you, as a judge, it is
13 completely unfair to the judges to expect them to
14 be able to figure out what the role of an SVC is
15 going to be. This is new ground, and if we get
16 these rules in place, then the judges will be
17 bound by them. Everybody will know what the
18 rules are. Defense counsel will know, the trial
19 counsel will know, the SVC.

20 It's just -- it's been two years.
21 It's time to be done. And one of the biggest
22 problems we have right now is that this is

1 creating appellate issues. I believe the Army
2 has two cases appearing before their Service
3 courts right now, one having to deal with whether
4 or not an SVC -- the attorney in the SVC, if his
5 or her schedule needed to be consulted on before
6 setting the trial date. And the other, I can't
7 remember the exact issue, but it's another SVC
8 issue.

9 So we're having appellate courts
10 answer these questions. That's a slow process.
11 It takes away from the appellate courts
12 addressing other issues, and it could be a simple
13 answer by getting the rules in place.

14 MR. STONE: Has Protect Our Defenders
15 communicated its versions of the rules and things
16 that are necessary through whatever channels,
17 through any channels, to the Joint Services
18 Committee members?

19 COL (RET) CHRISTENSEN: Not to the
20 Joint Services Committee. We've been working
21 more directly with members of both Houses.

22 MR. STONE: Is there a way for you to

1 more directly communicate it, or is that not the
2 right channel?

3 COL (RET) CHRISTENSEN: I would be
4 happy at any time to go talk to the Joint
5 Services Committee and provide them what we
6 believe is the appropriate way to go forward.

7 MR. STONE: Thank you.

8 VADM(RET) TRACEY: May I?

9 CHAIR HOLTZMAN: Yes, please.

10 VADM(RET) TRACEY: And have you tried
11 to do that and they refused to talk to you?

12 COL (RET) CHRISTENSEN: The only time
13 I have directly talked to them -- because you
14 must understand I've only been at Protect Our
15 Defenders for just a short period of time -- was
16 when I was on active duty and I was sent over by
17 General Harding to talk to them about the program
18 and to talk to them about the need for the rules.

19 VADM(RET) TRACEY: So you haven't
20 tried that in the current role yet?

21 COL (RET) CHRISTENSEN: No, ma'am.
22 Barely into the job, so it's been a pretty hectic

1 last couple weeks, so.

2 CHAIR HOLTZMAN: Thank you very much
3 for your testimony. I'd just like to follow up
4 on a couple of things.

5 So, in response to Judge Jones, you
6 will provide us with your own views about what
7 the content of these rules should be?

8 COL (RET) CHRISTENSEN: Yes, I'd be
9 happy to.

10 CHAIR HOLTZMAN: And it would be a
11 good idea, if you are interested in expedition,
12 to get them to us sooner rather than later --

13 COL (RET) CHRISTENSEN: Yes.

14 CHAIR HOLTZMAN: -- because we do have
15 a report coming up and it's required to be made
16 both to the Congress and to the --

17 COL (RET) CHRISTENSEN: Yes, we'll get
18 those --

19 CHAIR HOLTZMAN: -- and to the Defense
20 Department, and if you get it to us soon enough,
21 we might have time to consider it in terms of our
22 report. I think that the Joint Services

1 Committee might pay some careful attention to a
2 recommendation we might make in this area.

3 COL (RET) CHRISTENSEN: I would be
4 very happy to do that, Madam Chairman. It won't
5 be today, but I will have it to you very soon.

6 CHAIR HOLTZMAN: Not today? Okay, all
7 right.

8 (Laughter.)

9 CHAIR HOLTZMAN: Let me go into
10 another area, and I am glad you raised it here,
11 and it was also in the New York Times Magazine
12 article, and that is the subject of retaliation.
13 What more can be done to protect victims from
14 retaliation?

15 COL (RET) CHRISTENSEN: Well, I think
16 --

17 CHAIR HOLTZMAN: I guess we can talk
18 about -- and you've also raised for the first
19 time the Special Victims' Counsel, retaliation
20 against Special Victims' Counsel. We haven't
21 heard that yet. This is the first time we're
22 hearing it. So maybe you want to take that into

1 account first, but then the question of
2 retaliation against victims. That seems to me to
3 be a very important subject, and we'd like your
4 views on that.

5 COL (RET) CHRISTENSEN: Sure. Well,
6 I think, fundamentally, the number one thing we
7 have to get is a cultural change within our
8 departments, Air Force, Army, Navy, Marines and
9 Coast Guard.

10 It is, I think, something that we see
11 in college campuses, something we see in the NFL,
12 where there's a tendency to rally around the
13 accused instead of the accuser. There's a
14 tendency to disbelieve. I think it was very
15 interesting, we had a general who was a head of
16 the SAPR Program who came out with a slogan,
17 "start by believing." And she was briefing an
18 audience of JAGs, and she was saying that this is
19 the only crime we have where we instantly start
20 by disbelieving the victim.

21 And when she put up her slogan, "start
22 by believing," you would have thought she was,

1 you know, saying the most ludicrous thing in the
2 world, that she had just said that the sun
3 rotates around the earth as opposed to the
4 opposite.

5 It is a cultural thing. There is this
6 instant disbelief. There is no other crime that
7 we deal with where if a woman were to come
8 forward and say, you know, my house was just
9 broken into, they wouldn't ask her, well, where
10 was your husband? You know, this is a crime, if
11 a woman is raped, they instantly start wondering,
12 well, why was she not with her husband, or why
13 was she not with her boyfriend? It's the
14 accusatory crime, the nature of how we deal with
15 this crime.

16 So there's definitely a cultural thing
17 there. And so people feel free to attack
18 victims, because when we have this controversy
19 that even believing them is somehow wrong, it
20 sets up that it's okay to do what we're doing.

21 I also think that changing our
22 structure, allowing prosecutors to be the one

1 that makes the decision, will be a huge, huge
2 benefit. Why do I say that? Because of the
3 concept of unlawful command influence. Our
4 commanders -- and we have a lot of wonderful
5 commanders, a lot of great commanders, a lot of
6 great convening authorities -- but their hands
7 are tied because of the concept of unlawful
8 command influence.

9 It is very difficult for a commander
10 to be very strong in his message or her message
11 about how she feels or he feels about sexual
12 assault. We saw General Amos come out, go around
13 to a number of Marine Corps bases, and talk
14 strongly about how we need to support victims,
15 how we need to hold people accountable. As a
16 result of the General showing the leadership that
17 you would expect him to show, we are now having
18 cases thrown out by the appellate courts because
19 of unlawful command influence.

20 We have a system that prohibits,
21 basically, commanders from leading on this
22 subject because of unlawful command influence.

1 If we had a prosecutor-based system and we took
2 the commander out of that decision process, it
3 would go a long way to freeing commanders to
4 lead.

5 That's why I fundamentally disagree
6 with those who oppose Senator Gillibrand,
7 because, contrary to their argument that this
8 will somehow take commanders out of the process,
9 this will make commanders more responsible than
10 ever before. A commander, at best, can be
11 neutral under our current system. At worst, he
12 puts the thumb on the scales for the accused.

13 If we free him or her, unleash the
14 authority that they have, through fundamental
15 change, I then think we can attack the
16 retaliation piece.

17 For example, it is virtually
18 impossible to remove a commander for his or her
19 lack of leadership in sexual assault, for to do
20 so would then give the defense ammunition in
21 almost every subsequent case in that service for
22 unlawful command influence. It is --

1 CHAIR HOLTZMAN: Could you explain
2 that, please?

3 COL (RET) CHRISTENSEN: Sure.

4 CHAIR HOLTZMAN: Be concrete.

5 COL (RET) CHRISTENSEN: Sure. So I
6 will give you an example, the Aviano case that I
7 prosecuted, Wilkerson, one of the reasons we are
8 all here and why this has so much media
9 attention.

10 General Franklin miserably failed in
11 his role as the convening authority. After he
12 freed Colonel Wilkerson, he then tried to get him
13 immediately promoted. He tried to get him
14 immediately a group commander position. This was
15 a person that even if General Franklin believed
16 was innocent, that there was no doubt that he was
17 involved in obstruction of justice, that he was
18 involved in numerous other crimes that come out
19 during the Trial. Wilkerson himself later
20 admitted in an email of his involvement in some
21 of these crimes.

22 And yet Franklin was trying to get

1 this guy in charge of a group. He was never
2 criticized by the United States Air Force. He
3 was not removed from his position by the United
4 States Air Force. The day he retired, he was
5 overwhelmingly praised by the United States Air
6 Force.

7 It is legally impossible for the Air
8 Force to punish him or to criticize him for what
9 he did. Why? Because if they had, then every
10 defense counsel in the United States Air Force
11 would have raised that as evidence of unlawful
12 command influence.

13 CHAIR HOLTZMAN: And in what concrete
14 way -- if, for example, this Colonel, I mean, let
15 me posit two issues. One is the Colonel, I mean,
16 the officer did these various acts that you
17 consider reprehensible. If he had been
18 disciplined for that, in what way could the
19 defense counsel in subsequent proceedings use
20 that to get the defendant exonerated?

21 COL (RET) CHRISTENSEN: Let me make a
22 better -- maybe I misspoke. And I'm not talking

1 about Colonel Wilkerson being punished, I am
2 talking about General Franklin being --

3 CHAIR HOLTZMAN: Yes, right.

4 COL (RET) CHRISTENSEN: -- fired.

5 Okay. So if General Franklin had been fired --
6 and now let me make it perfectly clear. Even
7 though Franklin was not fired for what he did in
8 the Wilkerson case, the fact that he was later
9 forced to retire is an issue and is currently
10 being litigated in courts-martial across the
11 country --

12 CHAIR HOLTZMAN: Okay, let's take out
13 -- let's not use his name, let's just make this
14 hypothetical.

15 COL (RET) CHRISTENSEN: Okay, all
16 right.

17 CHAIR HOLTZMAN: Let's take a
18 hypothetical case where a general acted in a way
19 that condoned, explicitly condoned or supported
20 the acts of a convicted sex offender. You are
21 telling me that under the existing military law,
22 that if that officer or general was disciplined,

1 that that could be used in every single
2 subsequent case in that military service to
3 exonerate defendants? If that's the case, I
4 would like to understand how that works.

5 COL (RET) CHRISTENSEN: Yes --

6 CHAIR HOLTZMAN: And I have to start
7 off by saying that, you know, I've been at this a
8 little bit, but I am not an expert on the
9 military justice system, so forgive me if this is
10 a stupid question, but I would like to understand
11 that.

12 COL (RET) CHRISTENSEN: It is not at
13 all a stupid question. All right, so the way it
14 works is we have two types of unlawful command
15 influence that the appellate courts are worried
16 about. We are talking about actual unlawful
17 command influence, and that would be a commander
18 calling up the court members before they went in
19 to deliberate and said, "you'd better return a
20 verdict of guilty."

21 CHAIR HOLTZMAN: Right.

22 COL (RET) CHRISTENSEN: That's actual.

1 The other is the perception of unlawful command,
2 and it's perceived unlawful command influence.
3 And the General Amos case is a perfect example.
4 He came out and made strong statements in support
5 of victims and handling sexual assault, and the -
6 - and a conviction was --

7 CHAIR HOLTZMAN: Let's keep this
8 hypothetical.

9 COL (RET) CHRISTENSEN: Okay. Well --

10 CHAIR HOLTZMAN: Just answer my
11 question about how this is going to affect the
12 cases if a general is being disciplined for
13 supporting improper conduct by a -- or condoning,
14 or explicitly supporting improper conduct by a
15 convicted military official for sex offenses.

16 COL (RET) CHRISTENSEN: Sure, okay.
17 Well, it's kind of hard to do without a real-
18 world example, but so if a general officer or a
19 lower-ranking officer were to be very supportive
20 of an accused, do something to help that accused
21 achieve an acquittal, under the concept of
22 unlawful command influence, if there was any kind

1 of negative action taken against a person who
2 supported that accused, that would be what I
3 would say would be evidence of perceived unlawful
4 command influence.

5 In other words, the defense would
6 argue a clear message has been sent that you are
7 not to support an accused, and the appellate
8 courts would have a great deal of concern about
9 that. And I know you don't want real-world
10 examples, but hopefully this is one that wouldn't
11 be considered a controversial one.

12 The President came out as the
13 Commander in Chief and said we need to take this
14 seriously and the people who commit sexual
15 assault shouldn't be in the military. Okay. I
16 think that's a pretty obvious statement, that we
17 don't want people who commit sexual assault in
18 the military. That statement has raised hundreds
19 of allegations of unlawful command influence.
20 That statement has resulted in hundreds of
21 qualified members being removed from courts
22 purely because they have heard this statement.

1 We are very concerned about unlawful
2 command influence. The appellate courts are very
3 concerned about unlawful command influence. What
4 I am saying is, if you free up the commanders in
5 an appropriate way to address sexual assault by
6 allowing prosecutors to make these decisions, it
7 gives them greater ability to address these
8 things.

9 CHAIR HOLTZMAN: So in that case there
10 would be no -- if a commander or President said
11 that he or she is opposed to sexual assault
12 offenders being in the military, that that
13 wouldn't be a problem anymore?

14 COL (RET) CHRISTENSEN: I am not
15 saying it is going to be the cure-all, but what I
16 am saying is that I believe that it goes a long
17 ways to defeating the argument that it was
18 improper or unlawful command influence. You have
19 the decision to go to trial is being made by an
20 independent prosecutor.

21 CHAIR HOLTZMAN: Okay. But what about
22 some other -- since I don't think that that's

1 likely to happen, that change, so quickly -- do
2 you have some other concrete recommendations
3 about retaliation that we could deal with?

4 COL (RET) CHRISTENSEN: Well, each
5 service I believe now has a specific instruction
6 or regulation that deals with retaliation, making
7 it an Article 92 offense. That was mandated by
8 Congress under the last NDAA. But I am not aware
9 of a single person who has ever been prosecuted
10 for retaliation. And so we need to encourage
11 people to come forward with allegations of
12 retaliation.

13 I would hope there would be some sort
14 of independent way, other than the IG, to do
15 this. I don't have a lot of faith in the IG
16 system. And so we need to have victims
17 understand that they can come forward. We need
18 to have SVCs understand they can come forward and
19 report the retaliation. And then start punishing
20 people who do retaliate.

21 CHAIR HOLTZMAN: I'm sorry, just one
22 more question in this line. You said that the

1 victims' counsel, Special Victims' Counsel, can't
2 advise -- or maybe I misunderstood. Can Special
3 Victims' Counsel deal with retaliation to the
4 extent that they could advise the victim, or they
5 themselves contact whoever in the military would
6 be responsible for prosecuting or investigating
7 issues of retaliation?

8 COL (RET) CHRISTENSEN: My
9 understanding is that the Special Victims'
10 Counsel -- and this is from what I have read in
11 the various regulations dealing with it and then
12 from my discussions with numerous Special
13 Victims' Counsel -- is that they are not allowed
14 to do IG complaints or congressional complaints
15 for the survivors.

16 CHAIR HOLTZMAN: But they could do
17 retaliation complaints through -- who could they
18 send those complaints to?

19 COL (RET) CHRISTENSEN: No, they could
20 do -- they could clearly report retaliation
21 against themselves to whoever, to the IG, to the
22 commander, to their supervision, to the Security

1 Forces.

2 CHAIR HOLTZMAN: Okay. And the
3 Special Victims' Counsel could do that as well --

4 COL (RET) CHRISTENSEN: Yes --

5 CHAIR HOLTZMAN: -- as part of the IG.
6 Except they're not the IG.

7 COL (RET) CHRISTENSEN: Right, right.

8 CHAIR HOLTZMAN: Okay.

9 COL (RET) CHRISTENSEN: I think one of
10 the things we have to do is to get the confidence
11 of the Special Victims' Counsel and the survivors
12 that if they come forward with retaliation
13 complaints that they'll be seriously taken.

14 CHAIR HOLTZMAN: Okay. Any other
15 questions?

16 (No response.)

17 Thank you very much, Colonel, we
18 appreciate your testimony and we look forward to
19 getting your proposals.

20 COL (RET) CHRISTENSEN: Thank you,
21 Chairman.

22 CHAIR HOLTZMAN: Thank you.

1 Our next presenters are on the subject
2 of Perspectives on the SVC Program From Sexual
3 Assault Response Coordinators, SARCs. We will be
4 hearing -- would you come forward, please? Thank
5 you.

6 Great. Thank you very much for coming
7 here this morning. We'll hear first from Ms.
8 Phylista Dudzinski. Did I pronounce it
9 correctly?

10 MS. DUDZINSKI: Yes, ma'am.

11 CHAIR HOLTZMAN: Thank you.

12 MS. DUDZINSKI: Perfectly.

13 CHAIR HOLTZMAN: Sexual Assault
14 Response Coordinator at Tyndall Air Force Base,
15 Florida.

16 MS. DUDZINSKI: Yes.

17 CHAIR HOLTZMAN: Thank you.

18 MS. DUDZINSKI: First of all, I would
19 like to thank Madam Chair and the Panel for
20 allowing me an opportunity to give voice to my
21 experiences working with Special Victims'
22 Counsel. They have been an integral part of our

1 program now for nearly two years, and I have to
2 say that I think this was probably one of the
3 most significant steps forward to promote our
4 program and to give it the depth that it needs to
5 succeed.

6 We brief every complainant as they
7 come in to file a report about the services that
8 are available through the Special Victims'
9 Counsel. We additionally have embedded their
10 information in all of our program marketing
11 throughout the year so that Servicemembers can
12 pick up something and see what services are
13 available.

14 To date, virtually 100 percent of all
15 of our victims have elected to use the services
16 of a Special Victims' Counsel. It definitely --
17 the introduction of the Special Victims' Counsel
18 definitely has an impact on the relationship
19 between the Victim Advocate and the complainant.

20 What we've noticed in our cases is
21 that, when there's a Special Victims' Counsel
22 involved, the victim tends to ask the questions

1 of the counsel which normally they would have
2 turned to their Victim Advocate to ask. This
3 means that the Special Victims' Counsel is
4 handling a lot of informational issues,
5 referrals, follow-ups that normally, in the past,
6 the Victim Advocate would handle.

7 However, I don't think this is a
8 negative. What this has allowed us is for our
9 very seasoned Victim Advocates to have an
10 opportunity to spend more time working the
11 emotional issues associated with the trauma. So I
12 think both have definitive roles and they're both
13 necessary.

14 In terms of the investigative process,
15 introducing the Special Victims' Counsel, the
16 lawyer-client relationship, has definitely slowed
17 down the initial investigative interview. Our
18 Special Victims' Counsel are regional, they are
19 not local. So what that means is, when the
20 client wishes to have a Special Victims' Counsel,
21 we have to make contact with them either through
22 phone or email, which sometimes can take two or

1 three days in order to set up an appointment.

2 And the Special Victims' Counsel of
3 course wants to speak to the client prior to them
4 speaking with the investigator, and rightfully
5 so. It's just a delay in the process. But once
6 we've reached that Special Victims' Counsel,
7 they've been very responsive and things fall into
8 place quickly after that. It's just that initial
9 interview piece of it.

10 The role of the Special Victims'
11 Counsel in the Case Management Groups has been an
12 issue because, again, they are regional and not
13 local. We have to arrange to have them listen in
14 by phone to our case management meetings. This
15 means that, throughout the meeting process, as
16 every new case is presented, I have to get that
17 assigned Special Victims' Counsel on the phone to
18 listen in to the proceedings.

19 I have on occasion had to reach as
20 many as four different Special Victims' Counsels
21 at four different locations in a meeting process.
22 It is awkward at best and does not lead to a

1 smooth transition between the cases. I
2 definitely see value added having the Special
3 Victims' Counsel attend, either by phone or in
4 person, the meetings, but, as it sits now, it is
5 a very inefficient process.

6 I believe the solution to this would
7 rest in how our Special Victims' Cadre is
8 configured. There needs to be a Special Victims'
9 Counsel assigned at every installation and co-
10 located with the Sexual Assault Prevention and
11 Response program. This would allow that Special
12 Victims' Counsel to develop networking at a
13 specific location where they're working, as well
14 as be more readily available to attend these
15 different types of meetings and interviews.

16 I realize that this is going to
17 require a considerable increase in dedicated
18 resources, both manpower and budget, but I
19 believe for the program to reach its fullest
20 capabilities and to best serve the victims of
21 sexual assault, this has to be the next step
22 forward in solidifying and strengthening the

1 quality of our service. Thank you.

2 CHAIR HOLTZMAN: Thank you very much,
3 we really appreciate your coming and testifying.

4 Our next presenter will be Ms. Simone
5 Hall, Sexual Assault Response Coordinator, U.S.
6 Coast Guard Base National Capital Region.
7 Welcome, Ms. Hall, thank you for coming.

8 MS. HALL: Thank you again. Good
9 morning, Madam Chair, Panel members.

10 I agree totally with Ms. Dudzinski
11 that the SVC Program has been an invaluable asset
12 to assisting victims of sexual assault. In my
13 personal experience, with my victims that
14 initially had requested a restricted report, at
15 the consult, once they consulted with the SVC and
16 got some information on whether it was collateral
17 misconduct, on the legal process, some of the
18 questions that I as a SARC cannot answer, they,
19 in 30 percent of those cases, they change from
20 restricted to unrestricted, which allows the
21 command to, again, hold those offenders
22 responsible for, accountable for their actions.

1 So I think the program is invaluable to us
2 advocating and assisting survivors of sexual
3 assault.

4 I have had some challenges with the
5 retaliation toward some of my SVCs by senior-
6 level commanders, and that's more so because of
7 the -- I don't want to say the level of
8 experience, but the experience -- time in service
9 of those SVCs, in one case in particular, because
10 it was a young, a very young lieutenant who was
11 in that position and was dealing with a type-A-
12 type full-bird colonel. So it got quite
13 challenging for her to assist with -- to assist
14 the victim.

15 For the Coast Guard, our challenges
16 would be we don't have enough SVCs for the amount
17 of clients that we have, unfortunately. We cover
18 over 18 districts, and in my case, I am the only
19 SARC for over 16 different commands. So I have
20 one SVC -- actually I have two SVCs that cover
21 the Washington National Capital Area, Baltimore,
22 Maryland up to West Virginia, which is quite

1 challenging for the SVCs. So a lot of our
2 consultations are done via telephone, which at
3 some times it can seem impersonal.

4 And as I am looking in the face of
5 that victim, I can tell that it's a little --
6 they are feeling a little confused and maybe not
7 feeling as important as they should because they
8 have an attorney who is doing the best they can
9 to assist them, but they're doing it
10 telephonically. And that's quite a challenge for
11 us, so I agree again that to have them staffed
12 with the Sexual Assault Program managers or with
13 the Sexual Assault Response Coordinators would be
14 advantageous to us assisting those victims
15 through the process.

16 Again, with the Coast Guard I
17 understand it would be a challenge because of the
18 mass amount of geographical locations that we
19 cover.

20 CHAIR HOLTZMAN: Thank you very much,
21 Ms. Hall. Our next presenter will be Ms. Marie
22 A. Brodie, Installation Sexual Assault Response

1 Coordinator, Marine Corps Base Camp Lejeune,
2 North Carolina. Welcome, Ms. Brodie.

3 MS. BRODIE: Good morning, ma'am,
4 thank you for having me.

5 At the base where I am, Marine Corps
6 Base Camp Lejeune, we have three Victims' Legal
7 Counsel, and about a third of our current
8 caseload utilizes the Victims' Legal Counsel.
9 But they are always offered. The Victim
10 Advocates always mention what the Victims' Legal
11 Counsel does and that all victims have the
12 opportunity to utilize that service, regardless
13 of their reporting options. And they are offered
14 that at the first contact.

15 We have civilian Victim Advocates on
16 our installation as well as uniformed Victim
17 Advocates, and they have a good rapport with the
18 Victims' Legal Counsel. It is a good
19 relationship, good open communication, and they
20 work very well together and very cooperatively.

21 They are not co-located, the VLC with
22 our Victim Advocates, but that does not interfere

1 with communications. We still have easy access
2 to them in getting information and becoming aware
3 of any hearings, anything that the Victim
4 Advocate needs to be aware of.

5 The Victims' Legal Counsel fills a
6 very important gap before that position was
7 there, and that is that when victims came forward
8 to ask for legal advice, they would frequently
9 ask their Victim Advocate for that legal advice,
10 and they can't give it. And there was really no
11 one for them to turn to to get direct, specific
12 legal advice about their cases, and that's one of
13 the biggest advantages of having the VLC, is to
14 have someone who can give them legal advice and
15 support.

16 Another area that is important is when
17 victims choose not to participate in the legal
18 process. Before the VLC, they would have to make
19 that known by themselves or with a Victim
20 Advocate who is not an attorney by their side,
21 and that's extremely difficult, especially when
22 you think about the context of who is reporting

1 sexual assaults.

2 It tends to be an enlisted Marine who
3 might be an E1, E2, E3, and they are going to
4 talk to an agent who has got a badge and a gun or
5 they are going to talk to an officer who is also
6 an attorney who has been assigned to their case,
7 and for them to stand in front of that person and
8 say okay, "I don't want to participate any more
9 is extremely difficult."

10 And to have a Victim Advocate by their
11 side and to also have an attorney by their side
12 to be able to make that known is extremely
13 helpful, because we know that one of the number
14 one things that victims of sexual assault tell us
15 is that they feel alone. Even when they have a
16 Victim Advocate with them, they still feel alone.
17 So to have someone in the uniform who is an
18 officer and an attorney by their side through
19 this difficult process, whether they participate
20 or not, has been extremely helpful to them.

21 Also, to be able to explain the
22 process, because it is so confusing. Most of our

1 victims of sexual assault, their understanding of
2 the legal process is about, you know, watching a
3 couple of episodes of Law & Order. So the VLC
4 can give them a more in-depth understanding of
5 what is this process that they're getting ready
6 to be involved in and answer their questions,
7 which is really not in the realm of what a Victim
8 Advocate should be doing. That should be in the
9 realm of the VLC.

10 We have also found that our victims of
11 sexual assault may say, "No thank you" to the VLC
12 early in the process, but it's when things go
13 wrong that they say, "Okay, yes, I do want that
14 VLC." And some of those examples would be when
15 it might be taking a very long time for the
16 investigation, and they are getting tired of
17 that, or it could be that they're getting tired
18 of it because they're moving on with their life
19 and they don't really see the reason to stay
20 engaged in the legal process.

21 And it starts becoming an issue of the
22 legal process and not so much their issue because

1 they may be getting counseling and other supports
2 and feel like, "Why should I keep sticking with
3 this?" And the VLC is someone who can help
4 explain, why is it important to stick with this
5 process, why is it important to stay with them
6 and to help them, again, feel like they're not
7 alone, because somebody is there with them to
8 help and support them, because many times they
9 have gone beyond this, and each time that they
10 get that contact by NCIS or by the trial counsel
11 it's bringing up something they don't really want
12 to talk about anymore. They don't want it
13 drummed back up, and the VLC, again, can be by
14 their side through that process and help explain
15 that.

16 Another example of when things take a
17 long time and the victim gets frustrated is when
18 they are awaiting charges to be preferred, and
19 that's a command decision, and it could take
20 months. We have seen this sometimes drag out,
21 and again, that victim doesn't understand that.
22 It's not a Victim Advocate's job to explain that.

1 That's a legal proceeding, and the VLC is in the
2 best position to help explain what is happening,
3 why is that taking long, and is there anything to
4 be done to have the process go faster? Because
5 it can be a very long, drawn-out process.

6 Another example of where the VLC is
7 important is with third-party reports. As you
8 know, the Department of Defense has put a large
9 focus on bystander intervention, so this means
10 that our Marines and Sailors are getting a lot of
11 training about stepping up, stepping forward if
12 you see something that looks like it might lead
13 to a sexual assault, or in addition to that, they
14 are reporting things that were sexual assault to
15 their chain of command.

16 So the victim has already lost power
17 by being a victim of an assault. Now they lose
18 power because somebody else is reporting the
19 crime, and that is really important, that they
20 have the Victims' Legal Counsel in that situation
21 to help them get power back in that situation and
22 to have someone who is an attorney be able to

1 speak on their behalf if they choose not to
2 participate, or if they say, "Okay, I wasn't in
3 control of it being reported, but yes, I want to
4 move forward and help me with that." And it
5 gives control back to that victim of sexual
6 assault. Again, not a job for a Victim Advocate.
7 That is really a job for an attorney to assist
8 them in that process.

9 On our installation, we have an
10 excellent relationship with the VLC, and part of
11 what helps build that relationship is our
12 Victims' Legal Counsel participates in the
13 training of the Victim Advocates, so we invite
14 them to be a guest speaker so that our Victim
15 Advocates can hear directly from them what they
16 do, what their role is, and how it interfaces
17 with their role as a Victim Advocate.

18 We also have our VLC participating in
19 continuing education classes that are now a
20 requirement for every Victim Advocate, and again,
21 it helps build that relationship and build that
22 understanding and trust between those two

1 positions, and we appreciate that from our VLC.

2 The other benefit of the VLC is
3 something that's a little less tangible, and
4 that's dealing with two issues. The first one is
5 the fault sphere of false allegations. By the
6 Department of Defense putting enough focus on
7 this to assign this position of VLC and say that
8 every victim has the right to have a VLC, means
9 that we take this seriously and we believe
10 victims, and they deserve to have as much help
11 and support that we can give to them.

12 And just by the nature of having that
13 position means that we believe the majority of
14 these reports are true, as they are, and that
15 helps legitimize it.

16 Everybody in the military expects a
17 SARC and a Victim Advocate to support a victim of
18 sexual assault, but when somebody is a VLC and an
19 attorney saying, "I am here for you and I'm
20 supporting you," it adds some weight and
21 seriousness to the Sexual Assault Prevention and
22 Response Program, and it legitimizes this program

1 and it institutionalizes the need to support
2 victims of sexual assault throughout this entire
3 process, regardless of their decisions to stick
4 with a prosecution or not.

5 Those are my main comments about the
6 VLC.

7 CHAIR HOLTZMAN: Thank you very, very
8 much for your very helpful presentation. Our
9 next presenter will be Ms. Gloria Arteaga, is
10 that correct?

11 MS. ARTEAGA: That's correct, thank
12 you.

13 CHAIR HOLTZMAN: Thank you, Sexual
14 Assault Response Coordinator of the Naval Air
15 Force Station -- I know I am not going to
16 pronounce this properly, at Patuxent -- yeah

17 MS. ARTEAGA: Patuxent.

18 CHAIR HOLTZMAN: Yeah.

19 (Laughter.)

20 CHAIR HOLTZMAN: Welcome, Gloria,
21 welcome, and we look forward to your testimony.

22 MS. ARTEAGA: Thank you very much for

1 having me here to speak about a program that is
2 very important to the SAPR Program, and I'd like
3 to also include my other installation, I am on
4 staff for Naval Station Patuxent River as well as
5 Naval Support Activity South Potomac under the
6 Naval District Washington Region. Someone
7 already mentioned that that one is also included.

8 And I will speak about the VLC as far
9 as I was introduced to the program, the VLC
10 instead of the SVC, so you can hear that, that's
11 interchangeable, the same thing.

12 I would like to speak and start off
13 with by stating the reasons the program is
14 beneficial. The Sexual Assault Prevention and
15 Response Program, the SAPR Program, is a team
16 effort. It is what makes the program successful.
17 The Victims' Legal Counsel program was
18 implemented to assist victims in navigating
19 through the military justice system by providing
20 the victims with independent, personalized legal
21 advice and representation at hearings. It was
22 meant to complement and contribute to the Sexual

1 Assault Response Coordinator and the
2 collaborative team aiding victims. Furthermore,
3 their duties are to work closely and in
4 cooperation with the SARC and Victim Advocate to
5 best support and assist the victims.

6 The victim's overall experience with
7 the VLC Program is positive, and I'm quoting one
8 of my civilian Victim Advocate support
9 specialists:

10 I had mostly positive experiences with
11 the VLC. I have sat in on a conference call with
12 a sexual assault victim and the VLC with a
13 prosecuting attorney. During an Article 32
14 hearing, the VLC was very attentive to the
15 client. She kept the victim informed every step
16 of the way and advocated for her best interests
17 during the proceedings.

18 She was very steadfast in her
19 approach, including when they attempted to remove
20 her from the proceedings, which was unsuccessful.

21 Most of my clients have worked with
22 the VLC and have had positive experiences with

1 her. I have never had any issues with her except
2 that she did ask me to leave the room when
3 speaking to the client at an Article 32 at some
4 points.

5 I believe she is such a useful
6 resource but needs more awareness of the rules of
7 all of the key players in the SAPR team and how
8 her position interacts with those players."

9 Another statement from a colleague
10 SARC explaining her experience:

11 "It's been sort of a mixed review.
12 The clients seem to really like the VLC, but it
13 has been a struggle building a cooperative
14 relationship. I did share my concerns at one
15 point and things have improved."

16 I'm going to speak about the SAPR team
17 in general, just so you understand how we work at
18 my installations. At both of my installations,
19 the Installation Commanding Officers, the Naval
20 Criminal Investigation Services, the Installation
21 Staff Judge Advocate, the Naval health clinic
22 providers, the Chaplain, and the Fleet and Family

1 Support Center counselor work together
2 collaboratively in the best interest of the
3 victims without jeopardizing the investigation of
4 NCIS or SAPR victim services with the SJA,
5 Chaplain, medical providers, and counselors.

6 I believe that the VLC Program can add
7 substance to the SAPR's legal advocacy component.
8 The VLC Program as an integral part of SAPR will
9 contribute towards a more efficient, reliable,
10 and reputable program as a whole.

11 I further believe the VLCs hold vital
12 knowledge from their firsthand interactions with
13 the victims on ways to improve SAPR services to
14 best prepare the victims for the justice process
15 with the VLCs.

16 The Victim Advocate ought to inform.
17 The Victim Advocates are trained to educate the
18 victims regarding their rights as victims along
19 with their reporting actions, including a further
20 explanation of the Victim Preference Statement.
21 Additionally, they are taught to advise the
22 victim of their right to consult with a VLC on

1 both restricted and non-restricted cases.

2 It is the victim's right and choice to
3 have a Victim Advocate present during that
4 portion of the SAPR process. The team effort
5 training: during the initial SAPR Victim Advocate
6 training, SJA, NCIS and chaplain educate the
7 advocates on their roles and explain the legal --
8 the investigative process and the counseling
9 services provided by the chaplain.

10 The installation SJA provides a
11 thorough explanation of the UCMJ Article 6(b)
12 rights, Article 120, and the military justice
13 process. She additionally explains how a Victim
14 Advocate works best with the legal system.

15 As a response to this testimony, I
16 recognize the fact that I have not invited my VLC
17 to train the new advocates at the initial
18 advocate training. I am convinced their training
19 will bring clarity to our roles and expectations
20 to our future interactions, and I plan to invite
21 the VLC to my next Victim Advocate training.

22 There are a couple of areas that could

1 use some improvement. First, at times, there is
2 a delay in communicating case disposition and
3 trial outcomes. Some victims say they did not
4 receive the outcome of the hearing prior to their
5 command's knowledge.

6 Secondly, the team dynamic between the
7 SARC Victim Advocate and the VLC is a little
8 lacking. The VLC works independently of the SAPR
9 team and does not communicate to the SARC and/or
10 the Victim Advocate information regarding
11 upcoming hearings, meetings, or even hearing
12 outcomes. This information is essential to the
13 SARC for providing the necessary arrangements for
14 a Victim Advocate accompaniment during hearings.

15 The same information is also relevant
16 at the Sexual Assault Case Management Group's
17 monthly meetings to best provide services. Now,
18 it is through the victims that the advocate
19 becomes aware of upcoming hearings. It is worthy
20 of noting, all SAPR services are voluntary and it
21 is the victim's choice to receive or decline.

22 In conclusion, as a SARC, I find it

1 comforting knowing that victims under my area of
2 responsibility have a legal voice just for them
3 and someone who can answer their questions and
4 put ease to their concerns. This in turn
5 provides the victim with a sense of security and
6 empowers them to be a better witness in court
7 proceedings.

8 Currently, the VLC/SARC relationship
9 has challenges. There is a struggle within our
10 collaborative relationship. It seems as if the
11 VLCs do not know the SARC and the Victim Advocate
12 roles and how the SAPR team works together to
13 best assist the victims of these crimes.

14 The path to a successful program is to
15 provide the VLCs a well-defined position
16 description and train the VLCs on how to work
17 with the SARCs, the Victim Advocates, and the
18 SAPR Program as a whole to best assist our
19 victims.

20 Lastly, both the SARCs and the
21 civilian Victim Advocate support specialists have
22 attended the VLC training to learn about the

1 program. Subsequently, the VLC Program will
2 benefit from a fellow SAPR training to learn
3 about the SAPR team roles. Conversely, the team
4 may benefit from the VLC's attendance at the case
5 management monthly meetings, as they can provide
6 update to the Captains, the Installation Captain,
7 the victim's Captain, and the rest of the team.

8 Yes, I do believe the Victims' Legal
9 Counsel program has potential of becoming a great
10 asset to the SAPR team. Thank you.

11 CHAIR HOLTZMAN: Thank you very much
12 for your presentation.

13 And our final presenter will be
14 Sergeant First Class Bridgett Joseph, U.S. Army,
15 Sexual Assault Response Coordinator, 25th Combat
16 Aviation Brigade, 25th Infantry Division,
17 Schofield Barracks, Hawaii. You've come a long
18 way. Thank you for undertaking that trip for our
19 benefit.

20 SFC JOSEPH: No problem. It's
21 actually cold here, so I can't easily do that.

22 CHAIR HOLTZMAN: Yeah, I'm sure.

1 (Laughter.)

2 SFC JOSEPH: Thank you Madam Chair and
3 distinguished Panel members.

4 Pretty much for me, I work pretty much
5 hands-on with my victims as well as with our
6 programs. Our SVCs are co-located, so we don't
7 have to go anywhere. We have two, that does not
8 include supervisors of the two SVCs.

9 Schofield Barracks runs a partner
10 program so we have a multi-disciplinary --

11 CHAIR HOLTZMAN: Could you pull the
12 mic closer to you please? Can you do that?
13 Great.

14 SFC JOSEPH: Can you hear me now? We
15 have a multi-disciplinary resource center, so
16 basically it entails, you know, the SVCs. It is
17 right next to our behavioral health clinic, which
18 is where our medical clinic is as well, and has a
19 CID element where those guys can come in and do
20 the work that needs to come in.

21 For us, at Schofield Barracks, we have
22 a great working rapport with our SVCs. For one,

1 they train us, when it comes down to our eight-
2 hour block instruction. We have a four-hour
3 block instruction which they then come out and
4 they train.

5 We also use our SVC services to brief
6 our commanders. We also use our legal team,
7 which is our staff judge advocates within the
8 brigades, to also help. So we don't really have
9 too much of an issue with communication because
10 we're pretty hands-on as far as the SARCs, at
11 least for a lot of our slides for our case
12 management briefs.

13 So what that means is I know each and
14 every slide. I know when each and every Article
15 32 is going to happen because we're there. We
16 are listening to not just the victim, the SVCs,
17 but we are also talking to our SJAs, so we are
18 doing pretty good with that.

19 One point of contention would be the
20 CID agents and SVCs. CID has a 24-hour time
21 block once they are notified of the case, so they
22 wouldn't get their hands into the mix right away,

1 and if you tell them -- and it's not, you know, a
2 detailed clarification, but if you tell them that
3 this client wants an SVC, that sometimes is
4 challenging when you're getting ready to be
5 deployed somewhere or whatever, where the agent
6 is at that point. So that is one of the I guess
7 sticking points that we would have in that sense.

8 The program pretty much leads us in a
9 lot of stuff, not so much as it being the
10 centerpiece, but it is a very strong piece when
11 it comes down to the victim making a decision,
12 and typically when we're talking about certain
13 victims, we're talking about the unrestricted
14 report, you're not talking about your restricted
15 reports, because those victims are not, you know
16 -- I have two cases where the victims were able
17 to speak to SVC and they were able to come from
18 under the veil of the restriction and they were
19 more comfortable with what they heard.

20 Typically what we do is we escort the
21 victim to the SVC for the first warm hand-off,
22 and at that point we wait and see if the victim

1 wants us to stay there after. We don't go in
2 because of the attorney/client privileges, but we
3 wait kind of on the wings, and then after that,
4 if the victim is comfortable going without us,
5 you know, we don't accompany them, but we pretty
6 much have a good relationship with our SVCs, and
7 we don't have some of the issues that some of the
8 other elements are having.

9 One thing that -- one of the things
10 that happened in one of our cases is we had a
11 dual reporting case, so what that means is we had
12 the two people accusing each other. So in that
13 instance we had an issue with SVC. The first
14 person to report to the SVC was the first person
15 to get the attorney.

16 Being in Hawaii, we are on an island,
17 so the other victim in that case had to go off
18 island for her support. That SVC was a little
19 more abrasive, actually a lot more abrasive. I
20 don't know what that SVC said they were dealing
21 with, but the way we deal with our SVC is a
22 little bit more familiar.

1 I think some of the issues for that
2 particular SVC was he was not included in a lot
3 of the communication with the trial counsels and
4 everybody else, so that was an issue for him.
5 But also the face-time that the client didn't get
6 because her attorney was off-island as opposed to
7 being on-island.

8 Also it was updates. Typically, we
9 always check to see when our victims are being
10 updated, if they choose an SVC option, so that
11 means they should be at least getting some type
12 of update on a monthly basis. If not, we go and
13 find out why.

14 This particular SVC, it took him
15 almost 90 days to do an update, and I just didn't
16 see why. At that point, we considered looking
17 elsewhere for the SVC, so that was one of the I
18 guess cons of that.

19 Also, looking at the transitioning SVC
20 -- so what that means, if you have a military
21 member who has got a PCS, for, if you are going
22 to bring one of the new SVCs and the other SVCs

1 stay in place, but maybe then go to something
2 else, now that client has to relearn this
3 particular person, and that could be where he or
4 she doesn't want to keep them.

5 It could also be a victim
6 notification, you may have issues with that. Any
7 kind of move doesn't communicate as effective, if
8 you are now becoming the attorney for that. So
9 you have to re-establish connections.

10 Also, some of the things that we deal
11 which is in Hawaii, we have a lot of small
12 deployments. So now you have the portable SARCs
13 and you have your team who can go out, but you
14 don't have an SVC who can go out, and for us, we
15 only have two, so you can't send one to go cover
16 that smaller package and then you only have one
17 left in place. So that is something -- and the
18 reason why I bring that up is because we had two
19 issues where one victim was assaulted by a
20 Malaysian Soldier and another one by an American
21 Soldier, and she had to wait, the woman had to
22 wait, until they got back to receive services

1 because there was nothing in place.

2 So that was one of the issues that
3 came out of at least those two difference
4 instances. Another is what we're starting to see
5 more of, it is 120. It is not an intentional
6 contact, it is more of when you talk about
7 recording and distributing media photos or
8 something like that. I don't want to say they
9 are seen as lesser victims, but they don't -- it
10 doesn't seem as if they are getting the same, I
11 don't want to say quality, but it is not looked
12 at as the same instance of sexual assault even
13 though it still is covered as a sexual assault,
14 so that would be something that I would hope
15 would be addressed.

16 And the reason why I'm saying that is
17 if the commander catches wind of this, say a 120
18 incident, and if I am recording you when you have
19 the expectation of privacy and they go to CID and
20 then CID doesn't see that as an issue and they
21 communicate to the commander, I don't -- this
22 isn't a sexual offense, and the commander does

1 not act on it, so indeed, they are not going to
2 bring in those of us that need to be brought in,
3 and that can delay the process.

4 So that's something. We've had three
5 cases so far that dealt with 120 incidences, so
6 hopefully that will get addressed.

7 But for the most part, we are pretty
8 fortunate that we have a lot of resources and a
9 lot of people that are committed to the program.

10 So aside from those hiccups. That's
11 pretty much all I have for the Panel.

12 CHAIR HOLTZMAN: Well, thank you very
13 much for this very informative presentation.
14 Thank you all for coming here to share your
15 experiences with us and help to enlighten us.

16 Mr. Taylor, we'll start again with
17 you.

18 MR. TAYLOR: Thank you very much.
19 Well thanks to each of you for the wonderful
20 service you are performing in your respective
21 roles. Certainly couldn't do without you.

22 The one thing I'll be interested in

1 knowing from each member is whether you are
2 typically the first office to receive a
3 complaint, or do you normally receive it
4 somewhere along the line? And I'll just start
5 with you, Ms. Dudzinski.

6 MS. DUDZINSKI: Typically, our office
7 would be the first formal place that the person
8 would come to report.

9 However, the actual person they're
10 reaching out to first is usually a friend.

11 MR. TAYLOR: Okay. Ms. Hall?

12 MS. HALL: Yes sir. In my case it
13 varies because a lot of my shipmates or Service
14 people are on cutters and situations like that,
15 so normally, I am the second person to find out
16 in that it will either go to an advocate if they
17 want to maintain the confidentiality, or they'll
18 go to a member of the chain of command if they
19 want to -- if they know right away that they want
20 to do an unrestricted report.

21 MR. TAYLOR: Ms. Brodie?

22 MS. BRODIE: We have a large variety.

1 We have some victims who come directly to their
2 uniformed or civilian Victim Advocate. We have
3 some who journey themselves directly to NCIS. We
4 have had some who report through the chain of
5 command, some wind up at the Naval hospital with
6 a friend.

7 MS. ARTEAGA: With me, it also varies.
8 We do, and I add -- every time I train, I also
9 bring light to the Watch Group, the 24/7 Watch
10 Group, which is the crisis line, it is manned by
11 a Victim Advocate. We get our calls there
12 through there, and we keep the record of their
13 call, being as a SARC to guide them also.

14 We have high incidence reporting to
15 medical, now that we have forensic examiners at
16 the clinics now, and also a chaplain and
17 counselors. And when I -- oftentimes, actually,
18 my trainees, even back to GMTs or stand downs for
19 that matter, I get a lot of people coming to my
20 office to either disclose or get guidance for
21 something that happened a long time ago, but it
22 is various ways and avenues.

1 And also, the Victim Advocates also,
2 they keep their eyes and ears open for any, you
3 know, suspicious situation, so a lot of times
4 they are the ones that first -- even though they
5 are not on the Watch Group, they are the ones
6 that could be the first responders, and they
7 bring their victim to me to make sure that we
8 handle it correctly. So it is a varied ground.

9 SFC JOSEPH: Pretty much like everyone
10 else, it pretty much varies, we have a 24 hour
11 hotline. We are more -- only problem, I guess,
12 is we're embedding the units. Usually, I'll get
13 one from the command unit, the victim themselves
14 and we both reach out, or if it's even I get
15 calls from CID, so it will vary, for the most
16 part.

17 MR. TAYLOR: So Sergeant Joseph talked
18 about the extent to which there was a real
19 integration of location, at least for the various
20 resources. And a couple of you have mentioned
21 that one of the big problems is the cumbersome
22 nature of trying to get someone on board.

1 So putting that aside, how about the
2 other resources that are available to victims?
3 Are they pretty much co-located around your
4 facilities, or do people have to go all over the
5 base or all over the post in order to make the
6 various reports or touch the bases with the
7 people that they need to know? Ms. Dudzinski?

8 MS. DUDZINSKI: Yeah, the resources
9 are spread out. It is not a large geographical
10 area they are spread out on, but they do have to
11 move from building to building, and usually
12 during that process, we will have them escorted
13 with a Victim Advocate.

14 MR. TAYLOR: Ms. Hall?

15 MS. HALL: Yes sir. For all victims
16 that are stationed at a Coast Guard Base, then
17 the services are on the base and not co-located,
18 so they wouldn't have to go from building to
19 building or location to location.

20 For those that are underway, they
21 can't get any services until they touch land.

22 MR. TAYLOR: Ms. Brodie?

1 MS. BRODIE: Our resources are on the
2 base and spread out, and sometimes that can be an
3 issue. Again, when you think about the ranks
4 that normally report sexual assault, many times
5 that Marine or Sailor does not have
6 transportation and needs assistance to get to
7 those appointments.

8 MS. ARTEAGA: We have a very strong
9 team at both locations. Now with Naval Support
10 Activity South Potomac also includes Indian Head,
11 which is about an hour and fifteen minutes away.

12 All of my victims have available
13 resources because once we have that victim and we
14 have the written statement saying they want
15 services, we work so cohesive with that as soon
16 as we have that, my office is reaching out and
17 start making the connections and the resources
18 available.

19 So there hasn't been an issue at all,
20 and also with like Ms. Hall, our Victim
21 Advocates, they too accompany all the victims
22 only by their choice, of course, if they want

1 accompaniment, you know, to the Naval health
2 clinic if that's where they want to go at that
3 time, or to the clinic or the hospital nearby
4 where we have established MOUs and give that
5 service.

6 We also have the 24 hour line for the
7 hospitals so they can be standing by to receive
8 us, so we have that attention as well.

9 MR. TAYLOR: One of the points you
10 made, Ms. Arteaga, was that you thought that
11 there was some confusion about roles.

12 MS. ARTEAGA: Yes --

13 MR. TAYLOR: The role each person was
14 to play, and I'd just like each one of the Panel
15 to address whether you think there is confusion
16 about the roles that the SVC plays in comparison
17 to or referencing the other players in the team.
18 Ms. Dudzinski?

19 MS. DUDZINSKI: I haven't seen any
20 confusion in the roles. I have just seen the
21 shift in the roles with the counsel taking on
22 some of the duties that traditionally, initially

1 were handled by the Victim Advocate, solely based
2 on the fact that the advocate initially was the
3 only one available to that person.

4 So with the shifting of that sand,
5 we've had to kind of redefine our roles, but I've
6 never had any issues in communicating with the
7 Special Victims' Counsel on that or them
8 communicating with me, and we seem to be able to
9 work anything as it grows.

10 MR. TAYLOR: Ms. Hall?

11 MS. HALL: I have to agree with Ms.
12 Dudzinski in that I haven't had any conflicts of
13 roles between the SVC and the advocates or
14 myself. The line -- I do believe there is a
15 shift because now a lot of the questions that
16 normally would be asked of an advocate who may
17 not have any legal background are being diverted
18 to the SVC, and rightfully so because they have
19 the knowledge and expertise to better assist them
20 through the legal process.

21 I think our relationship has been
22 great other than a couple of -- again, the SVC

1 handling of the retaliation issue, I haven't had
2 any problems.

3 MR. TAYLOR: Ms. Brodie?

4 MS. BRODIE: I believe the
5 collaboration is strong and it's a good
6 understanding that the Victim Advocate is there
7 for emotional support and assistance and what the
8 steps are in all of the process, not just the
9 legal process, and with an understanding that the
10 VLC is to assist with legal questions and so
11 forth.

12 MR. TAYLOR: So one further question
13 for you before I move down the Panel. You make a
14 point that, about -- if I understood you
15 correctly -- about one third of the people who
16 come through your program use the VLCs. Do you
17 have any idea of why that number is low compared
18 to some others we've heard today?

19 MS. BRODIE: I think that there are a
20 couple of reasons. One is I think it's who is at
21 our installation. We have a lot of students
22 there, and they are frequently reporting sexual

1 assaults that happened prior to service, and so
2 they are not necessarily in need of legal
3 assistance or support. Also, they are not
4 necessarily at our base for a lengthy period of
5 time because once they finish with SOI, with
6 School of Infantry, they are moving on to another
7 location. I think that is part of the reason.

8 MR. TAYLOR: Thank you. Ms. Arteaga,
9 do you have anything to add to what you had
10 already said?

11 MS. ARTEAGA: Oh, yeah. I think that
12 the roles as I identified, there may be a little
13 confusion, yes, and then Victim Advocates also
14 agree with what they had said because if it's a
15 shift, they shouldn't get a real shift because
16 the legal counsel should be that, legal counsel.

17 The Victim Advocate has a very strong
18 advocacy portion where they do referral. If it's
19 emotional, we are not counselors. They are not
20 to be counselors. And we keep the path of
21 advocacy.

22 So when I spoke about there is no

1 clear role for the players, it is because there
2 is no PD, position description yet available for
3 the VLCs. And I think that will help us to at
4 least walk that path.

5 CHAIR HOLTZMAN: Excuse me, could I --
6 may I ask a question? What is a PD?

7 MS. ARTEAGA: It's a position
8 description for the legal counsel --

9 MR. TAYLOR: Job description.

10 MS. ARTEAGA: -- yes. And I think
11 that because -- and I mentioned also that you
12 have SARCs, and Victim Advocates have been
13 trained as to the victim legal process to allow
14 the program. However, I have not been part of
15 educating a victim legal counsel as to how we
16 work, so we have a need to communicate that, and
17 I think that's important because when we were
18 introduced to our VLC, it was not a formal
19 introduction, like all of a sudden, it was more,
20 in my experience, it happened very impromptu,
21 like by coincidence.

22 So to me, it would have been better to

1 say, this is your VLC, this is what they are
2 going to do, and how you work together in
3 question and answer kind of form, to understand
4 where you all sit and how to work together. Like
5 I work with my NCIS agents and my SJAs, we are
6 very, very connected, and you know, we work
7 together, and I'm happy about that. That part is
8 a little bit missing with the VLC.

9 I think it can be fixed easily, it's
10 just right now, it is lacking a bit. But I think
11 it has ways to be improved.

12 MR. TAYLOR: Thank you. Sergeant
13 Joseph, do you have anything to add? I think you
14 seem to have answered this question already, but
15 please feel free to add if you wish.

16 SFC JOSEPH: No, just we typically
17 don't have an issue because we work hand-in-hand.
18 If we have an issue with retaliation, because we
19 are more embedded.

20 I reckon my Victim Advocate is more
21 neutral. You provide the services, but your main
22 thing is to make sure you care for the victim.

1 If there's an issue with retaliation, at least
2 from the victim's point of view, we can also
3 address it. We don't have to go to the SVC. We
4 have that leeway with our commander, so we can --

5 MR. TAYLOR: Thank you --

6 SFC JOSEPH: -- address it whether
7 it's at the company command level, the battalion
8 level, or at the brigade level, so we have that
9 leeway with our commanders, because they don't
10 hold everything and try to, you know, just push
11 it off the table, it doesn't work. But we don't
12 have that.

13 MR. TAYLOR: Thank you very much.

14 CHAIR HOLTZMAN: Judge Jones?

15 JUDGE JONES: Ms. Arteaga, I think you
16 mentioned at one point that the VLCs don't always
17 tell the SARC, you know, what is going on. Is it
18 just that they are not prompt in terms of telling
19 you about a disposition or something along those
20 lines, or are there other things that you would
21 expect the VLC to be communicating to you?

22 MS. ARTEAGA: No, that's pretty much

1 it. I think it would be beneficial for us and to
2 do our job to be informed as to when the hearings
3 are coming up. They would be the first ones to -
4 - I would say in my opinion I think that they are
5 the first ones to hear when the hearing is coming
6 up, so that I can make the proper arrangements
7 for the Victim Advocate to attend those hearings
8 and be a support system for that victim. That is
9 number one.

10 The other one, the disposition, again,
11 that could come also through my SJA at the case
12 management meeting. So we do have avenues of
13 finding the information. It is just a matter of
14 perhaps a courtesy phone call would be nice or
15 even an email if they didn't want to get on the
16 phone and speak at length.

17 But to me, that would be a nice
18 approach to get the facts before we go to the
19 case management and make all the updates.

20 JUDGE JONES: Could you tell me a
21 little more about the case management conference?
22 Is that standard for SARC in every service?

1 MS. ARTEAGA: Yes, pretty much. And
2 then we are still in the process of waiting for a
3 revision to the standard of operating procedures
4 for that Sexual Assault Case Management Team.

5 There has been talk about who are the
6 members, who are the standing members, who needs
7 to be attending, who does not need to be there.
8 So there is still question, and still nothing
9 really written, as to whether the instruction --
10 there was a list of people that needed to attend,
11 now they are saying only people who have
12 knowledge or dealt with the case have to attend.

13 However, when you think about that,
14 you think about, okay, well if the chaplain is
15 here, can he talk about the case? No. He's got
16 privileged communication. So you can't really
17 breach that at that case management. Same thing
18 with counselors or medical providers. Can they
19 be seen? Yes. They are seen by the victims. We
20 can't really say anything more.

21 So there is those conversations, and
22 there's also talk about -- the instruction also

1 states that we have to meet monthly even if we
2 have no cases to review. Now, that can be a
3 little straining because we all have busy lives,
4 especially our captains, and also, so we meet for
5 what purpose? The main purpose that I came up
6 with is basically how do we make our installation
7 a safer place? So when we don't have cases,
8 that's what we talk about.

9 What are we looking, and noticing at
10 our Naval bases? How to improve our environment
11 to a better place? Or how do we educate our
12 Sailors, both males and females, to make this go
13 away? So those are the things that we are trying
14 to bring up because now we are mandated to meet
15 even when we don't have cases, so we have to make
16 productive of that time.

17 MS. HALL: If I may --

18 JUDGE JONES: I just wanted -- oh, I
19 am sorry, go ahead.

20 MS. HALL: Yes ma'am. I was just
21 going to add that in the Coast Guard, the SAPR,
22 we have SAPR Critical Intervention Teams that are

1 mandated to meet monthly, and that is when we
2 talk about the case, and the SVC is also invited
3 to that case so that we stay abreast of the legal
4 process, of the hearings. CGIS is limited on the
5 information they can talk about from an
6 investigate standpoint, but they are also members
7 of that team, and that's mandated by the
8 Commandant of the Coast Guard.

9 JUDGE JONES: So can I just ask each
10 of you, does the SVC or the VLC have to be on a
11 case management conference, either -- I mean, I
12 don't doubt that you might invite them, but is
13 there a rule in each case?

14 MS. DUDZINSKI: Yes, they are one of
15 the members that are directed to be on the board.
16 And then that's up to them -- if they are
17 traveling or in court at the time and can't
18 appear, they just let me know and I just don't
19 call them for that case.

20 JUDGE JONES: Okay. And it's mandated
21 in the Coast Guard?

22 MS. BRODIE: It is not mandated in the

1 Marine Corps because the position was created
2 after the Marine Corps Order was written about
3 who must come to the Case Management Group
4 meeting. However, the VLC always comes and
5 always participates and is prepared and ready to
6 discuss cases at the level that they can in this
7 meeting, since it's not a confidential meeting.

8 I don't say it proudly, but we never
9 have an issue of not having cases at Camp
10 Lejeune.

11 JUDGE JONES: Ms. Arteaga?

12 MS. ARTEAGA: With this, I don't
13 believe it is stated that they are mandated to
14 attend. I think that may be coming. I am not
15 sure.

16 We do have one VLC, or actually two in
17 the Naval District Washington. One is for
18 Annapolis and the other one is for the rest of
19 us, and they are housed here in D.C. at the Navy
20 Yard.

21 I -- my installation is in Patuxent
22 River, which is about two hours south from here,

1 and then also Dahlgren is about an hour, about
2 another two hours the other way.

3 So when you -- and I have case
4 managements at both locations. And at my
5 Dahlgren case management, we also do cooperation
6 with the Marines because they are part of my base
7 as well, and there are four under me, and we do
8 the training of -- the meeting with the Marine
9 SARCs as well.

10 So there is -- if you think about
11 that, when you have one VLC in a local, you know,
12 central location, you could have Annapolis, Fort
13 Meade, Dahlgren, Patuxent River -- all of these
14 locations may be quite -- you get the VLC driving
15 around from location to location, that could be
16 quite a challenge, and also to help victims in
17 going to court and doing their jobs. So I am
18 just saying that that could be an issue.

19 But yeah, I would love it if they
20 could come. I have not invited them yet, and I
21 think that maybe that's on my part, but --

22 JUDGE JONES: You haven't invited them

1 into the case management --

2 MS. ARTEAGA: Not to the case
3 management --

4 JUDGE JONES: -- processes?

5 MS. ARTEAGA: No.

6 JUDGE JONES: And Ms. Joseph, is it
7 mandated for them to be involved in the case
8 management conferences with the Army?

9 SFC JOSEPH: Excuse me, ma'am.
10 Actually the Mission Commander pretty much
11 oversees our panel, and every senior mission
12 commander that is within the Army that is in
13 Hawaii, they attend those briefs.

14 There's I think an SJA that will be
15 there, the head of the CID agency will be there,
16 not necessarily the SVC. We have one of the
17 supervisors who will come, and she will present
18 if she wants to present something, but we have a
19 very limited access to who comes into our case
20 manager meetings because we monitor who comes in,
21 who goes out because we're doing the cases, and
22 also there was an issue with if you have an

1 active case management brief and there is a
2 potential for you to sit on a court-martial
3 proceeding, that came up.

4 So we pretty much monitor who comes
5 in, but they do have an open seat, but it's
6 typically, and we have briefings every month,
7 because we're in Hawaii and everybody has to
8 reach out, you know, we always have cases, so
9 we're always meeting, and our focus is resources,
10 looking at trends, associating SOP for the
11 department, our training and stuff.

12 I believe it's fortunate that we don't
13 have a lot the locality issue out there. We're
14 on an island. We don't have a lot of issues.

15 JUDGE JONES: Ms. Dudzinski mentioned
16 that sometimes, and I recognize because the Air
17 Force is all over and there are few, very few,
18 SVCs, that sometimes I think you said it takes
19 two to three days before you get one appointed in
20 the case where there's one asked for?

21 MS. DUDZINSKI: Not appointed, ma'am,
22 but able to contact --

1 JUDGE JONES: All right.

2 MS. DUDZINSKI: -- and establish a
3 meeting time.

4 JUDGE JONES: With the --

5 MS. DUDZINSKI: -- the victim --

6 JUDGE JONES: -- the victim --

7 MS. DUDZINSKI: -- the victim and the
8 interviewer.

9 JUDGE JONES: Does any other service
10 have that issue, or is that pretty much an Air
11 Force because of the way they're deployed around
12 the world? Everybody else -- what's the time
13 frame you are able to get a victim in touch with
14 an SVC or VLC once requested?

15 MS. HALL: It's normally within 24
16 hours, ma'am.

17 JUDGE JONES: Within 24 hours?

18 MS. BRODIE: It is the same for us.
19 There is not a delay.

20 MS. ARTEAGA: Yeah. Same with me.

21 JUDGE JONES: All right. Thank you
22 very much. I don't have any further questions.

1 CHAIR HOLTZMAN: Admiral Tracey.

2 VADM(RET) TRACEY: So I'll ask each of
3 you if you perceive issues with the performance
4 of a VLC, what's your recourse as the SARC?
5 Either that the individual isn't performing to
6 the standard they need to perform to or that that
7 VLC is being retaliated against as the previous
8 witness suggested happens?

9 MS. DUDZINSKI: I believe my initial
10 instinct would be to sit down and discuss the
11 issue I was having with my JAG, and say is this
12 really -- am I misconstruing what's going on? Is
13 there a legal reason that this is happening?
14 Maybe I am not interpreting it correctly.

15 If we determine after discussing it,
16 I still think there's a real issue, then of
17 course there's the Special Victims' Counsel Chain
18 of Command where they have a regional counsel
19 over them. I would probably make a phone call
20 there.

21 VADM(RET) TRACEY: And in your case,
22 if I understand it right, your SJA is not in the

1 same chain of command as your VLC --

2 MS. DUDZINSKI: That's correct.

3 VADM(RET) TRACEY: -- they are
4 regionalized, right?

5 MS. DUDZINSKI: That is correct.

6 MS. HALL: Yes ma'am. For the Coast
7 Guard, we actually have a captain who oversees
8 the SVCs, so if I had an issue with one of the
9 SVCs, the services they were providing, then I
10 would talk to that person because he doesn't
11 handle any cases, he is just management, or the
12 director of the office.

13 MS. BRODIE: We have not had issues
14 with our VLC. Anything that has come up has been
15 minor, and I have just called directly to that
16 VLC to discuss it and work it out.

17 MS. ARTEAGA: Same here. I have not
18 had any issues with the VLC personally, and from
19 my Victim Advocate as stated, she said, "I had a
20 good relationship with her in meeting back and
21 forth," but if I were to have an issue, I would
22 go to my SJA to discuss it to get counsel as to

1 how to proceed.

2 SFC JOSEPH: For the SVC, I typically
3 would go, with the issue that we have, I went
4 straight to the SVC supervisor because the SVC
5 was in her bailiwick, right? Typically, she will
6 have a quicker response than my SJA might, so
7 that's what I'd do.

8 VADM(RET) TRACEY: So you don't
9 perceive the Installation Commander as having any
10 integrating role here around the performance of
11 the Special Victims' Counsel in this?

12 MS. DUDZINSKI: The Wing Commander of
13 our installation would have little interface with
14 the Special Victims' Counsel unless there was an
15 issue that arose. Typically, one of those might
16 be retaliation, where we would have to raise it
17 to that level to say this is going on.

18 I know that my wing commander has very
19 specifically told me, point blank, that he thinks
20 the Special Victims' Counsel is the greatest
21 program that we've come up with so far. He is
22 completely behind it.

1 VADM(RET) TRACEY: Ms. Brodie, you've
2 had three VLCs at Camp Lejeune, is that right?

3 MS. BRODIE: That's correct.

4 VADM(RET) TRACEY: How typical is
5 that, of Marine Corps ratios of VLCs?

6 MS. BRODIE: Not typical. It's
7 because we are one of the largest installations
8 in the Marine Corps.

9 VADM(RET) TRACEY: I understand,
10 right, okay. Is the -- I got my answer to that,
11 okay. Is the ability of the -- what's the
12 outcome supposed to be in these case study
13 sessions that you are participating in on a
14 monthly basis? What's the purpose of those? And
15 could I ask each of you on this?

16 SFC JOSEPH: Well, for us it's you're
17 looking at the management of the resources,
18 you're looking at the outcome of the victim,
19 you're looking at trends so that you can have the
20 trend input. In one of our cases, we had a lot
21 more of that issue.

22 They are moving away from the

1 barracks, let's say they are moving toward the
2 housing area. Then we are going to address that
3 at that briefing because you're watching the
4 trends and you're pushing it out to the
5 commanders that you address your report to.

6 MS. ARTEAGA: I'll add also that
7 because of the case management and who is
8 involved in that with the NCIS, JAG, and the
9 whole group, we are there also to discuss not the
10 details per se of the case of what happened,
11 however, we do talk about the process.

12 Where is NCIS with the report, the
13 investigation? Where is JAG? Was there any
14 issue surrounding the legal side of it? Has the
15 victim addressed counseling? Have you relayed
16 those referrals? What is the Victim Advocate
17 hearing from the victim? Are they getting their
18 right in, and expedited updates, basically, right
19 after the meeting.

20 What are they requesting from us or
21 what can we do as a team to best assist our
22 victims? That is mainly -- and also, of course,

1 like I also expressed before, we look at the
2 environment as to what can we do best to achieve
3 that safe environment at the installation?

4 MS. BRODIE: For a Marine Corps, at
5 the Case Management Group meeting, we review
6 every open unrestricted case until two things
7 happen: it reaches final legal adjudication, and
8 the victim is no longer using support services
9 through the SAPR Program.

10 And the commanding officer of the
11 victim must attend that meeting. And the meeting
12 gives us the opportunity, really, to check
13 ourselves. We are really assessing are we doing
14 everything that we promised to do for that victim
15 per the Marine Corps Order, per the DoD
16 instruction?

17 And it's a way to monitor ourselves,
18 and it also is a way for that victim of sexual
19 assault to not fall through the cracks, which is
20 something that we frequently heard many years ago
21 and we don't hear now because we've got our
22 sights on every single open unrestricted case,

1 and we're looking at it and seeing where it is in
2 the process, and more than one person is required
3 to update that victim monthly about their case.
4 And it's a way that we don't have victims falling
5 through the cracks. We are watching ourselves
6 and what happens in the case.

7 MS. HALL: And in addition to
8 everything my colleagues have stated, we identify
9 lessons learned, and I'll give you a case in
10 point. We found that we had a hospital that the
11 triage didn't immediately segregate or separate a
12 sexual assault victim, in that victim, we had a
13 victim that actually sat in the emergency room in
14 the waiting room for two hours, waiting on
15 someone to contact the Victim Advocate or the
16 SARC to inform them that we had a victim.

17 And the victim should have been
18 immediately separated so that as other people are
19 walking through the area, they are not, you know,
20 just sitting there waiting after the trauma. So
21 we identify lessons learned in addition to the
22 case management in ensuring that the victim is

1 receiving all the support services they require.

2 MS. DUDZINSKI: Ditto.

3 (Laughter.)

4 VADM(RET) TRACEY: What opportunities
5 do you have as SARCs to coordinate across your
6 service so that you have an -- you know, some of
7 these roles and responsibilities are ill-defined,
8 to advance that more quickly?

9 MS. ARTEAGA: Are you saying between
10 Services?

11 VADM(RET) TRACEY: Within your
12 Service.

13 MS. ARTEAGA: Within my Service? How
14 do we go across -- I am sorry, could you --

15 VADM(RET) TRACEY: So you are the Pax
16 River SARC.

17 MS. ARTEAGA: Yes.

18 VADM(RET) TRACEY: What opportunity do
19 you have to coordinate with the San Diego SARC?

20 MS. ARTEAGA: Oh, often, only because
21 when we do, it's an expedited transfer, we do
22 have to reach out to the SARCs and also let them

1 know there's a case coming your way. And I want
2 -- and I also follow up after I transfer my
3 cases, so to ensure that there is a connection,
4 that they did meet, that the victim is not going
5 with a lapse in services. So that is often.

6 And also, some of them just, that's
7 their natural progression, to go to the next
8 level and I do ask do you prefer having advocacy
9 and such relations -- these relationships built
10 at the next location? And so that happens all
11 the time.

12 VADM(RET) TRACEY: But not a sort of
13 a standing process to share lessons, to share,
14 you know, family service centers all do something
15 on an annual basis where they compare and
16 contrast, right?

17 MS. ARTEAGA: To that, we do have
18 trainings we have at the CNIC level that they
19 tell us. We have webinars as to where we share
20 our lessons learned together as a group with the
21 webinars, so we do have that as well.

22 And also, we -- at Naval District

1 Washington, we have a monthly meeting here in
2 D.C. where all the regional -- the Naval District
3 Washington's SARCs get together to talk about
4 lessons learned, best practices, and the issues
5 that we may be coming across so that we can best
6 correct that along the way.

7 MS. HALL: In the Coast Guard, ma'am,
8 we do do annual summits and annual training for
9 all SARCs across the --

10 VADM(RET) TRACEY: Okay.

11 MS. HALL: -- the nation.

12 MS. BRODIE: At Headquarters, Marine
13 Corps SAPR Office holds a summit every August for
14 the SARCs, and they also facilitate a monthly
15 phone call that we all participate on, and just
16 because of geography, I collaborate much more
17 with the New River and Cherry Point SARCs because
18 of how close they are.

19 SFC JOSEPH: For us, we have a monthly
20 meeting. We also have a divisions meeting, so
21 before the SARC, my senior mission commander will
22 get us all down without all the people watching,

1 and we talk about lessons learned, and we also
2 collaborate on SAAM, the Sexual Assault Awareness
3 Month, so we pretty much can talk across,
4 especially when you're sharing Victim Advocates.

5 So if my victim doesn't want a Victim
6 Advocate within her brigade, say, then I would go
7 out and explore the other SARCs. We pretty much
8 do that, so --

9 MS. ARTEAGA: Just like the rest of my
10 colleagues, too, we, the Navy side also gathers
11 all the Sexual Assault Response Coordinators
12 throughout the world under one roof for a week
13 for 40 hours trainings every year.

14 And that is -- so pretty much we can
15 get a chance to see face-to-face who we are
16 because that's when we say, oh, I remember
17 speaking with that person because I had to
18 transfer a case. We make that initiative and we
19 make that effort to coordinate face-to-face to
20 ensure that that's done.

21 VADM(RET) TRACEY: Thank you.

22 CHAIR HOLTZMAN: Mr. Stone?

1 MR. STONE: Thank you. First, I am
2 going to ask you some questions that occurred to
3 me because they seem very -- they seem
4 practically embedded in some of your other
5 answers.

6 One is the fact that I heard several
7 of you say that you wish you had more SVCs or
8 VLCs, and I realize that's because sometimes you
9 have a small location that isn't sufficient to
10 support its own person, or you have two victims
11 and you have to go off the island or someplace
12 else to get another SVC in the case because each
13 one can only represent one victim, and sometimes
14 it may just be manpower, that's just what we're
15 faced with.

16 And I guess what I want to ask is in
17 those situations, particularly when you would
18 like that victim's attorney, the SVC or the VLC,
19 to be able to be in your office, have you used
20 and do you prefer conference calls to
21 videoteleconferences or Skype, or do you
22 sometimes go to the location with the victim

1 counsel? Or maybe there's other solutions, but I
2 just wondered if you have experience with those,
3 if you dislike them all, if you think some are
4 better than others, because it may be that one
5 recommendation we could make is that if we can't
6 provide more bodies, maybe there's a way to
7 provide the kind of virtual SVC, particularly I
8 think on these little bases where it's not going
9 to support the person, that would help you.

10 So I just wonder what, from your
11 perspectives, what you do in the system. Which,
12 if any of those things, you think is best? Do
13 you want to start at the right?

14 MS. DUDZINSKI: Yes, thank you. I am
15 probably the one that has the most challenge in
16 that, and I have used all of those options that
17 you've listed. We have victims traveling to the
18 other location, which is about two and a half
19 hours, to meet with the victim's counsel.

20 They've called and talked
21 telephonically. We have used Skype. We --
22 typically, we prefer, we have an office space set

1 aside for them where the counsel can come to our
2 base and meet with the victims. That is
3 certainly by far the best outcome from all of
4 them that we've seen and used.

5 I understand that it's a budget,
6 manpower issue, but it seems to me that it's
7 irrational to put an area defense counsel in the
8 case because there is a need to represent
9 subjects in criminal acts and not have available
10 a Special Victims' Counsel counsel. That's just
11 my opinion.

12 MR. STONE: I didn't get which of
13 those others you liked the best --

14 (Laughter.)

15 MS. DUDZINSKI: On site.

16 MS. HALL: We have not tried the Skype
17 in some of the virtual SVCs. We do a lot of
18 teleconferencing and having the victim in a place
19 where he or she can speak to the counsel via the
20 telephone. That's not my preferred method. I
21 also would prefer the in-person, one-on-one
22 interaction, but we make it work because in the

1 end, we are trying to do what is best for the
2 victim, and that is all we have, so we make it
3 work.

4 MS. BRODIE: Our VLCs are regional
5 VLCs, and we just have the benefit of having them
6 at our base, but just knowing about victims of
7 sexual assault face-to-face is always going to be
8 the better way to go. And I know that they
9 sometimes do travel to the other installations
10 that fall under MCI East.

11 MR. STONE: So far none of you have
12 told me what your second preference is.

13 (Laughter.)

14 MR. STONE: Is there no second
15 preference? But there has to be a second
16 preference. That's what I was trying to get at,
17 but --

18 MS. ARTEAGA: I haven't had to use any
19 venue, because we've actually had conversations
20 over the telephone or she's come to our
21 installation, so that's not a problem. I have
22 had to use the VTC with case management with my

1 Colonel at Indian Head because of the location
2 issue, or teleconference, and that works
3 wonderful, especially when you can see them on
4 the other conference room and you see the players
5 -- and that works for us.

6 I have no problem with that at all as
7 long as we all know where we are and what we're
8 doing, and it makes it very convenient for
9 everyone. I think the message still gets across,
10 and they get to see each other via the
11 television.

12 But so far I haven't had an issue, and
13 if you want my preference, I think the VTC would
14 be my second option.

15 SFC JOSEPH: I think face-to-face I've
16 had a -- some assignments. So typically, when
17 they initially start with a face-to-face, they go
18 away and become more telephonic, so if you can't
19 meet in person, then it will be telephonic
20 because not every victim is going to be there at
21 the base.

22 MR. STONE: And have the victims'

1 counsel always been able to get, when you have
2 been involved, to the actual court hearings, or
3 did they sometimes have to participate in those
4 court hearings by telephone or
5 videoteleconference in your experience? I just
6 wonder if there's enough for the counsel to get
7 to the hearings that you hear about.

8 MS. DUDZINSKI: In my experience, they
9 ought to attend all of the Article 32 hearings as
10 well as the court-martials [sic] in person.

11 MS. HALL: Same here.

12 SFC JOSEPH: I only have one, and it
13 will be a VTC for the Article 32 that is
14 upcoming.

15 MR. STONE: The second area that I'd
16 like to ask you about relates to the fact that
17 we've heard other witnesses in other panels say
18 something that I can dovetail into what you're
19 saying.

20 I heard a couple of you say you wish
21 you could be better informed about the progress
22 of the case: dates, rulings, and things like

1 that. I know one of the issues that has occurred
2 to me is that unlike, for example, federal courts
3 in a lot of states, there is no electronic,
4 internet-based electronic judicial case filing
5 system so that everybody, including you when you
6 want to know someone's case and they say when is
7 my next hearing, you just fire it up and say oh,
8 it says right here they set the trial on so-and-
9 so.

10 Or, you know, I can't remember when or
11 where I am supposed to be, and it's all
12 electronically. Do you think that that would
13 help and then you wouldn't have to worry about
14 whether someone physically called and told you
15 and there was a note in a file that, you could go
16 and see any changes as they occurred, there was a
17 public document you could look at electronically?

18 MS. BRODIE: Yes please.

19 (Laughter.)

20 SFC JOSEPH: When it comes down to it,
21 I know for us it comes down to -- for me
22 specifically and my program's issues, we are

1 pretty close-knit with our SJAs because your SJAs
2 can go to the system and look and tell you, and
3 when we are doing our case management, if you're
4 not getting that information from the victim who
5 should be updated from the SVCs, then you are
6 going to go and get that information, and this
7 would be from our SJAs because we were on case
8 first. You've got to support your side, before -
9 - what is going on with your case.

10 MR. STONE: And the last question I
11 have has to do with something that you brought up
12 about the expedited -- you mentioned the
13 expedited transfers, and the fact that you still
14 have some contact with the -- you have your
15 counterpart in the place where the person has
16 been transferred to.

17 Do you have any feelings whether,
18 because there is a lot of expense and disruption
19 for the services and those victims' lives, do you
20 feel that that is making it -- having that option
21 available is making a significant difference,
22 that it's -- you know, that that program should

1 be, you know, I don't know if it would be
2 expanded, but certainly implemented as fully as
3 possible?

4 Or do you think that -- do you hear
5 that those victims ultimately feel that their
6 allegations travel with them, and they are in a
7 place they didn't want to be, perhaps in a job
8 they didn't want to be, and it just delays them
9 for a very short time deciding that they can't
10 remain in the service? So I just wonder how you
11 feel about that -- your experience with the
12 expedited transfer of your victims.

13 MS. DUDZINSKI: Because of our
14 location, we get quite a few expedited transfers
15 in as well as we've had several go out.

16 It's been my experience that it has
17 had a very positive impact, that it's necessary,
18 that we need to continue to use it. I think it's
19 incumbent upon us as SARC and Victim Advocates to
20 have a very honest conversation with the victim
21 when they are thinking about the transfer to
22 explain exactly what you said, that -- do you

1 have a support system where you want to go? Your
2 circle of friends is here right now. Would it be
3 better to stay here?

4 You have to have that dialogue to work
5 out so they can think through what they are
6 asking before they actually make a decision.

7 SFC JOSEPH: Or for us, we've had
8 victims, usually they have a wish list, so they
9 select where they want to go, and the Army can
10 accommodate based off where the wish list is.

11 When we talk to our victims, you are
12 talking about not just picking up and relocating,
13 you are talking about the military. We are
14 talking about, financially, can you accommodate,
15 we'll be talking about your kid in school.

16 For the ones that we've had the
17 expedited transfer, it actually was good. We had
18 an agreement to, at first actually not to
19 transfer, but one of the cases didn't, I guess
20 because they wanted a conviction and that didn't
21 happen. Oddly enough, they didn't bring it to
22 her.

1 Now, she came, and so her next thing
2 was, hey, if he is not going to go to jail, then
3 let me leave. So it works. You know, if the
4 victim wants to leave, for us, they have a wish
5 list. And the Army can accommodate it based off
6 their MOS and bringing that along, they gotta go
7 pretty much on one of those choices that they
8 have.

9 MS. ARTEAGA: When it comes to whether
10 the case follows them, I'd say that it is on a
11 case-by-case basis. And also, it is part of the
12 SARC's duty to make sure that this need-to-know
13 information, who has that information, and to
14 coordinate that information to the receiving CO
15 to make sure -- make sure that nobody else has
16 wind of the situation, so that person is not
17 treated unfavorably.

18 So that need-to-know is very
19 important, and that need-to-know is conveyed at
20 every -- to the Command Group to ensure that when
21 we do call and say we have a report, that is the
22 first thing we talk about -- who needs to know,

1 not all the chiefs, not everybody in the command
2 needs to know. You're not going to start a -- or
3 bring a stand-down and say "We had a report,"
4 because that's when the rumors begin, and that's
5 when the conversations start, and all of those
6 things. They start with a ripple of -- ripple
7 effect. It starts the rumors swirling, and that's
8 when the problems begin.

9 So how do we convey the information,
10 and to whom? That is a big issue. So does it
11 work? I think it does. But I also would like to
12 look at it on a case-by-case basis and see it
13 that way and who is receiving it at the other
14 end. I think it is important to follow up to
15 ensure that that person is getting the right
16 assistance and services at the other end.

17 SFC JOSEPH: I think that's only if --
18 that's only if the case is transferred, because
19 not every victim wants his or her case
20 transferred. And if the case has been
21 transferred, you're not going to reach out; at
22 least we don't. We don't reach out, because I

1 explained -- you have to have hopeful anonymity.
2 So as you -- so I think and if they're not going
3 to move their case forward because they don't
4 want quote/unquote the baggage, they're not going
5 to -- you're not going to have a reason to reach
6 out to that SARC on the other end.

7 So if your victim is going to keep
8 their case and their resources where you are, if
9 you run into an issue where, say, you're going to
10 go through training, and you can't stay in that
11 training, because the victims are trying to stay
12 in training, and once they start talking about
13 certain things, then they're going to be affected
14 by that. You should pack it up and leave.

15 So that certain issue that they may
16 want to reach out to someone, but if their case
17 has been transferred over to a different route,
18 you can reach out to that other command. And
19 that's one of the complaints that some may have,
20 that -- how do I know I have somebody? That's
21 not for you to know, and that's another issue,
22 because they want a fresh start.

1 MS. BRODIE: The expedited transfer is
2 an important service for a victim if they feel
3 like they need it. What I have noticed more than
4 once with expedited transfer is that for some it
5 creates suspicion, and people think, oh, they may
6 report a sexual assault so that they could get
7 the expedited transfer, and feel like it's a
8 false report. So that's an unintended
9 consequence of that right to request the
10 expedited transfer.

11 MS. HALL: My experiences have all
12 been positive, and I think it's a program that we
13 would be going 10 years backward if we did
14 anything to eliminate the program at this point.

15 CHAIR HOLTZMAN: Thank you. I just
16 have two areas I'd like to ask you about and
17 thank you all, to Mr. Taylor and my colleagues,
18 and thank you for your important service.

19 First, there was a recent report that
20 showed that reporting of sexual assault has gone
21 up. Some people think this is a bad thing. It
22 indicates more sexual offenses taking place in

1 the military. What's your reaction to that? Do
2 you think that the Special Victims' Counsel
3 Program or the other things that the military has
4 done caused the increase in reporting? In other
5 words, that victims have more confidence that
6 they are going to be treated fairly and
7 compassionately? Or do you think that this is a
8 sign that sexual assault is increasing in the
9 military?

10 We'll start with you, Ms. Dudzinski.

11 MS. DUDZINSKI: It's absolutely my
12 belief that it is the number of years that we've
13 been educating our military force, they are
14 starting to understand the process better. They
15 are feeling more comfortable with it and are more
16 ready to come forward because they do trust the
17 system better.

18 I don't think that sexual assaults are
19 on the rise. I don't think there are anymore now
20 than there were 10 years ago.

21 CHAIR HOLTZMAN: Let me just add to
22 this. Do you think Special Victims' Counsel

1 Program -- going back to my question, do you
2 think the Special Victims' Counsel Program has
3 helped to encourage more victims to come forward
4 and report?

5 MS. DUDZINSKI: I don't think they
6 have been around long enough for us to really
7 determine that. I do know that they have had a
8 significant impact on the day-to-day cases with
9 the victims. The victims are getting much better
10 care and advice than they got before.

11 CHAIR HOLTZMAN: And do they feel
12 better about --

13 MS. DUDZINSKI: Yes.

14 CHAIR HOLTZMAN: -- that they're being
15 dealt with by the system?

16 MS. DUDZINSKI: Yes.

17 CHAIR HOLTZMAN: Okay. Ms. Hall?

18 MS. HALL: I think the increase in
19 sexual -- the reports of sexual assault is a good
20 thing. I know that in the Coast Guard, even with
21 the small increase that we achieved, we still
22 have a lot of sexual assaults that's not being

1 reported. So I want the numbers to go up even
2 more in the reporting, not that I think we're
3 having more cases. I think we have more victims
4 out there that just haven't put that foot forward
5 to bring out the fact that they are a victim.

6 CHAIR HOLTZMAN: Do you think that the
7 Special Victims' Counsel Program or the Victims'
8 Legal Counsel Program has helped to increase the
9 reporting?

10 MS. HALL: It has helped in my
11 unrestricted reporting going up. I don't know
12 that they would have come -- it mattered having
13 an SVC, but I know it helped with them going from
14 restricted to unrestricted, which is ideal in my
15 situation.

16 CHAIR HOLTZMAN: Ms. Brodie?

17 MS. BRODIE: Every time that I've
18 taught the Uniformed Victim Advocate Course,
19 someone has come forward and reported a sexual
20 assault. And frequently what they say is, "I
21 wish all of these services were around when I was
22 sexually assaulted."

1 And so any service that we add that
2 supports the victim of a sexual assault is a good
3 thing and will help increase that reporting. The
4 more support the victim feels like they have, the
5 less alone that they feel that they are, the more
6 likely they are to report.

7 CHAIR HOLTZMAN: Thank you. Ms.
8 Arteaga?

9 MS. ARTEAGA: I agree that it is the
10 reporting. Key word there is that we don't know
11 that they have -- well, we do know when the
12 sexual assault occurred, but the number of cases
13 being reported doesn't necessarily mean that
14 those have just happened. So we need to
15 understand that, too.

16 And I'd like to also say, because I do
17 belong to the Sexual Assault Response Team in St.
18 Mary's County, the hospital and the local
19 authorities, to realize that the number of cases
20 that we get are not that different from what's
21 going on in the civilian sector as well. But
22 also, I would like to add that a lot of the cases

1 that I do receive personally are cases that have
2 happened a long time ago.

3 A lot of the males that come forward
4 to talk to me personally are cases of child
5 sexual assault incidents that were -- all of a
6 sudden, because they saw, you know, heard me
7 speak, that they feel compelled to come and talk
8 to me in -- within closed doors because that's
9 one of the things I also let people know. My
10 door is always open, but it stays -- what we talk
11 about in my office, it stays there.

12 And it is a resource for everyone. So
13 that doesn't mean anybody who is coming into my
14 office means that they are being -- they were a
15 victim of sexual assault. So I'm trying to --

16 CHAIR HOLTZMAN: You mean a victim of
17 sexual assault in the military.

18 MS. ARTEAGA: Right. But we have had
19 civilians come forward, too, when we do SAPR-C.
20 And in SAPR-C training, they bring their victims
21 of sexual assault trying to cope with that issue,
22 and so what we do -- what would be then the

1 resources in our town which we have connections
2 with. So we do our handover to them so that they
3 can take care of the issues they have not dealt
4 with yet.

5 So it's good to understand that the
6 reporting part of it is not necessarily the
7 actual cases that are happening now. But
8 reporting, yes, it is a possible increase that I
9 see, because there is more confidence levels
10 going up. Whether the new SVC has something to
11 do with that, I hope it does. And it gives more
12 people confidence in the program as a whole. I
13 think that the confidence level has increased,
14 because of all the trainings that we have done,
15 and we have done -- continued to do so our doors
16 are open.

17 CHAIR HOLTZMAN: Thank you.

18 Ms. Joseph, Sergeant Joseph.

19 SFC JOSEPH: I think for us the issue
20 is that there is confidence in the system, and we
21 are slowly chipping away at the culture. What
22 we're hearing from some of the younger Soldiers

1 is now "SHARP" is an action word. So instead of
2 saying, you know, "This is a SHARP case," they're
3 saying, "I want to talk to you because I don't
4 want to be SHARPed." So once we, started
5 changing the culture, I think there is confidence
6 that is going to be there. It's going to assist.

7 I don't actually think it is in part
8 because of our SVC. It does help because we need
9 -- you know, we need more options, we need to
10 give more time to our victims, but I think for us
11 it goes to more training. It shows
12 accountability. When we did our command client
13 survey, it sounded that they want to see someone
14 -- they want to see not just, "I'm hearing these
15 cases," but what happens after the fact. So they
16 want to see it -- and now that they're seeing
17 that, that helps with victims who are waiting for
18 the report. So training helps and also adding
19 that accountability piece.

20 CHAIR HOLTZMAN: Okay. Let me just
21 switch to another subject, which is retaliation.
22 To what extent is that a serious problem facing

1 your victims? And do you feel that the system is
2 -- either the Special Victims' Counsel is
3 equipped to handle that or you are equipped to
4 handle that, or the system -- is the system
5 equipped to handle these issues of retaliation?
6 Ms. Dudzinski?

7 MS. DUDZINSKI: The retaliation that
8 I see most often is the isolation of the victim
9 in a unit from peers. It is not really from
10 anyone in the chain of command. That's a
11 cultural issue, and it's just, again, chipping
12 away at it and trying to make the thinking
13 different.

14 CHAIR HOLTZMAN: Ms. Hall?

15 MS. HALL: Yes, ma'am. The
16 retaliation that I've seen is actually from chain
17 of command, and the problem that I have -- or the
18 challenge is having the victim who was brave
19 enough to bring forth the allegation of sexual
20 assault and go through this process, this very
21 intrusive process, and needing to have a chain of
22 command member not support them through it or

1 they end up on a duty or threatening to move them
2 to an assignment that they never wanted to go to
3 and now they have this added stress.

4 But now they are fearful to come
5 forward and make that statement, to say, yes, Ms.
6 Hall did this, or said this on this date, and I
7 want to -- I'm going to put my -- I'm going to
8 sign my name on this sworn statement so some
9 action can be taken against that person and not
10 be 100 percent sure there is some action that is
11 going to be taken against the person that
12 retaliated against me.

13 CHAIR HOLTZMAN: So what do you do in
14 that case? How do you help the victim in that
15 case? What avenues do you have? Do we need to
16 do -- do you have recommendations for us? Is
17 there something that needs to be changed in the
18 system? You don't have an answer now?

19 MS. HALL: No, ma'am.

20 CHAIR HOLTZMAN: Think about it.

21 MS. HALL: Thank you.

22 CHAIR HOLTZMAN: We would be happy to

1 receive your comments or thoughts on that
2 subject.

3 Ms. Brodie?

4 MS. BRODIE: I think there are two
5 things that happen to victims of sexual assault,
6 and one is that social retaliation from their
7 peer group, and then the other thing that happens
8 to them that is not necessarily retaliation from
9 their chain of command comes from a lack of
10 understanding of the long-lasting impact of
11 sexual assault on this person's well-being, and
12 specifically their mental health well-being.

13 So I have frequently seen where
14 someone needs all ongoing, continued mental
15 health support or ongoing counseling, and that
16 there is an exhaustion from the chain of command
17 of that continued need for that ongoing support,
18 a question of, you know, how long is this going
19 to take? When is this person going to be giving
20 100 percent again and ready to move on?

21 And in terms of solutions to that, I
22 know that the military is sick of training on

1 sexual assault, but I'm talking about something
2 that would be specific training, not your, you
3 know, run-of-the-mill annual SAPR training, but
4 helping that chain of command understand the
5 impact of sexual assault and how it changes this
6 person's life. And it changes it forever, and
7 some of those changes can be for the better, but
8 it can take some people a long time to get over
9 sexual assault.

10 CHAIR HOLTZMAN: Thank you.

11 Ms. Arteaga?

12 MS. ARTEAGA: My experience has been
13 more recent that I can talk about, and that was
14 with the chain of command. The victim's captain,
15 CO, was retaliating as to some of the services
16 that we needed to put in place. And what I did
17 in some -- that's one of the reasons why we have
18 the case management team, so that we can talk
19 about some of these issues.

20 And these go to my commanding officer
21 as the Chair of the Case Management Team, and
22 discuss some of the -- my concerns about what was

1 happening, because as the Chair of the Case
2 Management, and also as the Installation
3 Commanding Officer, it is under his jurisdiction
4 to ensure that the commanding officers of the
5 others also follow his mission, basically. And
6 so that issue was addressed, and we had a much
7 better communications and in a much better place
8 right now because I did convey that to my
9 Commanding Officer and he took it on, which is
10 what I --

11 CHAIR HOLTZMAN: And resolved the
12 problem?

13 MS. ARTEAGA: So far, yes. I mean, he
14 still needs assistance on some things, but he is
15 doing what he is supposed to do.

16 CHAIR HOLTZMAN: You mean the
17 commander of the installation.

18 MS. ARTEAGA: The commander of the
19 installation meets with his other CO --

20 CHAIR HOLTZMAN: Okay.

21 MS. ARTEAGA: -- after, and that
22 happened -- that was following the right rule of

1 law based on instructions to get what we needed
2 done.

3 CHAIR HOLTZMAN: Sergeant Joseph.

4 SFC JOSEPH: I think most of the
5 retaliation that you will see is at the unit
6 level where you start to see them take sides. I
7 haven't seen a lot of, I guess, leadership
8 retaliation. For the things that I have seen
9 hesitation on, I was able to say so, just because
10 I have the ear of -- not just a Brigade Commander
11 but the Battalion Commanders. So, and we'll do
12 training. There is not just the Powerpoints. We
13 do have people come in, we do different stuff.
14 Of course, we interact with our people and ask
15 them to visualize what we're talking about.

16 But the main thing that I would say,
17 we hear a lot about retaliation for restricted
18 victims. What we don't hear is advocacy for the
19 restricted victim. And what I mean by that is if
20 I know a restricted victim, and I'm on that case
21 because I'm going to behavioral health and I'm
22 oversleeping, or if I have an appointment and I

1 can't tell you, you know -- the Platoon Sergeant
2 that I've got an appointment. There is no
3 advocacy for that because the minute I show my
4 face or I send one of my advocates, they
5 automatically know that this Soldier who has not
6 come from other restrictions is a victim.

7 CHAIR HOLTZMAN: So what is the
8 solution?

9 SFC JOSEPH: So for that, what is --
10 like in an instance where it's -- the legal would
11 say they've got a legal appointment and just have
12 SVC or whomever just step in. And if they say
13 that, "Hey, do you know who this is?" HIPAA is
14 medical; you don't need to know. But we give you
15 certain stuff. We don't put those appointments
16 in the system, so you can't see if I missed my
17 appointment, if it's behavior health or you can't
18 see if I had an appointment today. That helps
19 with the stigma as well. And I've worked through
20 this.

21 Some of the other things that they
22 have to come see me, that's where we run into

1 issues, or if they have to go see their other
2 Victim Advocate, that's where we're going to have
3 to talk about a counter. So that's something
4 that's not being addressed. And until we can
5 address that, because most of management and
6 myself, as a platoon saying I will look out for
7 my Soldier, and if you have a Soldier who has a
8 credibility issue, you're not actually going to
9 take his or her word for it. You know, you're
10 not going to say, "Hey, Joe did this." Don't
11 worry about it, come in formation this morning or
12 if he acts up because he was for a small
13 deployment or something, and he may be a key
14 player or something. You're not going to hear
15 that.

16 You're going to hear everything about
17 the unrestricted victim, but you don't have the
18 advocacy for restricted victim, and that's
19 something we need to face. And it's going to be
20 hard because that's -- as a person that's in an
21 unusual position, I myself will want to know
22 where my Soldier is. So there is a balance that

1 hasn't happened, but you don't get that advocacy.

2 And for me, as a Soldier and a Leader,
3 I can tell you the effects of when you can't find
4 that Soldier and what it does to that formation,
5 because this person gets out as, you know, some
6 of the -- I know some of you are retired, but
7 that is something that you don't see, and that is
8 also -- it also plays a part in whether or not
9 others are going to come forward, because if I'm
10 waiting in the wings to report, and I'm seeing
11 how you're playing this person, more than likely
12 I'm not going to tell you anything. So that's
13 something that we don't hear about.

14 CHAIR HOLTZMAN: Ms. Brodie, do you
15 have something you want to say?

16 MS. BRODIE: I've seen the potential
17 for this to work because of senior leadership.
18 There is a particular unit where there are
19 restricted reports, and because of the nature of
20 the unit the command knows because of how young
21 that Marine is and that they worked as UVA. But
22 because of the leadership, they know if I see

1 that Marine disappear with the UVA, and UVA is
2 not coming and telling me anything, I know I have
3 a restricted report and I know to leave it alone.
4 I know to trust my UVA and know they are taking
5 care of that Marine and --

6 CHAIR HOLTZMAN: A UVA is a what?

7 MS. BRODIE: A Uniformed Victim
8 Advocate.

9 CHAIR HOLTZMAN: Okay.

10 MS. BRODIE: And so it can work where
11 the command knows, but they also know this isn't
12 the time to go find that Marine and drill down
13 and start getting information from them. They
14 can piece together -- this is a restricted
15 report, and I need to trust the system and the
16 Program and then leave that system alone.

17 CHAIR HOLTZMAN: Just one final
18 question. Is that the kind of training --

19 SFC JOSEPH: That's not always the
20 case. I'm sorry, that's not always the case.

21 CHAIR HOLTZMAN: Okay.

22 SFC JOSEPH: You can -- as the

1 Commander, maybe that -- in that instance, but by
2 regulation, if you're saying that I know of a
3 particular crime, I am going to go and to
4 leadership positions who are saying, "I'm not
5 going to turn a blind eye. If I know there's a
6 potential problem that has occurred, I'm going to
7 do what I'm supposed to do which is report."

8 So you may have some who will turn a
9 blind eye to that, but for the majority of the
10 commanders -- for the Army, it is not commanders
11 who are working with the Soldiers. It's the
12 squad leaders, the platoon sergeant and the first
13 sergeants. So if I have a Soldier who I have to
14 account for, and you're going with a Victim
15 Advocate, you still have to do an accountability.
16 And that's something that's not being addressed,
17 and that's an issue because a lot of victims are
18 saying, "Hey, well, who -- what do I tell my
19 person? And what do I tell my Platoon Sergeant?"

20 So, I mean, if they don't -- the
21 report that you have that certain people -- where
22 if you said, hey, you know, whatever, but for the

1 most part that's not cut and dry. It's not cut
2 and dry, and that -- most of those commanders are
3 not going to turn a blind eye if they know that
4 there's a potential crime in their organization.

5 MS. ARTEAGA: And also, by policy,
6 this -- I know because we have a duty to inform
7 the commanding officer that there is a report,
8 whether it's restricted or unrestricted. If it's
9 a restricted case, we're not allowed of course --
10 not to give any identifying information, but
11 knowledge that a case exists until further notice
12 whether the victim decides to go unrestricted.
13 Then, that's when we can say, yes, we -- that
14 person is -- but the knowledge is there.

15 CHAIR HOLTZMAN: Thank you. Anybody
16 else have any questions? Thank you very, very
17 much for your time and your service.

18 And I think we'll take a break for
19 lunch. Thanks.

20 (Whereupon, the above-entitled matter
21 went off the record at 12:31 p.m.)

22 CHAIR HOLTZMAN: Good afternoon,

1 everyone. I see everyone is seated at the
2 presenter's table. So first let me say that this
3 is a panel of Clients and Special Victims'
4 Counsel, and it's called Experiences in the
5 Field.

6 So let me start by saying that we are
7 very grateful for the presence of the Special
8 Victims' Counsel here, but we are especially
9 grateful for the presence of victims. It is not
10 easy to come forward, and we really appreciate
11 that you've taken the time and been willing to
12 undergo the emotional stress of sharing your
13 experiences with us.

14 But we think that it's really, really,
15 important for us to understand how the special
16 victims program is working, because if it's not
17 working for the victims, then the Program is not
18 working. So we need to hear from the victims
19 themselves.

20 We are going to protect your privacy
21 here. Let me just remind you: nobody will be
22 referred -- no victim will be referred to by

1 name, but, rather, by initials. And this --
2 there is no video, so that your privacy will be
3 protected in that respect.

4 And if there is any other issue that
5 you have, please let us know immediately.

6 Okay. We will begin first with
7 Lieutenant Commander Kelley Stevens, U.S. Coast
8 Guard, Special Victims' Counsel at Alameda,
9 California, and Petty Officer N.S. Lieutenant
10 Commander Stevens, thank you.

11 LT CDR STEVENS: Good afternoon.
12 Thank you very much for inviting me to
13 participate in this discussion. My name is
14 Lieutenant Commander Kelley Stevens. I am the
15 Chief of the Special Victims' Counsel for the
16 West Coast Detachment in Alameda, California.

17 I was assigned to this post in July of
18 this year. Prior to reporting to the Special
19 Victims' Counsel in Alameda, I served as a
20 Special Assistant U.S. Attorney in the District
21 of Puerto Rico prosecuting Coast Guard cases,
22 primarily drugs and minor cases. Prior to that,

1 I worked in the Operations Law Group at Coast
2 Guard Headquarters. I also worked in our Public
3 Defense shop, and also with the Navy Legal
4 Service Office with the United States Navy at the
5 Washington Navy Yard.

6 I met my client, PO3 N.S., in
7 September of this year, and we formed an
8 attorney-client relationship. I'm very honored
9 today to provide insight into the Coast Guard's
10 program, and I certainly invite inquiries
11 regarding the Special Victims Program as it is
12 developed, and any issues you may see that -- you
13 can address with me specifically regarding the
14 Coast Guard.

15 CHAIR HOLTZMAN: Thank you.

16 PETTY OFFICER N.S.: Good afternoon,
17 distinguished panel members. My name is Petty
18 Officer Third Class N.S. I joined the Coast
19 Guard December 2011, reported aboard my first
20 unit at Station Port Angeles in February 2012.
21 In June of 2013, I reported to Food Service
22 Specialist A School. Upon completion, I was

1 assigned to Coast Guard --

2 CHAIR HOLTZMAN: Pull the mic closer
3 to you, because we're having -- I'm having
4 trouble hearing you.

5 PETTY OFFICER N.S.: In June of 2013,
6 I reported to Food Service Specialist A School.
7 Upon completion, I was assigned to Coast Guard.

8 My sexual assault occurred in May
9 2012, and I reported it in January of 2014. I
10 was then assigned to Base Alameda in the Safe
11 Harbor Program in June of this year, and assigned
12 my SVC in September.

13 Thank you for this opportunity to
14 discuss my experiences with the SVC Program, and
15 I invite you to ask me about my experiences,
16 specifically how negative it was after the
17 assault and how the SVC Program has positively
18 impacted my involvement with the investigation
19 moving forward.

20 CHAIR HOLTZMAN: Thank you.

21 Our next presenter will be Major
22 William D. Ivins, III, U.S. Marine Corps Regional

1 Victims' Legal Counsel-West, and Ms. J.B. If you
2 could just briefly not just introduce yourselves
3 but give us a very succinct, brief comment on how
4 the program is working, both of you, I would
5 appreciate that.

6 MAJ IVINS: Yes, ma'am. Good
7 afternoon, Madam Chair and distinguished panel
8 members, I am Major William D. Ivins, III, the
9 Regional Victims' Legal Counsel for the Western
10 Region. The Panel has my bio, so I will not
11 brief you on my military career except to say
12 that October 2013 I was selected by the Staff
13 Judge Advocate and the Commandant of the Marine
14 Corps as the Regional Victims' Legal Counsel for
15 the Western Region. I assumed my duties on
16 1 November 2013.

17 I believe I received more than
18 adequate training in order to fulfill my job as a
19 regional victim legal counsel. I have 20 months
20 of combined military justice experience as a
21 defense counsel and trial counsel. I have two
22 and a half years of experience as a legal systems

1 officer.

2 As part of my certification as a
3 victim legal counsel, I attended the Air Force
4 SVC Course at Maxwell Air Force Base in October
5 of 2013. And since implementation of the VLC
6 Program, I have attended other training events
7 hosted by the Institute on Violence, Abuse, and
8 Trauma in Honolulu, Hawaii; the National Crime
9 Victim Law Institute in Portland, Oregon; and our
10 first annual VLCO training event in San Diego,
11 California.

12 As a regional victim legal counsel, I
13 have represented over 60 victims since
14 implementation of the Program. Currently, I have
15 22 active cases. Right after the VLCO became
16 fully operational in Kaneohe Bay, Hawaii, I was
17 asked to represent Ms. J.B. because the new VLC
18 assigned to that region had a conflict.

19 Her allegation of sexual assault was
20 against her husband, a Marine service member
21 assigned to a command in Hawaii. Ms. J.B.
22 resided in Texas at the time, so I was detailed

1 to Ms. J.B.'s case on 7 January 2014. My
2 representation of Ms. J.B. began after the
3 Article 32 proceeding had taken place, but I
4 represented her during the motions phase and
5 court-martial process in the case.

6 We were successful with regards to the
7 motions I presented before the Court, and the
8 case resulted in a conviction with confinement
9 time. Before the trial and during the trial, I
10 believe the Military Judge was fair and my client
11 was treated with respect and dignity and
12 protecting her privacy.

13 Within the organization there are
14 challenges. One of our current challenges is
15 access to documents from military investigative
16 agencies, such as NCIS. While most agents in my
17 region are great and provide us access to
18 documents our clients signed, some will not
19 provide us with anything. Also, we have the
20 challenge of clearly defining our role when it
21 comes to representing our clients.

22 Even the basic understanding that we

1 have an attorney-client relationship gets
2 overlooked. In my opinion, we need procedural
3 rules that clearly define our role in the
4 investigative phase, the initial disposition
5 phase, the preliminary hearing phase, and the
6 judicial process phase.

7 For the most part, I believe we have
8 been well received by all of the organizations
9 and parties involved in the judicial process. As
10 a Regional Victim Legal Counsel, I do not worry
11 about retaliation or that this billet will
12 negatively affect my career. And, in fact, I
13 believe this billet will have a positive impact
14 on my career.

15 Before I end, I also want to state
16 that my client's father has written a letter to
17 the Judicial Proceedings Panel members and has
18 asked me to submit it on his behalf for your
19 consideration. I have that letter with me right
20 now.

21 Thank you, Madam Chair and
22 distinguished panel members. I look forward to

1 your questions.

2 CHAIR HOLTZMAN: Thank you very much.

3 Ms. J.B., welcome.

4 MS. J.B.: Thank you so much, and good
5 afternoon. I just have a little bit of my story
6 here to share with you guys, and thank you for
7 the opportunity.

8 I had just turned 17 years old in
9 February of 2009 and was graduating high school
10 in May, a year early as I had skipped my junior
11 year. Even so, I was number two in my class with
12 a full scholarship to a private university, along
13 with scholarships amounting to about \$85,000.

14 I was happy, excited, and on top of
15 the world. As I prepared and went to college, my
16 boyfriend, who enlisted, left for boot camp. I
17 was head over heels in love with a man who I
18 thought was loyal, dedicated, passionate, and
19 willing to stand up and fight for what was right,
20 and who would also support me in my future
21 endeavors.

22 One year later, I left behind the

1 educational opportunities I was given, my work,
2 my extracurricular activities, my friends and
3 family, my bright future, and everything I had
4 ever known to marry my boyfriend and would-be
5 husband and follow him halfway around the world
6 to one of the most isolated group of islands.

7 Less than one month after moving, my
8 world would get turned upside down as I became a
9 victim of sexual assault and domestic violence.
10 This violence would become a dark part of my
11 life, my pregnancy several months later, the
12 birth of my daughter, and his visits home. I
13 lost my soul to a man who thought I merely
14 existed to support him.

15 I was no longer confident. I was
16 quiet. I was scared and paranoid. I can
17 remember with disturbing clarity the trauma and
18 the realization of my mortality at the hands of
19 the monster that was my husband. I still carry
20 that realization with me today that my life is so
21 fragile and could be taken away from me at any
22 moment.

1 I initially reported my husband to
2 both civil and military investigators, but
3 eventually declined to participate further for
4 two reasons. I was continually reminded that it
5 would ruin his career; and, two, as a strong
6 Catholic, marriage was for life and I wanted to
7 do everything I could to salvage it.

8 However, I eventually came to the
9 conclusion that he would never change, and, as a
10 result, I found the courage to go forward and
11 report his crimes, and eventually a case was
12 built around this man I had married.

13 In April of this year, with the help
14 of a dedicated investigator, a passionate
15 prosecutor, the protection of my victim legal
16 counsel, and the support of my Victim Advocate,
17 my husband was found guilty of sexual assault and
18 domestic violence, along with other charges, and
19 sentenced to almost a decade in prison.

20 My VLC was an essential part of that
21 success, and it is to him I owe many thanks --
22 for helping keep my dignity intact and protected

1 me in places the law allowed. I am able to tell
2 you what it is like to testify without a VLC
3 because I did not have a VLC during the Article
4 32 process, and I felt exposed and vulnerable
5 during my testimony.

6 However, once I was assigned a VLC, I
7 was able to cooperate in the judicial process
8 with a greater sense of security and knowledge
9 about the process. My VLC made sure evidence
10 about my personal life that was not relevant to
11 the case was kept out of the courtroom. I
12 understood the role of the prosecutor and the
13 role of my VLC.

14 I am standing before you today a
15 survivor, the first in my family to graduate from
16 college having earned a degree with honors, a
17 proud businesswoman, a dedicated single mom, and
18 an advocate against sexual assault and domestic
19 violence.

20 I will forever be grateful to the team
21 of military members and especially for my VLC who
22 fought for my justice and my life. To them I am

1 grateful for the safety, clarity, and closure
2 that I have now and the future that I now have.

3 CHAIR HOLTZMAN: Thank you very much.

4 We will now hear from Captain
5 Christopher Mangels, U.S. Air Force, Special
6 Victims' Counsel at Peterson Air Force Base in
7 Colorado, and Ms. R.S. Captain.

8 CAPT MANGELS: Thank you, ma'am. Good
9 afternoon, Madam Chair and members of the panel.
10 I very much appreciate the opportunity to be here
11 today to speak with my client about the Air Force
12 Special Victims' Counsel Program. I will let her
13 introduce herself, but I'd like to give you just
14 a brief intro about myself, and then answer any
15 questions you may have.

16 I joined the military in 2009 as a
17 Judge Advocate, and since that time I have been a
18 Chief of Legal Assistance; Chief of Adverse
19 Actions, which includes administrative actions
20 and non-judicial punishment; and a Chief of
21 Military Justice. I personally prosecuted about
22 25 courts-martial prior to becoming an SVC, and

1 advised on or oversaw the prosecution of probably
2 another 20.

3 I have been stationed at Vandenberg
4 Air Force Base, California, and Minot Air Force
5 Base in North Dakota.

6 While at Vandenberg Air Force Base,
7 one of my clients was working -- or one of my
8 colleagues, excuse me, was working the United
9 States v. Herrera case, the case that was later
10 overturned by Major General Susan Helms. The
11 result in that case, along with the Wilkerson
12 case, are part of why I believe the Air Force
13 Special Victims' Counsel Program came about.

14 I was one of the initial cadre of SVCs
15 trained by the Air Force in December of 2012 and
16 took on clients in January of 2013. I was a
17 part-time SVC through July of 2014, with my main
18 duties being as a prosecutor and the Chief of
19 Military Justice.

20 I note this because I have experience
21 as a prosecutor interacting with SVCs in addition
22 to being an SVC myself. In July of 2014, I

1 transferred over to become a full-time SVC
2 stationed at Peterson Air Force Base, and I have
3 been doing that job ever since.

4 The Air Force SVC Program is set up
5 loosely into regional offices, with my base being
6 one of the hubs. My region extends from Colorado
7 north to Montana and Wyoming, and then east
8 through the Dakotas and Nebraska all the way to
9 Illinois. I primarily represent clients in my
10 region, though I have cases as far flung as
11 Florida, Texas, Hawaii, and Guam.

12 One of the bases in my region is the
13 United States Air Force Academy, and so I also
14 represent numerous cadets. Right now, I
15 represent 32 clients, both restricted and
16 unrestricted, in various stages of the
17 investigation and court-martial process.

18 I believe the Air Force Special
19 Victims' Counsel Program has been invaluable in
20 providing victims with legal counsel to more
21 fully participate in the process and to give them
22 a voice in the process that they didn't have

1 previously.

2 I'll note any opinions I give today
3 are my own and do not reflect the views of the
4 United States Air Force or the Air Force Judge
5 Advocate General Corps.

6 Thank you.

7 CHAIR HOLTZMAN: Thank you.

8 Ms. R.S., welcome. And thank you very
9 much for being here.

10 MS. R.S.: Good afternoon, Madam Chair
11 and distinguished members of the panel. I am --
12 I have a very brief introduction. I am a full-
13 time college student and a civilian. However, I
14 grew up the daughter of a retired Air Force
15 Airman.

16 And I'm originally from Cheyenne,
17 Wyoming, but I go to school in South Dakota and
18 that is where the incident happened; was in Rapid
19 City, South Dakota with the Airman residing at
20 Ellsworth Air Force Base.

21 The court-martial ended in a
22 conviction with confinement as well, and I do

1 have to say that the SVC Program -- I did not get
2 in contact with an SVC until after the Article 32
3 hearing when, just like Ms. J.B. said, you feel
4 vulnerable and realize how much help that you --
5 like how much more support you need other than
6 the JAG that -- what they provide, and the SARC
7 and the VA as well.

8 Today I ask you to ask me about the
9 communication and the consistency which I feel
10 are the two most important things as a victim.
11 The kind of support that we need are
12 communication and consistency, because our world
13 basically has just shattered. Something we were
14 not expecting just happened, and we need that
15 communication and consistency.

16 Like I said, I invite you to ask me
17 how different areas -- the SARC, VA, SVC -- all
18 those, how they have affected those two areas.

19 CHAIR HOLTZMAN: Thank you very much.

20 Our next presenter will be Lieutenant
21 Kathryn DeAngelo, U.S. Navy Victims' Legal
22 Counsel, Naval Station Norfolk, Virginia, and

1 Airman V.T. So, Lieutenant.

2 LT DeANGELO: Thank you. Good
3 afternoon, Madam Chair, distinguished panel
4 members. My name is Kathy DeAngelo. I have been
5 a VLC in Norfolk for almost a year. Before this
6 tour, I served as a legal assistance attorney and
7 a defense counsel at Defense Service Office West
8 in San Diego.

9 When I was chosen to be a VLC, I was
10 initially hesitant about the position. One of my
11 initial reactions on the phone with the detailer
12 was, I don't know how to be a VLC. I did attend
13 a week-long training given by the Air Force, who
14 have been doing this a little bit longer than we
15 have.

16 We also do periodic training. For
17 example, in spring 2014, every Navy VLC was
18 trained to provide service to child victims.

19 CHAIR HOLTZMAN: Could you pull the
20 mic closer to you, please?

21 LT DeANGELO: Of course, ma'am.

22 CHAIR HOLTZMAN: Thank you.

1 LT DeANGELO: Having been in this
2 position for almost a year, I feel extremely
3 lucky to be a VLC. I did not realize until I
4 started working with clients that there was a big
5 hole in our support system for victims where they
6 were largely left in the dark through the
7 military justice process.

8 I think the biggest benefit to most of
9 my clients of having their own attorney is having
10 someone who can explain the process and help them
11 understand what to expect. That goes a long way
12 towards easing anxiety and encouraging
13 participation in the process.

14 It is also really empowering for
15 victims to have someone whose job it is to
16 enforce their right to be heard through the
17 process. I don't know how many judges have been
18 swayed in motions practice on account of my
19 argument, but I do know that it is important for
20 our clients that someone is fighting for them and
21 fighting to protect their privacy.

22 I believe that Norfolk is the best

1 place in the world to be a VLC, because of the
2 strength of our relationships with Trial Counsel
3 and law enforcement. We are also lucky to have
4 SARCs and VAs that have accepted us and welcomed
5 us into the fold. We truly function as a team.

6 I even have good relationships with
7 local Defense Counsel. I have had to call on
8 them several times for advice on collateral
9 issues, and I have had two clients referred to me
10 by Defense Counsel who were representing them in
11 other matters.

12 My biggest challenges as a VLC are the
13 information deficit as well as compassion
14 fatigue. It is so much more difficult to advise
15 a client regarding, for instance, her input to
16 the Convening Authority on initial disposition if
17 I don't have the prosecutorial merit review. And
18 I never have that --

19 CHAIR HOLTZMAN: If you don't have a
20 prosecutorial what?

21 LT DeANGELO: Prosecutorial merit
22 review.

1 CHAIR HOLTZMAN: Merit review. Okay.

2 LT DeANGELO: I never have that
3 document. I do get to sit down with the
4 prosecutor to discuss their recommendation, but I
5 do not see the review.

6 I believe that we are making progress,
7 especially in our region, of improving
8 information-sharing. And certainly no one
9 expects that we will ever have access to
10 everything or that it would be good for us to.

11 Regarding compassion fatigue, I
12 definitely feel myself getting too emotionally
13 invested in my cases at times, and I have
14 observed similar things from my colleagues. I
15 don't have the solution for that. I think those
16 problems are exacerbated in a place like Norfolk
17 because of the volume of cases, and alleviated
18 somewhat by the fact that there are four of us in
19 the region and we can use each other as sounding
20 bounds and general support.

21 I think on some level that issue may
22 also end up being a consideration in determining

1 how long a VLC tour should last. Ultimately, in
2 this job, you learn to really appreciate the
3 wins, and those can be as simple as making a
4 client feel comfortable enough to convert to an
5 unrestricted report, convincing a convening
6 authority to prefer charges, or getting a
7 military protective order in place.

8 Finally, I would like to introduce you
9 to my client, Airman V.T., who is here to tell
10 you about her perspective on the Navy's VLC
11 Program.

12 Thank you very much for the
13 opportunity to appear before this panel, and we
14 look forward to answering your questions.

15 CHAIR HOLTZMAN: Thank you very much,
16 Lieutenant.

17 Thank you, Airman V.T. Welcome.

18 AIRMAN V.T.: Thank you for inviting
19 me to be here today. I am Airman V.T., an
20 Aviation Boatswain's Mate Fuel Handling. We work
21 at air terminals, carriers, and amphibious ships
22 fueling planes. I just signed an extension and

1 plan on reenlisting at least once.

2 I was a victim once before I joined
3 the Navy as well. My experience in the civilian
4 court was a lot worse, and I did not get to sit
5 down with the government -- with the government
6 attorney before testifying at the preliminary
7 hearing. I ultimately found through -- found out
8 through a friend that he had pled guilty in the
9 civilian court.

10 I was -- when I first learned about
11 the VLC Program, I didn't really know how that
12 would help -- how it would help me to have an
13 attorney, but it has a lot. It was really nice
14 to have someone explain the process and get up on
15 my behalf in court. My VLC had been a defense
16 counsel in her past, and I think that was really
17 helpful. She once -- or she had said many times
18 that she knows how they think, and that really
19 had helped with the questions, anticipating what
20 kind of questions they would be asking.

21 Ultimately, one of the offenders in my
22 case had pled guilty. The other was found guilty

1 at trial. I don't know if my experience with the
2 justice system makes me want to reenlist, but I
3 can certainly see how a bad experience might
4 change someone's perspective on reenlisting.

5 Of course, I have been negatively
6 affected by the assault, but I feel that I have
7 been treated fairly, and I feel I had a good VLC
8 -- VA and VLC. Ultimately, for anyone, this is a
9 scary and nerve-racking experience. And without
10 the support I had with the full SAPR Program, I
11 would have given up a long time ago and would
12 have never found justice.

13 CHAIR HOLTZMAN: Thank you very much
14 for your testimony.

15 Our next presenters will be Captain
16 Brian E. Stransky, U.S. Army, Special Victims'
17 Counsel at Fort Carson, Colorado, and Specialist
18 A.S. Captain.

19 CAPT STRANSKY: Thank you, Madam Chair
20 and distinguished panel members, for having us.
21 I should make one correction. I am not actually
22 stationed as a Special Victims' Counsel at Fort

1 Carson. I am currently an operational law
2 attorney at Fort Carson, and I was going to be
3 transitioning to become the senior trial counsel
4 there. I served as a Special Victims' Counsel
5 while deployed to Afghanistan in November of
6 2013. Prior to that --

7 CHAIR HOLTZMAN: Okay. Thank for the
8 correction.

9 CAPT STRANSKY: I didn't want to
10 deceive the panel. I served about six years
11 enlisted in the Air Force and in the Army Judge
12 Advocate General's Corps for seven years. I
13 previously served as a legal assistance attorney,
14 as a prosecutor, including as a special assistant
15 United States Attorney, and two years as a trial
16 defense counsel at Fort Drum. I also served in
17 an administrative position prior to deploying to
18 Afghanistan.

19 I received my SVC training at Maxwell
20 Air Force Base from the Air Force prior to the
21 Army Judge Advocate General announcing the Army's
22 Program as part of a research project. Once the

1 Army Program was announced, I volunteered to do
2 double-duty as my employee job and as an SVC
3 downrange, which is where I met Specialist A.S.

4 She was, unfortunately, sexually
5 assaulted by her senior non-commissioned officer
6 whom she served with. She initially, when
7 explained the SVC Program program by the CID
8 agents, a program that was at the time only weeks
9 old, she declined to have the service, more than
10 likely because it wasn't explained very well.

11 Shortly thereafter, when seeking some
12 help with an unrelated matter from an Army legal
13 assistance office, another Army JAG was able to
14 tell her about the program in a little more
15 detail. He reached out to me on her behalf, and
16 we met days later.

17 We stayed in contact through both of
18 us redeploying, her to Germany, myself back to
19 CONUS, and we attended the court-martial for the
20 -- her perpetrator back in June of 2014 where he
21 was convicted and sentenced to two years
22 confinement and a dishonorable discharge.

1 In my experience, the Special Victims'
2 Counsel Program has been extremely beneficial,
3 particularly to victims and especially to
4 answering that one question that is probably
5 always on their mind and is probably the most
6 common question asked which is, "What happens
7 next?" SVCs are in a unique position to answer
8 that question over and over if necessary.

9 I would agree with what a couple of my
10 colleagues have said, but I do think procedural
11 changes are necessary, specifically probably to
12 the rules of a court-martial to give, if not
13 equal standing to SVCs, at least some procedural
14 standing that -- where a victim elects to be
15 represented by a special victim counsel, at the
16 very least the SVC is entitled to be present at
17 all hearings and that their schedules ought to be
18 accommodated as much as the other counsel.

19 And as part of my service as an SVC,
20 as in anything else that I do, I encourage you to
21 ask us questions about how the military justice
22 process has changed and improved with that, as

1 well as other questions. And I'm very glad that
2 you, again, have agreed to hear from Specialist
3 A.S. here today.

4 Thank you.

5 CHAIR HOLTZMAN: Thank you. Thank you
6 very much.

7 Specialist A.S., welcome. We look
8 forward to hearing your presentation.

9 SPC A.S.: Thank you, Madam Chair and
10 members of the panel. A little bit about me, I'm
11 basically a vehicle -- a truck driver. I've been
12 in the Army for about two years and four months.
13 My first duty station was Germany.

14 About six months after being stationed
15 there, I was told that I had to deploy with
16 another -- with another company, which is also
17 stationed in Germany but in a three-hour
18 difference. So I went and deployed with them.
19 We deployed to Afghanistan.

20 I didn't really know too much about
21 the company that they needed the support in. My
22 company was originally a support unit. So I met

1 Captain Stransky -- I met him during the time
2 that I was actually assaulted. I didn't report
3 the assault until about a month later due to the
4 fact that I was scared and nervous because I
5 didn't have -- I told two people about the
6 incident, and one of them was my husband.

7 And I didn't have anyone to sit there
8 and really support me as backup. And by that I
9 mean I didn't have great leadership, and I didn't
10 have a great back team as, you know, a household
11 that you love. So when I did report it, it took
12 about three different chains to go through in
13 order to actually have something done about it,
14 because the assaultant was my SHARP rep, and I
15 didn't know who to go to as far as how to file
16 the complaint. Did I go to my SHARP rep? Do I
17 go to a Brigade? I didn't know where to go to.

18 So when I -- like I said, when I did
19 report it, I had to report -- I reported it to
20 actually a couple of people, and the right person
21 that did help me report that actually took me to
22 a Brigade, and we reported it to CID. And CID --

1 they explained to me a little bit what the SVC
2 was, but I did not understand it at all. They
3 didn't really go into it in depth. They just
4 wanted to know who the perpetrator was, you know,
5 question me about what happened. And it was
6 perfectly fine, I understand it, but it was more
7 of, you know, they wanted to help me.

8 So when I went to Legal to go talk to
9 them about some other issues that I was having,
10 they pointed me to Captain Stransky, and I told
11 him -- he was an SVC -- everything that happened
12 to me. And he has been there with me through the
13 whole process, and I can honestly say that
14 without him I probably wouldn't have been able to
15 survive a trial and go through everything that I
16 went through.

17 Honestly, during those hard times in
18 that courtroom, because you look at -- you look
19 at the panel, you look at the judges, you look at
20 everyone, and you're nervous, you don't know what
21 to say. And when you have somebody there, a
22 support team to focus on, you know that

1 everything is going to be okay, that, you know,
2 that they're there with you.

3 So I'm truly thankful for having an
4 SVC. I can say thank you, Captain Stransky.

5 CHAIR HOLTZMAN: Thank you, Specialist
6 A.S.

7 Petty Officer N.S., I didn't really
8 give you a chance, and you didn't ask for the
9 opportunity, to say a few comments about what
10 happened to you. So if you want to, and speak
11 about the SVC and how it has made a difference to
12 you, that would be a good opportunity. But you
13 don't have to if you --

14 PETTY OFFICER N.S.: Oh, no, I don't
15 mind at all.

16 CHAIR HOLTZMAN: Okay.

17 PETTY OFFICER N.S.: So, as I said, I
18 reported to boot camp in December of 2011, and I
19 reported to my first station, a small bus station
20 called George Washington, and that's when it
21 occurred.

22 So not to get into the details of the

1 case, because the case is still ongoing --

2 CHAIR HOLTZMAN: Right.

3 PETTY OFFICER N.S.: -- but the six
4 weeks after were very hard and just reporting.
5 There was social retaliation, both physical
6 assaults, not just the sexual assault that
7 happened. It was very difficult. And the group
8 is a very small organization. You know,
9 everybody knows everybody, and I really felt lost
10 at every turn.

11 I was not told about my right to an
12 SVC. Just a lot of hard things that happened
13 retaliation-wise, and at a time when I finally
14 got myself out of that unit and, you know, made
15 rank, moved on, started doing a little bit
16 better, then I, you know, was assigned my SVC and
17 things have gotten much better since then.

18 I can say that having that support has
19 been really great, you know, knowing that you
20 have somebody there to back you up and just, you
21 know, support you, even more, though, than just
22 the legal side of it, just, you know, in every

1 aspect, and it has been a really good experience
2 since then.

3 CHAIR HOLTZMAN: Thank you very much
4 for that statement.

5 I think I'm going to start this time
6 with you, Mr. Stone.

7 MR. STONE: Okay. The first question
8 I have -- and maybe it relates to the very last
9 comment we just heard -- was in an earlier panel
10 they said one of the most common types of
11 retaliation that is hard to do anything about is
12 a social isolation by other people in the unit.

13 And I just wondered if at least those
14 of you who -- victims who were in the military,
15 if, A, you felt that; and, B, if that made you
16 consider an expedited transfer, or if there was
17 some other solution to it that you were trying to
18 work out.

19 PETTY OFFICER N.S.: Well, I think
20 with my own experience that that definitely
21 happened. Social isolation, not just from my
22 unit but a lot of the other military rights, it

1 was a very small Coast Guard town in Port of Los
2 Angeles, and it seemed my entire work life was
3 crumbling, and so I had no friends outside of
4 work.

5 You kind of get wrapped up in this
6 quote/unquote "blue cocoon." Everybody you know
7 is Coast Guard, and your kids hang out with other
8 Coast Guard members' children, and you don't have
9 that network of community members who -- you
10 know, we're taught in boot camp that you -- this
11 is a family, you and I are family. And once
12 something like this happens, it's really hard to
13 not have the feeling that you just lost
14 everything.

15 The social aspect of it was really
16 difficult. I mean, I went through stuff such as
17 -- you know, just attacks through social media by
18 military spouses, defacing of a uniform where
19 they put like A's as in the -- like in the movie
20 The Scarlet Letter, just a lot of really terrible
21 stuff, refusal to let me get qualified, always
22 coming up with a reason why I couldn't get the

1 hours that I needed to qualify to move forward in
2 the position I was in.

3 It wasn't until I was ready to file a
4 formal complaint against the entire command cadre
5 that they sent me over to the Center Field Office
6 for my shop, and from there, being a little bit -
7 - it was only across the street, but being a
8 little bit away I had a little bit more support
9 through those people who were not so involved.
10 And they helped me get ready to -- you know, to
11 go to A School.

12 And then, once I was in A School,
13 having support and all of the instructors were so
14 supportive with my situation, and just really --
15 I mean, you know, it kind of revived my faith
16 back into the Coast Guard. And then, once I was
17 at my new station and had the strength to make
18 the full report, you know, I had great command
19 support there.

20 So at the time it was hard. You know,
21 you kind of get that feeling like, this is the
22 whole Coast Guard, this is the end of the world,

1 and nobody can help me, because of that initial
2 experience. But then, once you kind of get away
3 from those bad people who did whatever, there's
4 still a lot of good people there that can help
5 you out.

6 CAPT MANGELS: I guess I can maybe
7 address the question also on behalf of some of my
8 military victims. It's definitely the social --
9 the ostracization that is kind of more the issue
10 than official retaliation. I have no concern,
11 you know, if any of my clients were to face kind
12 of adverse career actions or something along
13 those lines from their chain of command, that I -
14 - I think I would be able to address that.

15 The problem is, you know, when you
16 have folks who are kind of in this, you know,
17 dorm or barracks situation, and they're 18-, 19-
18 year-olds, I mean, they are going to talk. So
19 having the ability to transfer is certainly a
20 great option for many of my clients.

21 The problem arises where, you know, if
22 they're in a particularly small career field,

1 there may be only a few bases that they can go
2 to, first of all. And, second of all, everybody
3 knows everybody. So even if, you know, they are
4 at another base, you know, you may have somebody
5 talking to folks at the other base, or if the
6 person they are accusing -- either there is no
7 action taken against that person or there is an
8 acquittal in their case, you know, that person
9 could eventually be transferred and go to that
10 same base that the victim is now at.

11 So I think one of the ways that we can
12 perhaps address that is through expanded
13 opportunities for airmen who are victims to
14 cross-train into other career fields and maybe
15 have the option to basically, you know, open up
16 which bases they can go to and perhaps get into a
17 different career field, so that, you know, they
18 can kind of get out of that small community
19 where, again, all of this stuff is going to be
20 known.

21 The only place that I don't see that
22 being able to I guess be addressed is, as I said,

1 at the Academy, where you not only have the fact
2 of, you know, they're all in the military, but
3 it's essentially a college, you know, campus.
4 So, you know, they're not able to cross-train in
5 anything else at that point. They're not going
6 to go -- you can't expedite a transfer because
7 there is no other service academy they can go to.

8 So I don't have the answer for that,
9 but I think that would be -- that's kind of the -
10 - at least in my practice, one of the bigger
11 places where, you know, that social ostracization
12 is coming in, and there is no really easy
13 solution for it.

14 SPC A.S.: Like I said, with my own
15 personal experience being as active duty, as far
16 as retaliation goes, yes, I've experienced it
17 myself. Coming from, you know, that unit after I
18 deployed with them, and, you know, us going back,
19 for the simple fact that the trial didn't go for
20 a couple of months, so, you know, people knew
21 about what happened; they just didn't know all
22 the facts.

1 And, you know, you get judged and no
2 one knows the real truth, and, you know, you've
3 got people that's friends with, you know, who is
4 being accused, and they look at you like, "No,
5 she's lying." You know, they don't even know
6 you.

7 So it's more of, you know, staying in
8 that area, which is why a lot of people get
9 expedited, which is why I got expedited, because
10 I no longer felt safe or comfortable being in the
11 area that I was. I had friends and other people
12 looking at me different and talking about me.
13 There were people I didn't even know who knew
14 about me just from hearing about my situation,
15 and it was difficult.

16 So I would say for -- to help that
17 situation, for the less retaliation, that some
18 people are -- just switch MOSs, like right now
19 I'm planning on going to a different MOS. I
20 decided to stay in the Army, but I'm going to
21 switch my MOS to kind of avoid being in that type
22 of situation or conflict of, you know, having to

1 meet those same people over and over again.

2 So it will be a different MOS for me,
3 but I'd like to try it. But I'd rather not give
4 up hope than, you know -- than, you know, be a
5 failure.

6 MR. STONE: Would you or do you think
7 people in your situation would have chosen an
8 expedited transfer even more swiftly if it came
9 along with an option to be retrained in another
10 specialty, another MOS? Do you think that's one
11 of the things that holds some people back because
12 they don't -- you know, they don't want to go to
13 the one base where their MOS could be needed or
14 something?

15 SPC A.S.: No. I think it's more
16 people are unaware. They don't know. Like with
17 my SVC, he informed me of other things that I can
18 do, certain situations that I could be in. A lot
19 of -- the CID agent or a SARC wouldn't kind of
20 inform me about that, and that's why I feel
21 people within my situation, an expedited transfer
22 is due to feeling uncomfortable and no longer

1 being able to work in that specific type of job
2 or area because you're scared, you don't know
3 what to do, you don't know who to go to.

4 And then the pressure and you go
5 through anxiety, you've got to go see behavioral
6 health, and your commanders or your battle
7 buddies or your -- your units basically don't
8 understand because they don't know what happened
9 to you. And if they do know, it becomes
10 judgment, and that's the worst thing for any
11 Soldier is judgment.

12 CAPT STRANSKY: Sir, if I could also
13 answer that question. I tend to not think so.
14 You know, I mean, my experience has been, you
15 know, most Soldiers, you know, want to stay in
16 their units and they know that if something
17 happens to the perp then they are going to be
18 gone. Fortunately, with Specialist A.S., we were
19 downrange and it wasn't really a punitive action
20 to send her attacker back to the home post in
21 Germany.

22 But, you know, maybe something to the

1 Army, our MOSs, since we're all defaulted in
2 Infantry, we don't normally face the same kinds
3 of things as the Navy and Coast Guard as far as
4 having an MOS and not being -- and not having a
5 wide range of assignments that you could go to.

6 LT DeANGELO: I would say, sir, it --
7 in the Navy, I think there is -- you know, it
8 would be pretty rare to have a rate where there
9 wasn't any other option, and obviously we're in
10 Norfolk where a lot of times it's as simple as
11 another, you know, ship on the next pier, or
12 sometimes folks want an expedited transfer to a
13 different area.

14 And in my experience -- and I'll let
15 Airman V.T. talk to you about her particular
16 experience -- but across the board it seems like
17 these are being granted and we're being able to
18 give these expedited transfers. I think the
19 trickiest part that I have seen is a lot of times
20 victims want to stay at their command,
21 surprisingly so to me.

22 I think more so than I expected, a lot

1 of my clients say, "I'm happy with my shop. I
2 like where I work. Can't I stay? Can't they
3 move the offender instead?" So those are more of
4 the challenges that I see across the board, but I
5 do want to let Airman V.T. tell you about her
6 particular experience.

7 AIRMAN V.T.: So I did end up using
8 the expedited transfer, and I was almost
9 transferred immediately, I think a day after
10 reporting, that they moved me to a shore duty
11 command temporarily, I think for about a month,
12 and then they had moved me back to another ship.

13 And I would say the only problem that
14 I kind of see is that I had people in my division
15 that had gone -- or that I was on ship with that
16 were also AVFs that had went TAD back to the
17 WASP. So even though the case was like in
18 process and they didn't know exactly what
19 happened to me, they went to the ship TAD orders
20 and had heard from people of what was going on
21 and why I had gotten transferred there. So that
22 was the only problem I think that I had saw in

1 the expedited transfer.

2 MAJ IVINS: I want to just comment for
3 the Marine Corps. I have had 60 clients, and one
4 client had an expedited transfer. For the most
5 part, I agree with the Lieutenant that most of
6 the time the clients want to stay within the
7 command, and they're not experiencing that
8 retaliation.

9 One of the problems, though, with
10 expedited transfer, especially if they transfer
11 far away, is sometimes the cases kind of die.
12 But if they get transferred real far away, you
13 know, every time they have to come back for an
14 Article 32 hearing, a 39(a) session, they have to
15 come back for any type of interview, they are
16 being taken away from their workplace and their
17 new duty station. And now that new command is
18 not able to observe that Marine, and sometimes
19 those Marines are negatively impacted at that new
20 duty station because they are constantly being
21 flown back.

22 So let's say you get a Marine who was

1 assaulted at Camp Pendleton and they get
2 expedited transfer back to Lejeune. Every time
3 they're leaving, it could be a week at a time.
4 So I always advise my clients, if they don't want
5 an expedited transfer, try to do a transfer, you
6 know, to a base that's within maybe 100 miles.
7 Like at Camp Pendleton, we're fortunate to have
8 Miramar, which is 30 miles away. We have -- with
9 the depot, we have Twentynine Palms, but that's a
10 lot better than being transferred far away.

11 I think for the most part if the
12 Marine is comfortable with that unit, and they
13 can stay in that unit, they are going to have --
14 and they want to participate in the judicial
15 process, they're going to have much more success
16 potentially, and at least have a fair judicial
17 process.

18 Like I said, sometimes the ones that
19 get transferred far away, they just -- the cases
20 just end up going away, or eventually the client
21 puts a -- submits a victim preference statement
22 saying they don't want to participate anymore

1 because it's negatively impacting their career
2 every time they're trying to participate.

3 So I just wanted to -- that's
4 something I wanted to bring to your attention.

5 MR. STONE: Can they defer that
6 expedited transfer? Can they say, "Yes, I want
7 it, but not until this proceeding is over"?

8 MAJ IVINS: Yes, they can. And they
9 can -- you know, they can defer it; it's just you
10 either get -- most of the time when I talk to my
11 clients and I explain to them that I will be
12 there with them to help them, and I explain to
13 them the drawbacks for the transfer, and if --
14 you know, especially if I get a client who really
15 wants to participate in the judicial process,
16 most of them opt to stay. I have only one that
17 felt that there was a negative culture in her --
18 felt her command was not giving her the
19 opportunities she wanted. But I was able -- we
20 were able to transfer her to a base within
21 Southern California, so she was still able to
22 participate in the judicial process.

1 LT CDR STEVENS: Sir, if I may comment
2 briefly. I think the expedited transfer is a
3 good solution for a very -- for various issues,
4 including, you know, safety for the member away
5 from the offender, moving to be closer to a
6 support unit, and what you mentioned, sir, the
7 potential retaliation or social impact of
8 reporting an assault might cause the member.

9 I think it's not a permanent fix,
10 though, to the underlying problem, which is the
11 lack of training and awareness for people at the
12 field level in dealing with someone that is a
13 victim of sexual assault. Changing an MOU or the
14 rank or the rating of a member is also a
15 temporary solution.

16 A member shouldn't have to give up
17 their skill that they have, you know, been
18 trained at and spent time in just to escape this
19 social -- you know, social pariah statement that
20 they receive by -- it comes down to appropriate
21 training amongst the field level.

22 I have been very -- I would be very

1 happy to see that at the more senior leadership
2 level commands take reports of sexual assault
3 very seriously, and they make their best efforts
4 to alleviate the issues that a victim deals with.
5 Where I'm seeing a complete lack of awareness is
6 at the immediate level. Like in FS3's case, she
7 was scared to even report the sexual assault
8 because just reporting a regular assault and
9 sexual harassment turned her into the bad guy at
10 her command.

11 So I think the main thing that really
12 needs to be addressed is we receive great
13 training as SVCs. We know what the
14 counterintuitive behaviors of a victim are, and
15 we know how to engage in conversations with the
16 convening authority and the legal command to say,
17 "Hey, this is why maybe she acted that way. This
18 is maybe why she gave an inconsistent statement."
19 But the field units, the immediate supervisors,
20 and the people within the command don't have that
21 awareness and they view it as a negative thing
22 against the person.

1 So one of the things I'd like to see,
2 and we're trying to do within the Coast Guard, is
3 provide, you know, more unit-based training to
4 not just the SARCs and the VAs and, you know,
5 legal or trial counsels, but to -- you know, to
6 some of the other shops just on base.

7 In addition to your yearly sexual
8 harassment training, here is what a Special
9 Victims' Counsel can do for you, here are the
10 rights that a victim has, and here are some of
11 the behaviors you might see happen at your
12 command that you shouldn't automatically view as
13 being negative and maybe should set off some
14 yellow flags for you to engage perhaps the SARC
15 or VA or SVC.

16 Thank you.

17 MR. STONE: I just have one other
18 question that relates a little bit to what Petty
19 Officer N.S. said and Specialist A.S., and that
20 has to do -- we were asked to consider the
21 problem of abuse of use of authority -- use of
22 authority. And I didn't -- and one of the

1 subcategories of that was, what about when a
2 fairly new military member is in training, should
3 the penalties be even higher there? Because they
4 are sort of locked into the training unit, and
5 they're brand new, and they really don't -- it's
6 a lot harder to say, "I want -- I need a transfer
7 now," if they haven't gotten any training yet.

8 Petty Officer N.S., it sounded like
9 you were still getting training at the point this
10 happened, and do you think that there should be
11 tougher penalties during the training session?
12 And then my other question for A.S. was going to
13 be whether your supervisor used his authority to
14 -- as far as why the offense occurred.

15 PETTY OFFICER N.S.: Yes, sir. It was
16 one of the supervisors who assaulted me, and we
17 were stationed in such a small station, we had
18 duty sections and I was the only female. And,
19 unfortunately, it was a very incestuous
20 mentality. You know, "We keep it in the family.
21 You don't report it to the command. I'm the
22 boss. If there's a problem, you come to me. I'm

1 going to protect you guys from the command." And
2 really made it seem like going to the command was
3 the worst thing you could do. "We need to keep
4 this in-house. We protect each other." Even
5 though he would use that, you know, to abuse
6 other people.

7 And I do think that there are some
8 people in the Coast Guard who take it way more
9 seriously than -- I was only an E2 at the time.
10 You know, I was a non-rate. Unfortunately, I was
11 -- in the Coast Guard, when we come out of boot
12 camp, we don't immediately have our dot yet, you
13 know, our rating.

14 So we still have that choice, and I
15 was striking Boat's Mate under the supervisor. I
16 did change my mind, and luckily I hadn't already
17 committed years of service to training for this
18 job, and I could go easily and could transition
19 to another job, so I was fortunate in that
20 aspect.

21 But I do think that there are commands
22 who believe that, yeah, the people who are new

1 are so fresh and -- not necessarily innocent
2 because we are adults when we go in to the
3 military, but they are not -- we're not
4 immediately given that training.

5 We are told in boot camp how to report
6 sexual assault, and it is touched on, but upon
7 reporting to your first unit, you know, it's hard
8 and you don't want to ostracize yourself.

9 You see -- you know, it's hard because
10 you hear about, oh, this thing or that happens,
11 and then when you're the one that it's happening
12 to, you realize it is hard. But there are people
13 I think in the Coast Guard who take it very
14 seriously when this happens, especially to a
15 member so new. And I've gotten that support
16 through my chain of command once I was
17 transferred and through my Coast Guard
18 investigative services.

19 You know, this member had been in for
20 almost eight years. There was no question that
21 he knew better. You know, this wasn't two new
22 people who weren't real mature. This was

1 somebody who used his authority specifically
2 against a new, 19-something year-old.

3 SPC A.S.: I can also agree with that.
4 I believe that, yes, because we -- we are new
5 Soldiers, we are brand new to the Army, we're not
6 very knowledgeable of all its rules as an old
7 person within the Army would. If you've been in
8 the Army for over 20 years, and a new Soldier
9 comes in, this is like her first six, seven
10 months, she is not going to be or he is not going
11 to be more knowledgeable than a 20-year-old --
12 you know, that 20-year person that has been in
13 the military. So they are going to not know all
14 the rules, not know who all to go to, not know
15 what to say, not know -- it's just they don't
16 know.

17 So as far as abusing power, yes, some
18 of these companies or units do abuse their power
19 because of that Soldier not knowing, the
20 knowledge that they are not given, or, you know,
21 them being unaware of what the policies are.

22 And with my situation, my assaultant,

1 who was a SHARP rep, he did know everything about
2 SHARP. So you would think, okay, that, you know,
3 I'm not going to, you know, assault that person.
4 But it's a different -- I guess he thought
5 different.

6 And with that, he abused his power by
7 coming back, even after the assault, to apologize
8 and make me -- and let me -- inform me that he is
9 a SHARP rep, and that he is an E6, to -- that's
10 abuse of -- that's what they call abusing of
11 power, to let your -- the person you assaulted,
12 to let them know your position, your rank, what
13 kind of family you've got at home, so that we're
14 basically not jeopardizing or trying to ruin your
15 life because of one mistake you may have made or
16 because you thought it was a two-way attraction.

17 And as far as the company goes,
18 because the company has known that person for
19 maybe X amount of years, or had faith or really
20 liked that person, like if the commander was
21 really great with that person, of course they are
22 going to kind of value their side more than a new

1 person or the person who is less informed.

2 So it's all about knowledge and who
3 you know, and that's with any business.

4 MR. STONE: If you were going to give
5 heightened protection, would you give it to the
6 new recruits for a month or two months or six
7 months? Is there a number you'd put on how long
8 they needed?

9 SPC A.S.: As far as protection, they
10 always need to be aware. This is something that
11 should not just go by, "Are you a onesie or
12 twosie?" or "We'll let them know this month or
13 next month." This is something that should
14 always -- that should continue every day if it
15 has to be, because they don't know the new
16 Soldiers, the new privates.

17 They have to be aware of this, because
18 it's a constant and common thing that's going on
19 in the world, and it's not just the Army, it's
20 not just the Navy, it's not just any branch.
21 This is throughout the countries, that people do
22 not know -- do not understand that there is help

1 out there, and do not let people abuse you just
2 because you don't have that knowledge.

3 CHAIR HOLTZMAN: Okay. Admiral
4 Tracey, please.

5 VADM(RET) TRACEY: Each of the
6 victims, in addition to your SVC, did you have a
7 Victim Advocate? What other pieces of the SARC
8 team were you able to be exposed to? I mean, you
9 had a really unusual circumstance that you
10 couldn't use the immediate resources, but did you
11 eventually get exposed to those? How did the
12 relationship with them compare to the way that
13 you worked with the SVC?

14 SPC A.S.: For me, it was different.
15 Like I said, I reported the incident a month
16 later. And when I did get the representation, it
17 wasn't -- I'm not going to say it was bad because
18 it really wasn't, but to me it wasn't as helpful
19 as it could have been compared to me having an
20 SVC, because my SVC stood by me. He never left
21 me to where -- the point where I felt alone. He
22 was by my side. He had answers for any type of

1 questions. He even had his own answers to
2 everyone else.

3 He -- I didn't have to worry about
4 people coming to contact me. They had to go
5 through him, and he would let me know what they
6 were saying or what they were thinking. He would
7 get my -- you know, what I wanted to say, and he
8 would say to them what I wanted.

9 So that way it didn't come off like I
10 was retarded or I didn't know what the right
11 thing was to say. He spoke for me, in my own
12 words. And not a lot of people can do that for
13 you, and he didn't look at me as, oh, you're just
14 a victim, or, you know, you're crazy or anything
15 like that. He looked at me like, "I got your
16 back. No matter what the outcome is, I'll
17 protect you."

18 Even during the court, the sessions,
19 to have that person in there with you, and just,
20 "Let me know if you need anything, and let's just
21 step out for a second, because this is what
22 they're most likely going to say; do you want to

1 stay there for that, or do you want to leave?"

2 He asked me any questions where if I felt
3 uncomfortable, or if I felt comfortable, and no
4 CID, no SARC, no one is really going to ask you
5 what you really feel the way my SVC did.

6 So that's what I thought was different
7 for me. You can ask him how --

8 VADM(RET) TRACEY: Were you assigned
9 a Victim Advocate? Did you choose to use those
10 services as well?

11 SPC A.S.: No.

12 CAPT STRANSKY: She certainly did
13 encounter those folks first, because that's
14 pretty much standard operating procedure.
15 Probably the first person she spoke to was a SARC
16 at a certain brigade. They -- again, Afghanistan
17 is a little different than other places. But
18 there's a Victim Advocate, and then right over to
19 CID. You know, I can't comment negatively on any
20 of those services. Once I was involved --

21 VADM(RET) TRACEY: You became the
22 intermediary?

1 CAPT STRANSKY: I beg your pardon?

2 VADM(RET) TRACEY: You became the
3 intermediary then?

4 CAPT STRANSKY: Yes, ma'am. I didn't
5 see any need for anyone else to --

6 VADM(RET) TRACEY: Okay.

7 CAPT STRANSKY: That was just my view.

8 VADM(RET) TRACEY: Okay.

9 AIRMAN V.T.: I had access to all of
10 the services. I had first a SAPR that I had
11 talked to, and then also I had talked to the VA,
12 and from there I went and got a VLC. I would say
13 that out of all of those that the SAPR seems like
14 they -- they -- just they really don't know what
15 all your options are. So they really don't have
16 all of the information that they need to have as
17 a VC and a VA do. It seemed like they -- those
18 two had the most information, and it was accurate
19 information.

20 And also, that it seemed like a SAPR
21 was not -- like they wouldn't communicate with my
22 chain of command that I was in. So I always had

1 to go to my chain of command and be like, "Hey, I
2 have this coming up," you know, and I feel that
3 you need somebody that would contact your chain
4 of command for you, so you don't have to make
5 those awkward conversations with your chain of
6 command and let them know pretty much all your
7 business.

8 And that once I had a VC, she had sent
9 over letters to my chain of command, and then
10 from there it shut down any problems that they
11 had with me leaving. So I would say that the VC
12 was most helpful.

13 VADM(RET) TRACEY: Thank you. Yes.

14 MS. R.S.: I also had access to all of
15 the -- everything that was provided to me. Right
16 away, actually, I -- I initially reported it to
17 the civilian side, and tried to have them take
18 over, but initially -- immediately the SARC got
19 in contact with me and I was assigned a Victim
20 Advocate.

21 That was, quite honestly, the perfect
22 fit, and it was really nice to have that, because

1 sometimes you don't want to go to your parents,
2 you don't want to go to your family, your
3 friends, and you can go to this person who is
4 essentially like you instantly make a friend.

5 And it's almost for me -- I'm an only child; she
6 was almost like a sister, a big sister I could
7 talk to and say, "Hey, I don't know what to do."

8 The nice thing with my VA is she was
9 actually a victim of sexual assault as well, so
10 she knew exactly what was happening, my thought
11 process. She wasn't sitting there assuming from
12 what she was -- she actually knew, and that was
13 also really nice, to have that from her.

14 And then, with the SVC, obviously, I
15 was actually assigned somebody different
16 initially. She was TDY at first, and then she
17 took vacation, and then separated. And then
18 Captain Mangels took over from there. And once
19 he took over, everything seemed to get a lot
20 better, communication-wise and whatever. He
21 would let me know.

22 And, in my opinion, the most important

1 thing -- like the SARC had left as well, a new
2 SARC had come in, I had minimal contact with the
3 new SARC. My VA ended up getting actually pulled
4 by her commander. So I had a lot of change, and
5 that was like there's no consistency. That's
6 really hard when you're a victim, to have
7 constant things changing.

8 As a civilian, too -- I understand
9 it's a military world, personnel change, but it
10 was nice to have Captain Mangels and he stayed
11 and he made it clear that he was really not going
12 anywhere anytime soon.

13 And the two most important things are,
14 number one is the SVC for sure, because they have
15 a wealth of knowledge for legal advice that in
16 the military I have no clue what's going on. I
17 really don't. And he could give me updates on
18 the process and let me know, "Hey, this is going
19 to happen next. This is what they're doing."
20 And kind of basically sum it up for me in words
21 that I would understand. So definitely most
22 important.

1 And as for Captain Mangels, he did get
2 to know me on a personal level, not just legal,
3 "I'm here to represent you." It was a "What can
4 I do?" He would set up a weekly -- every
5 Wednesday morning, actually, we would talk and he
6 would say, "Hey, I don't have any updates, but
7 how are you?" And so it was really nice to have
8 that as well. But if I would have still had my
9 Victim Advocate all the way through, that would
10 have been really nice, too, because she did do
11 quite a bit for me. So --

12 VADM(RET) TRACEY: Thank you.

13 MS. J.B.: I first got my Victim
14 Advocate in September 2011, the first time
15 around, and she was the one that was there for me
16 throughout the entire process. But it's a lot
17 different than SVC. The Victim Advocate was
18 there from the very beginning. She's the one
19 that took me to the NCIS office. She kind of
20 talked me through a lot of the things, prepped me
21 for the Article 32, just sat there and kind of --
22 she was also a military wife, so she was able to

1 kind of understand where I was coming from, some
2 of the worries that I had.

3 But in the Article 32, like I
4 mentioned earlier, I didn't have an SVC. And so
5 when I was on the stand, I was very exposed. I
6 was very much harassed by the defense counsel. I
7 didn't really have anyone to look out for me. It
8 is already very difficult, from a domestic
9 violence to a sexual violence crime, the kind of
10 questions that you are asked by the defense. And
11 it's so hurtful to sit up there and answer some
12 of the questions that you have to answer.

13 And so I was being asked to draw
14 certain things, and just very inappropriate
15 things, whereas the second time around I still
16 had my Victim Advocate who was there coaching me
17 through everything, kind of keeping me in the
18 mentality that I needed to be in, whereas he
19 would be in the courtroom and then come back out
20 and tell me what they were fighting over and they
21 were fighting over my rights, and that was the
22 entire first day of the courtroom was them

1 fighting over my rights and what was going to be
2 allowed and what they were going to be allowed to
3 ask me.

4 And it was a huge win because I
5 wouldn't have to sit up there and be, you know,
6 harassed by the defense counsel. So it's a
7 completely different service, because the
8 prosecutor is focused on getting the perpetrator
9 imprisoned. He is not necessarily focused on
10 protecting me and making sure that, you know, I'm
11 not exposed. So they all offer different
12 services.

13 PETTY OFFICER N.S.: Unfortunately,
14 once I made my report, my VA was a lieutenant
15 from kind of across the lake. He was there for
16 me, offered, you know, his support, but it was a
17 little uncomfortable. It was the first time we
18 ever met. He was, you know, a uniformed officer.
19 So he did offer me support. He offered to be
20 there with me through the procedure of
21 investigation, which can be hard. You know, you
22 kind of feel like you're being interrogated

1 sometimes.

2 And at first I did not want to be
3 involved in the investigation whatsoever, so he
4 was going to be there to make sure that the Coast
5 Guard investigative services did not push that.
6 And then, you know, when I changed my mind and
7 said, "Okay. I do want to participate, you know,
8 I want to be involved," he was there to support
9 me with that, too.

10 But that's kind of where the
11 relationship ended, because I did get to use
12 other services once I reported to the support
13 unit. I had a SARC once I got to Alameda, and it
14 was one of those things -- because I -- I
15 introduced myself, but he was not very helpful to
16 be perfectly honest.

17 The Victim Advocate was one of those,
18 you know -- was the SARC, a VA, or an SVC. If I
19 could only have one, I'd definitely have an SVC,
20 because from the first day it was, "If you need
21 counseling, if you need support groups, if you
22 need, you know, other outside medical treatment,

1 I can get you in touch with these people. I can
2 get you in touch with the people here on base if
3 they are not getting you the treatment that you
4 need."

5 Any sort of -- he offered
6 understanding as to why I could still get
7 appointments and that would have been handled by
8 -- it's an all-encompassing job, not getting
9 emotional support and that kind of friendship
10 that you need during that time, and, you know,
11 getting that consistently. Very important to me
12 and where the VA is kind of, "Okay. Well, here -
13 - I'm here to help you, to support you. The SARC
14 was supposed to give you the information." He
15 can give you all of that.

16 VADM(RET) TRACEY: Let me ask the
17 SVCs, how do you integrate with the SARCs? And
18 how do you participate in the case management
19 reviews?

20 LT CDR STEVENS: Typically speaking,
21 when I'm first detailed a case, the first phone
22 call I make is to the SARC. And usually the SARC

1 is the one requesting on behalf of the victim,
2 Special Victims' Counsel, as opposed to first
3 going over any of the facts or any potential, you
4 know, issues that might, you know, go into the
5 investigation. I like to discuss that with the
6 SARC and then the trial counsel before reaching
7 out to the victim, so that the victim doesn't
8 have to retell their story once again.

9 So, in my experience thus far, I've
10 had very positive interactions with the SARCs. I
11 feel that in the Coast Guard where we still
12 require some work is getting the SVC on board
13 right off the bat. In FS3's case, she was
14 advised of her right to an SVC well after she was
15 interviewed, well after she reported, and I think
16 a lot of the experiences she had could have been
17 avoided if the SVC had gotten on board right
18 away.

19 The SARCs that I deal with are well
20 aware of the right for the victim to consult with
21 the counsel on -- you know, upon reporting.
22 We're still working to encourage our

1 investigative service to provide them with that
2 right in a manner that they can clearly
3 understand. And I always try to reach out, a lot
4 of times even before contacting the victim, to
5 figure out who the agent is and say, "Hey, just
6 so you know, I'm the detailed counsel here. And
7 if she decides that she wants to speak with me
8 first before being interviewed, please, you know,
9 respect that right."

10 So, all in all, my experience with
11 SARCs have been very positive.

12 MAJ IVINS: My experience at Camp
13 Pendleton with the SARCs has been also positive.
14 Before the program was stood up 1 November 2013,
15 I sat down with them and went over their
16 requirement under 10 USC 1565(b) of informing the
17 victims that they have the right to a VLC once we
18 get it up and running.

19 One of the things that we did is we
20 put together a flyer for the SARC explaining our
21 services, and it has a map and a location where
22 we are located, so that when they see a victim

1 they present that to the victim, they let the
2 victim know they have the right to speak to a VLC
3 before they interview them, before the NCIS
4 interview, or anything else.

5 And that's an important thing, that we
6 get with that victim before they start that
7 investigative process, because there are so many
8 rights that can be protected when we're with that
9 victim at NCIS.

10 We still do have other problems.
11 Sometimes the victims are not made aware of our
12 service, because they reported through a
13 different chain and what not until after they are
14 interviewed by NCIS.

15 We also participate with the SARCs on
16 quarterly. The SARCs do training, and we go to
17 that training, and we get -- and in that training
18 they have a trial team there, they have HQEs, the
19 high qualified experts there, they have NCIS
20 there, they have all of the other Victim
21 Advocates there. And at that training event, we
22 give them updates on our program, we talk to them

1 about what is going -- the good, the bad, the
2 ugly, all those things, and we address those
3 issues.

4 We are constantly working with the
5 SARCs to try and improve the lines of
6 communication and try to improve the program so
7 that the victims are aware of our services from
8 the very beginning, and that's something that is
9 a challenge but continues to improve. So we have
10 a very good relationship with the SARC.

11 CAPT MANGELS: I would agree with my
12 colleagues. My relationship with all of the
13 SARCs I deal with is generally pretty positive.
14 One thing I would just kind of say has been kind
15 of a learning point that I need to stress to them
16 is that once I form the attorney-client
17 relationship with my client, then I have that
18 privilege and I have the obligation to not reveal
19 communications and stuff like that.

20 So I think that's something that they
21 struggle with a little bit sometimes is I can't
22 give you information unless my client says I can

1 give it to you. So, and then with respect to the
2 Case Management Group, within the Air Force at
3 least, SVCs are invited to attend but are not
4 required to attend -- all Case Management Groups.
5 When I can attend, I do try to, but for me it's
6 more of a -- me getting information from them
7 versus me giving information, because, again, I
8 have that attorney-client privilege where I
9 cannot give information out.

10 And, you know, if I have a problem
11 with a command or something like that, my thought
12 is generally the Case Management Group is not the
13 best place to raise that. It's one on one with
14 the commander or, you know, with the legal office
15 or something like that.

16 But where I -- you know, where I can't
17 attend the Case Management Group or I can only,
18 you know, do it telephonically or something like
19 that, a lot of times it's me kind of stepping in
20 and out because they may be talking about clients
21 I don't represent. So I can't be in on those
22 meetings, so it's a little bit of a dance

1 sometimes. But, you know, I do -- you know, the
2 SARCs are very good about inviting me, and I do
3 try to attend the ones I can, but it's not --
4 it's not universal as far as me being able to
5 either be there or the information I can provide
6 while there.

7 VADM(RET) TRACEY: Thank you.

8 LT DeANGELO: Ma'am, I think we have
9 a -- we have a great team -- team mentality in
10 Norfolk specifically. We are collocated with the
11 SARCs and the civilian VAs, which is awesome
12 because I can go across the hall or down the hall
13 or upstairs to find the SARCs in my region.

14 Second, the case management meeting,
15 the monthly meeting, also happens in our building
16 which is, again, great because we all attend as
17 VLCs. But it is a trick, and it's a trick that
18 the SARCs -- quite frankly, they're the ones
19 jumping through the hoops of, all right, somebody
20 go get Lieutenant DeAngelo. Okay. Next case is
21 this VLC; go get this VLC, making sure that we're
22 within.

1 I think being at the case management
2 meeting, you know, as long of a day as it is in
3 Norfolk, because it lasts all day, it's very
4 valuable in a sense, because it's the time that
5 your client's commander -- commanding officer or
6 commander, captain, whatever it is, is going to
7 be there. Your client's uniformed VA. If they
8 have a VA from there, command is going to be
9 there, the civilian VA, the SARC, everybody is in
10 one room, and that is our opportunity to just
11 make sure that everybody knows what they need to
12 know and everybody knows where we are going.

13 I don't see a huge problem with the
14 privilege and the confidentiality there.
15 Obviously, I don't go to case management meetings
16 and talk about what my client has discussed with
17 me, but I do talk about, "Hey, we sat down with
18 the trial counsel. Here's where we're going."
19 Or the new case dates are these because the Judge
20 moved them, or whatever it may be that is good
21 for everybody to get together and know.

22 I will also say that the SARCs in

1 Norfolk are such wonderful advocates in their own
2 right. I mean, they are coordinators
3 essentially, and, you know, they do that and they
4 are also the ones that are making sure that the
5 commands are doing the paper report right, and
6 all of those sort of nuts and bolts things,
7 that's their job to be on top of that.

8 I get most of my cases from them.
9 They're the ones who say, "Hey, wait a second.
10 You know what? I think this one may need some
11 legal advice. Let's see if we can get them a
12 VLC."

13 I have a recent case where I had a
14 SARC, not knowing what to do because there's
15 three different victims, and she did the legwork
16 of making sure, okay, can I get this VLC to see
17 this person, and can I arrange for this VLC to --
18 to the point of literally scheduling them for us.

19 So I think, you know, the SARCs and
20 the civilian VAs in Norfolk make our job so much
21 easier. And I like to believe -- obviously,
22 they're not here to refute it, but from what --

1 from what I've heard from them, they feel like we
2 improve the process as well.

3 CAPT STRANSKY: Yes, Admiral. First,
4 I should preface, you know, I'm at Fort Carson.
5 I'm not going to comment on how the process works
6 there because I'm not actually involved there.
7 My prior experience, I have to agree with the
8 Lieutenant and the Captain there, that it's
9 really good practice for the SVC to be able to go
10 to those, not so much as a participant and share
11 information, but to gather information and to,
12 you know, get access to some of that so you can
13 see how things are moving along.

14 In the Army, things are a bit
15 different because typically we are not collocated
16 with those other providers in a headquarters or
17 in like a one-stop sort of a building. Our SVCs
18 tend to -- not in every case, but they tend to be
19 located at the Office of the Staff Judge Advocate
20 or where the Legal Assistance Division is as a
21 part of that staff.

22 So we probably -- it takes a little

1 more work to sort of, you know, get together with
2 those folks and make sure that you are doing
3 probably the most useful thing that you can do
4 with them, which is we carved out upfront
5 training, so that when that training -- when you
6 -- for new arrivals and whatever that the SVC
7 Program is something that is spoken about so
8 unfortunate future victims know about it going in
9 there.

10 And I just had one other comment that,
11 you know, one concern that I have seen previously
12 -- I mean, a lot of these commanders nowadays,
13 from my experience over the last two years -- I
14 mean, they are scared to death to not do the
15 right thing by a victim, so they're willing to
16 try it. And one of the ways that they are going
17 to make sure that they don't end up having to
18 come and testify in front of a panel like this is
19 to make sure that they are not doing nothing.

20 And so there is sort of an obsession
21 with tracking, you know, spreadsheets and, you
22 know, briefings and making sure we're not letting

1 anything slip through there. And, unfortunately,
2 with Victim Advocates, SARCs to a less degree,
3 being part of that command, commanders want to
4 use them as a data-gathering resource to make
5 sure they're not missing anything.

6 You know, the problem with that is
7 there is absolutely no requirement for any victim
8 to ever go talk to a VA or a SARC if they don't
9 want to. They go report it directly to CID or
10 directly to the JAG office, and there is no need
11 to intermediate those folks and they won't know
12 about it. And when a commander goes to one of
13 these meetings and sees that there is a victim
14 from his unit that he didn't know about, it makes
15 it look like maybe his VA isn't doing their job
16 to him because he didn't know about it, or she.

17 So I think that's a little of concern
18 for me is that the Victim Advocate Program -- to
19 some degree they are kind of being pulled in two
20 directions.

21 CHAIR HOLTZMAN: Thank you. Mr.
22 Taylor?

1 MR. TAYLOR: So I have two questions,
2 and I'm just going to open it up for any of the
3 victims who would like to answer. Everyone in
4 this room --

5 CHAIR HOLTZMAN: Can I just ask you
6 also to keep your question -- your answers really
7 short because we have another panel that is
8 impatiently waiting to be called, and we've --
9 I'm sorry, we've run a little bit over. So, I
10 appreciate that.

11 MR. TAYLOR: So you need not answer
12 either or both of these questions if you don't
13 want to, but we all know that it is still a
14 vastly underreported crime -- sexual assault is.
15 And the fact that there was an 8 percent increase
16 in reporting for the last year is really helpful
17 but not dispositive.

18 So the question I have for the
19 victims, first question is, what policies do you
20 think we could recommend that would encourage
21 more victims like yourself to have the courage to
22 come forth and report? And the second is, are

1 there other things we can recommend by way of
2 resiliency training that would have helped you
3 bounce back quicker?

4 I compliment all of you on being here
5 and how you've gotten your lives together and are
6 able to talk about this. That's huge. But would
7 any of the victims like to respond to either of
8 those two questions? Just do so if you would.
9 Yes. Thank you.

10 AIRMAN V.T.: I was fairly new on
11 board, so I guess one of the things that would
12 probably help is if they had -- when you checked
13 on board, you met all of your SAPRs or your
14 higher ups that were going to take care of the
15 whole SAPR Program. That would have been pretty
16 helpful. So you just knew who you could talk to
17 and maybe if they gave like a little presentation
18 about themselves I guess at the meetings, each
19 one of them or something. It would probably make
20 some -- or some of the victims probably feel more
21 comfortable, and which particular one to pursue,
22 to ask.

1 MR. TAYLOR: That's helpful. Thanks.
2 Anyone else? Yes.

3 MS. R.S.: As far as the increase in
4 reports go, I mean, I'm not -- I may not be
5 statistically correct, but as a female reporting,
6 I initially was not going to report it. I was
7 actually talking to one of my really good
8 friends, and I was joking around about it, and he
9 reassured me that, no, this is serious.

10 And I think it's a matter of just
11 society seeing it as an "Oh, whatever, I'll push
12 it away. It's not going to be that big of a
13 deal." I mean, my best friend was assaulted a
14 long time ago as well, and she never reported it
15 until she heard about me. And it was a matter of
16 retaliation from not just -- if it's military,
17 not just from the people in the military, but, I
18 mean, family and friends as well and the way
19 you're looked at by society, "Well, why did you
20 get -- why did you put yourself in that
21 situation?"

22 So I think the increase is a matter of

1 the support as well. As for the resiliency and
2 bouncing back, I think that personally depends on
3 each and every one of us. I mean, so we have our
4 lives together -- and I sure the heck don't. I
5 mean, I sure didn't bounce back. But my thing is
6 that I want to turn around, and what happened to
7 me negatively I want to turn it around to help
8 future victims.

9 And so I think it's a matter of just
10 providing -- keeping and providing what is
11 available to us so when it comes to counseling,
12 saying it's still available, it's still
13 available, you can go, it never -- you know, you
14 never have to stop, you -- keeping in contact --
15 like with my SVC, it has been awesome because
16 there is still stuff in my case going on that I'm
17 like, what's happening right now? And we're
18 still keeping in contact.

19 And, like I said, I think it's a
20 matter of personal resiliency, what you can do to
21 help us bounce back.

22 MR. TAYLOR: Very helpful. Thank you.

1 Anyone else? Yes?

2 PETTY OFFICER N.S.: Well, my personal
3 opinion, sir, would be -- it came straight from
4 boot camp, this training. Unfortunately, this is
5 something that does happen in the military, and
6 that is sexual assault and harassment training.
7 But if this happens to you, you know, "Here are
8 your rights," and, you know, inform the victims
9 or potential victims that -- what the SVCs can do
10 for you, what the VA is supposed to do, what the
11 SARC -- that is included in the Coast Guard
12 training.

13 We do have our annual trainings, but
14 I -- you know, we need to bounce ideas off of --
15 they have a Coast Guard support number, a 1-800
16 number. They have a 1-800 SVC number, where we
17 can call and say, "Hey, is this" -- because some
18 people aren't comfortable reporting to their
19 command because of, you know, like I said, that
20 mentality of they kind of keep it in-house.

21 And I think just training and just
22 driving the point home to people, that, you know,

1 you -- that we are doing a reform of thinking in
2 the military as a whole, and that this type of
3 action is not being tolerated, and we -- you
4 know, the victims are not going to take that kind
5 of social ostracization.

6 I think that if they deal with that in
7 training and started putting it in the Chiefs
8 Academy and -- when petty officers are, you know,
9 entry level, so that everybody is held
10 accountable for that knowledge, you know, the
11 command cadre all the way down to the brand-new
12 boot right out of boot camp. I think that would
13 really be helpful.

14 MR. TAYLOR: Thank you. Ms. J.B., did
15 you want to say something?

16 MS. J.B.: I would just say from the
17 very start have all the different services
18 together with the victim, so that the victim
19 doesn't have to continuously repeat their story
20 to 10 or 15 different people, because there is a
21 certain point where hours and hours and hours of
22 saying your story in detail every single time,

1 it's just horrible to have to relive every single
2 incident over and over again. So on the same
3 page from the very beginning.

4 SPC A.S.: I know that as active duty
5 we hear -- we see these classes all the time, the
6 SHARP classes where we are doing interventions,
7 we're going to these classes. However, that's
8 not going to stop future events to come that may
9 happen.

10 But, I mean, to help prevent it is --
11 you know, you continue these classes. I feel
12 like there should be more cards given out from
13 each section -- whether it's VA, SVC, more cards
14 should be given out because a lot of the time
15 people just be giving out these cards not
16 understanding what they are. But if you give
17 them out and explain it, maybe they'll understand
18 more, okay, this happened to me, so I should go
19 report this, I should go talk to this person, or
20 I feel, you know, to -- once they start talking
21 to that person, they feel comfortable to say it.
22 So it's more a communication.

1 And like my friend said again, it's
2 more support as well. You have to have that
3 support team behind you in order to accomplish
4 the entire mission, which is basically getting
5 the help, because you're not going to get help if
6 you don't have somebody to support you. You're
7 not going to be okay, you're not going to be
8 well, and I think that's it.

9 CHAIR HOLTZMAN: Okay. Thank you very
10 much. Thank you very much, members of this
11 panel. Thank you particularly, victims, for
12 coming forward and sharing your thoughts, as
13 painful as this process is. We are very, very
14 grateful to you, every member of the panel.

15 Thank you so much.

16 I guess -- are we going to take a
17 five-minute break? We'll take a five-minute
18 break.

19 (Whereupon, the above-entitled matter
20 went off the record at 2:42 p.m. and resumed at
21 2:49 p.m.)

22 CHAIR HOLTZMAN: We are next going to

1 hear from Senior Judge Advocates and their
2 perspectives on the program of the Special
3 Victims' Counsel, and we really appreciate all
4 the members of the panel for coming here and
5 taking time from your very busy schedules. I
6 think if you've heard the testimony before, we're
7 trying to get a very independent sense of how
8 this important program is working, what needs to
9 be changed, if anything. So we really need to
10 have your perspective.

11 Our witnesses will be, or presenters
12 I should say, first will be Vice Admiral Nanette
13 M. DeRenzi, the Judge Advocate General of the
14 U.S. Navy, then we will hear from Lieutenant
15 General Flora D. Darpino, the Judge Advocate
16 General of the U.S. Army, then Lieutenant General
17 Christopher F. Burne, the Judge Advocate General
18 of the U.S. Air Force, then Rear Admiral Steven
19 D. Poulin, Judge Advocate General and Chief
20 Counsel, U.S. Coast Guard, and finally Judge--
21 excuse me--Colonel John Baker, U.S. Marine Corps
22 Deputy Director, Judge Advocate Division,

1 Military Justice and Community Development.

2 Thank you very much, again, for coming here and
3 sharing your views with us, and first we'll hear
4 from Vice Admiral Nanette M. DeRenzi.

5 VADM DERENZI: I can't fully thank
6 you, Representative Holtzman. Good afternoon,
7 members of the Panel. I appreciate the
8 opportunity to testify today and provide my views
9 on the implementations report, the Uniform Code,
10 and other initiatives to address rape, sexual
11 assault and other sexual misconduct. This
12 Panel's long term assessment of the impact and
13 effect of the Services' implementation of
14 Congressionally-mandated changes to the military
15 justice system to ensure the interests of
16 justice, the rights of victims, and the due
17 process rights of the accused are protected in
18 accordance with the Constitution and our
19 principles of fundamental fairness.

20 I can assure you that the Navy's
21 commitment to eliminating all forms of sexual
22 assault is unwavering. Sexual assault is

1 contrary to our core values, it undermines
2 mission readiness, unit cohesion, and is
3 completely contrary to the standards we set for
4 ourselves. It presents not only legal
5 challenges, but leadership challenges. In this
6 era of unprecedented scrutiny on the Military
7 Code --- Uniform Code of Military Justice and the
8 military justice system, I believe both have
9 shown to be appropriate and capable tools for the
10 administration of justice.

11 I caution against relying on any
12 single case as a litmus test for the entire
13 system, one way or the other, and would
14 respectfully encourage the Panel to carefully
15 examine the overall effect of changes that have
16 already been implemented and actions that have
17 been undertaken by the Services to respond to
18 this issue as you contemplate further change. As
19 you know, the Response Systems Panel made 132
20 recommendations for improvements to the military
21 justice system.

22 CHAIR HOLTZMAN: We're guilty.

1 VADM DERENZI: And as I was saying to
2 Judge Jones earlier, speaking personally, I
3 appreciate the time and the effort and the
4 sincere, deliberate hard work that was put into
5 that, and we in turn are working our way very
6 hard and thoughtfully through those 132
7 recommendations.

8 We're in the process of identifying
9 those that we can implement in the short term,
10 and those that will take longer term
11 implementation plans to come to fruition.
12 Additionally, we're in the process of
13 implementing the extensive requirements of the FY
14 14 NDAA.

15 The UCMJ gives commanders effective
16 tools to maintain order and discipline and
17 promote justice. It's a code that sets, informs
18 and guides the standards we expect all
19 Servicemembers to follow, and it helps define our
20 ethos, and it requires adherence to insure our
21 forces are disciplined, ready and effective
22 whenever our nation calls us. Our forces need to

1 know and understand conduct that's acceptable and
2 conduct that's prohibited, and to do this, the
3 law itself needs to be understandable by those
4 whose conduct we seek to guide, and enforceable
5 by the leaders who rely on disciplined
6 servicemembers ready always to achieve the
7 mission.

8 The UCMJ standards should not be so
9 complex that they require lawyers and judges to
10 interpret them, for at that point, the law has
11 lost some of its value as a tool to ensure
12 adherence to the standards that foster our
13 readiness. While we should strive for clarity in
14 the Code, the military justice system is
15 comprised of interconnected rules and statutes.
16 Changes to any other part of the system should be
17 reviewed carefully and understood fully to avoid
18 potential unintended consequences.

19 And as this Panel reviews the latest
20 changes to Article 120, as well as the effect of
21 previous changes, I'd ask you to consider the
22 responses from our service representatives to the

1 language and the intent of the statute.
2 stability in the law is the burden of the
3 prosecutors, defense counsel, the accused and
4 victims; while minor modifications can be a
5 positive change, significant revisions have a
6 potential to negatively impact the process, and
7 should be avoided unless the existing statutes
8 are defective.

9 We're just now seeing the first
10 appellate opinions for cases prosecuted under the
11 current Article 120 statute. Based on the
12 opinions so far, the current statute appears to
13 have overcome the Constitutional frailty of its
14 predecessor. The law, however, remains to be
15 fully tested at the trial level and reviewed at
16 the appellate level. Trial lawyers and appellate
17 judges are gradually creating a new body of case
18 law to replace the 60 years of precedent lost
19 when prior versions of the statute were
20 rewritten, and when the 2007 amendments were
21 deemed Unconstitutional.

22 The current version of Article 120 is

1 not perfect, and as noted in previous testimony
2 by Service military justice experts, clarifying
3 certain terms and definitions within the Article
4 120 would lend itself to greater consistency in
5 application. I don't believe, however, that an
6 overall to or restructuring of Article 120 is
7 necessary or would be productive at this point.

8 Like all statutes, it should continue
9 to be monitored to see if issues arise that can't
10 be resolved through clarifying definitions, rules
11 changes, or minor statutory amendments. I am
12 confident that the Navy has the right people in
13 place to effectively litigate sexual assault
14 under the current statute.

15 In 2007, to improve the overall
16 quality of Navy court-martial litigation, we
17 established the Military Justice Litigation
18 Career Track. We identify and select judge
19 advocates with education, experience and aptitude
20 to excel as criminal trial attorneys and judges
21 via a competitive administrative board process
22 based on demonstrated performance and abilities.

1 They are then detailed primarily to
2 litigation tours to enhance their experience and
3 professionalism as our core military justice
4 practitioners. To best leverage this core
5 experience, career track designated judge
6 advocates serve as senior trial and defense
7 counsel in each of our region legal service
8 offices and defense services offices
9 respectively. Most have advanced degrees in
10 trial advocacy, and all have attended advanced
11 training courses and have experience litigating
12 sexual assault and other special victim crimes.

13 Our Senior Trial Counsel provide
14 oversight and support to junior counsel, and
15 personally prosecute the most complex cases. Now
16 that the Military Justice Litigation Career Track
17 program is entering its eighth year, it's
18 important to note that those junior officers who
19 were first selected to the program at its
20 inception are now rising to senior leadership
21 positions. They've grown up in the track, so to
22 speak, and they're now serving as senior trial

1 counsel, as military judges, and in command, and
2 they've proven to be an invaluable long-term
3 investment for my community and for the Navy.

4 Our Senior Trial Counsel are also
5 critical to the Navy's Special Victim
6 Investigation and Prosecution Capability.
7 Fielded with a team of experienced and specially
8 trained prosecutors, investigators and support
9 personnel, they work together to ensure multi-
10 disciplinary response and effective case
11 management strategies.

12 Our Capability ensures that
13 relationships and lines of communication are
14 established, in place, and used so when a sexual
15 assault incident occurs, a multi-disciplinary
16 response is ready to engage.

17 Career track counsel also serve as
18 senior defense counsel. They use their
19 experience and knowledge in defense of their
20 clients and their clients' rights as guaranteed
21 under the Constitution. Overall, our career
22 track officers are improving the entire process

1 and practice of military justice. As
2 prosecutors, defense attorneys and judges, and to
3 a more limited extent, as staff judge advocates
4 and as Victims' Legal Counsel.

5 The Navy's VLC Program is one of the
6 most significant steps in victim support, and in
7 my view, it's the most important contribution my
8 own community has made to victim support. When
9 first establishing the program in October of
10 2013, we focused on the total person concept,
11 when selecting candidates with the ability to
12 provide responsive and effective assistance to
13 victims of sexual assault.

14 Navy VLC qualification requirements
15 including concluding a two-year first tour judge
16 Advocate Training Program that all of our new
17 judge advocates have to complete. It's a
18 rotation that includes six months in each of our
19 main practice areas: Command Services, Trial,
20 Legal Assistance and Defense.

21 They also must possess litigation
22 experience as trial or defense counsel, excellent

1 interpersonal and communication skills, sound
2 judgment, and positive temperament. The rank and
3 seniority of officers we assign to the Navy VLC
4 Program is considered as part of a deliberate
5 plan to provide a mix of leadership and
6 experience to serve and relate to the victim
7 population.

8 More than half of our VLCs in the
9 field are O4s or above, and this is not unlike
10 the relative mix of seniority that we see in our
11 Navy trial and defense counsel.

12 Candidates are screened through our
13 normal assignments process, then are personally
14 vetted by the O6 Chief of Staff of the Victim
15 Legal Counsel Program, and then interviewed by me
16 and one of the Deputy Judge Advocate General of
17 the Navy before being assigned as a Victim Legal
18 Counsel. Each Navy VLC attends specialized
19 training focused on victim rights, victim
20 advocacy and victim support issues before being
21 officially certified by me to assume VLC duties.

22 We considered establishing our own

1 training program, but we felt strongly that we
2 wanted to leverage the best of the other services
3 as well. In a capability as new as this one, we
4 found that it was better and more prudent to
5 share our training resources before we started up
6 one separately, to be quite honest with you.

7 Our 29 VLC in the field are
8 distributed among five VLC regions that span the
9 globe, that afford close mentoring and management
10 of VLC operations by more senior victim legal
11 counsel who focus on supervisory and leadership
12 responsibilities.

13 Two of those officers in charge, one
14 on the west coast and one on the east coast, are
15 litigation specialists within the Military
16 Justice Litigation Career Track, and they were
17 specifically detailed and placed to bring the
18 additional level of education, experience,
19 mentorship and reach back to VLC operations.

20 The five officers in charge report to
21 the Senior O5 Deputy Chief of Staff, and an O6
22 Chief of Staff for overall guidance and policy

1 direction, and the Chief of Staff of the Victim
2 Legal Counsel Program reports directly to the
3 Deputy Judge Advocate General, in his capacity as
4 the Commander of Naval Legal Service Command.

5 While we continue to monitor the
6 program to discuss areas for growth, change and
7 improvement, based on our current assessment,
8 we're confident that the program is and will
9 continue to be a success. Both the Military
10 Justice Litigation Career Track and the VLC
11 Program allow the Navy to leverage proficiency in
12 case management, victim support and prosecution
13 through special training, coordinated responses,
14 and broad litigation experience.

15 In summary, I believe the military
16 justice system is fundamentally sound; that any
17 changes to the UCMJ should be made with precision
18 rather than with broad strokes, and that
19 procedures, policies and programs ought to be
20 given a change to demonstrate progress and given
21 the ability to identify areas that need
22 improvement. And while the current focus of

1 victim rights is appropriate and necessary, and
2 to some very long overdue, we need to ensure that
3 the system is and appears to be fair.

4 It's essential that the system ---
5 military justice system not only protect victim
6 rights, but also and always be mindful of and
7 protect the Constitutional rights of those
8 accused of committing sexual assault or other
9 crimes. Presently, I believe we're moving
10 forward in a balanced and deliberate manner to
11 achieve both ends, and we should stay that
12 course. I look forward to taking your questions.

13 CHAIR HOLTZMAN: Thank you very much,
14 Vice Admiral. Lieutenant General Darpino, we'll
15 hear from you. Thank you so much for your time.

16 LT. GEN. DARPINO: Madam Chair,
17 distinguished Panel members, thank you for
18 inviting me to speak here this afternoon about
19 the Army and sexual assault in the military. As
20 my --- the Admiral said, you know we are
21 experiencing a time of unprecedented interest in
22 our military justice system.

1 As a result of those changes and
2 recommendations and internal changes that we have
3 made both at Services and through Department of
4 Defense, our system is better able to investigate
5 and prosecute sexual assault cases in a fair and
6 just manner while protecting the interests of the
7 victim and the Constitutional rights of the
8 accused.

9 And the Army, based on this, has
10 achieved substantial, meaningful progress in the
11 prevention, response and accountability for
12 sexual assault and harassment by focusing on our
13 special victims, investigation and prosecution
14 capabilities.

15 I won't go into great detail because
16 I know you have heard about our programs before,
17 our Special Victims Prosecutors, or Sexual
18 Assault Investigators, and our Special Victims'
19 Counsel Victim Witness Liaisons, and that
20 capability that we have created.

21 But when we look at those programs and
22 others in the Army, and we look at the recent

1 Department of Defense report on sexual assault to
2 the President, I think we do see progress in this
3 area. The Army statistics, if you have seen
4 them, mirror the DoD statistics.

5 In prevalence, we have seen a 48%
6 decrease in incidents since 2006. We have seen a
7 35% decrease in prevalence from the report that
8 was issued in 2012, the last time we took
9 prevalence. On the other hand, when it comes to
10 reporting, the Army, like DoD overall, is now
11 reporting at one in four, down in the Army from
12 one in seven in 2012. So prevalence is down,
13 reporting is up.

14 But we are not done; we know that we
15 are not done. Our goal is to continue to close
16 that gap between those numbers and address the
17 other areas in the report where we did not make
18 the progress that we wanted to make. And so we
19 also, as was said by Admiral DeRenzi, are not
20 stopping in this battle.

21 We must continue to aggressively
22 address this issue while diligently protecting

1 the rights of the accused, which is what a
2 justice system is required to do. One present
3 step that we have taken, as initiated by the
4 Department of Defense, begun by our friends in
5 the Air Force, giving victims safety and
6 confidence is the victim advocacy program, or as
7 we call it in the Army, the Special Victims'
8 Counsel Program.

9 The Army started the program just a
10 little over a year ago, by the direction of the
11 Department of Defense, and we reached full
12 operating capacity in January '14, so it really
13 has not even been at full operating capacity for
14 a year.

15 At its inception, we trained 53
16 special victims counsel located at 34 Army
17 installations. We started them by co-locating
18 them with our Special Victims Capability Teams,
19 our special victims prosecutors, our special
20 victims NCOs, our sexual assault investigators,
21 and our special victims witness liaisons, so
22 that's why we ended up initially with 34.

1 But our goal was to expand the program
2 to every post, camp and station, so today there
3 are over 300 trained counsel in the active, guard
4 and reserve. Seventy-six serve in support of
5 active duty requirements. Our SVCs have
6 represented over 1500 clients. They've conducted
7 nearly 8,000 client consultations. They have
8 accompanied clients to more than 1,800 interviews
9 and pretrial hearings. They have made more than
10 300 court-martial appearances on the record.
11 They've conducted over 330 post-trial counseling
12 sessions, and yes, they have filed four writs,
13 extraordinary writs, with the Army Court of
14 Criminal Appeals. They have done a phenomenal
15 job in less than a year.

16 Each of our SVCs are hand-picked. At
17 the start of the program, Staff Judge Advocates
18 were directed to select individuals who had
19 military justice expertise, if possible, but more
20 importantly, individuals who had the maturity and
21 judgment necessary to assist victims and make
22 progress in the community that is crowded or

1 could be conceived as crowded with Victim
2 Advocates, SARCs, special victims prosecutors,
3 sexual assault investigators, someone who could
4 bridge that gap and make sure that the victim
5 received all the services that they needed, but
6 could also advocate for them in all of those
7 different communities.

8 As a result, those selected for the
9 program are on par with those that we have
10 selected in years of time in service that we have
11 for our prosecutors and our defense counsel.
12 More than half of them have military justice
13 experience, either as a trial counsel or a
14 defense counsel. And then to ensure they are
15 competent, the Army JAG School has developed
16 three week-long courses to train and certify
17 potential SVCs. They also have online programs
18 for those who want to brush up if they've been
19 serving for awhile. The JAG School has also held
20 one child victim course, as we have been directed
21 to have an expertise in that area also.

22 Our SVCs are located now at every

1 Office of the Staff Judge Advocate, and they work
2 directly for the Chief of Legal Assistance. Now
3 this is different than the other services because
4 historically and culturally, the mission of Legal
5 Assistance in the Army is a little different.
6 Aside from helping Soldiers resolve personal
7 problems in Legal Assistance, our Legal
8 Assistance attorneys often take positions and
9 represent contrary to the Commander and the
10 Government's position.

11 Because of the way the Army's force is
12 arrayed, Legal Assistance attorneys assist their
13 clients with adverse command administrative
14 matters, for example, adverse Efficiency Reports,
15 rebuttals to command's Letters of Reprimand, and
16 they'll even represent counsel or clients before
17 Admin Adverse Separations Boards. And so they
18 are used to taking the position in our Legal
19 Assistance offices contrary to that of the
20 Command.

21 The result of being embedded in our
22 Legal Assistance offices, our SVCs not only

1 represent the victims with regard to
2 investigation and prosecution of the sex assault
3 offenses, but they also represent them on
4 collateral issues, which avoids having them have
5 to deal with one or more attorneys.

6 Should there be issues in conflict
7 with the Government, for professional
8 responsibility reasons and for a technical chain
9 of command, these individuals have reach back to
10 the Office of the Judge Advocate General, where
11 the Program Manager who you met, Colonel Jay
12 McKee, is there to guide them.

13 Additionally, the Director of the
14 Legal Assistance and Policy Division, a senior
15 civilian, is there to assist them as they
16 navigate conflicts of interest between their
17 representation, and we also have a member of the
18 Senior Executive Service overseeing that program.

19 But I feel it's important to reiterate
20 that the SVC Program is still in its infancy, as
21 it is only a year old or less. There are still
22 growing pains, and we have to sort through those

1 legal issues as they arise. There is no civilian
2 counterpart to this program, so all involved,
3 including the judiciary, are working through the
4 balance between the victims' rights and the
5 Constitutional rights of the accused.

6 I submit that any major, substantive
7 change to the program at this stage may be
8 premature. The program is well-regarded and by
9 all accounts, it is working well, and we would
10 not want to throw up any unintentional roadblocks
11 or switchbacks that could set us on the wrong
12 path. I ask for time to work through the
13 implementation of this program, and I think that
14 you'll see we are addressing a lot of the issues
15 that our SVCs are concerned about, our victims
16 are concerned about, as we move forward.

17 For example, I know that there's a
18 significant concern about access to information
19 for our SVCs and victims. I recently issued
20 policy guidance to all our prosecutors mandating
21 that certain material be provided to the victims
22 and their counsel during particular phases of the

1 court-martial proceedings. A copy of that policy
2 was provided to you as part of the RFI responses,
3 and the Joint Service Committee, the JSC, will
4 also recommend that the President issue a Rule of
5 Court Martial and Rule of Evidence to ensure that
6 victims have timely notice of important events as
7 the case develops.

8 And I want to commend the JSC. They
9 are dealing with some very difficult legal issues
10 in a program for which there is no parallel to
11 draw from. They have an important mission of
12 assuring that the justice system remains
13 efficient and effective and passes Constitutional
14 muster, and I ask you to consider their diligent
15 work before recommending any additional changes.

16 These are complex legal issues that
17 are involved, and they simply must be done right.
18 I understand, for example, that the Joint Service
19 Committee will propose to the President that
20 there are limits on the admission of evidence of
21 previous sexual activity by the victim at an
22 Article 32 preliminary hearing.

1 The JSC is also recommending revision
2 to the Rule of Court-Martial 702 to ensure that
3 victims who exercise their right not to testify
4 at an Article 32 hearing are not unnecessarily
5 deposed when they would otherwise be available to
6 testify at trial. I'm proud to say that an Army
7 SVC filed an extraordinary writ on behalf of a
8 victim addressing that issue. However, ACCA
9 denied the writ. Should the JSC's recommendation
10 be approved, this issue will be resolved.

11 The JSC is also recommending
12 substantive revision to MRE 513 that would
13 require a closed hearing conducted by a military
14 judge to consider the production and
15 admissibility of evidence that is implicated in a
16 psychotherapist privilege. Again, an Army SVC
17 filed an extraordinary writ on behalf of a victim
18 on this issue, and in this case, ACCA ruled in
19 the victim's favor, requiring the military judge
20 to make such findings before ordering production.

21 The JSC is also grappling with the
22 pre-sentencing testimony of the victim. As you

1 are aware, the accused may make an unsworn
2 statement in the pre-sentencing phase of a court-
3 martial. However, the victim's statement must be
4 sworn. It is important to note that military
5 pre-sentencing is different than this phase in
6 the federal system. In the federal system,
7 judges review sentencing reports, and I know
8 you're all aware of this. These reports are not
9 prepared by the parties to the case, but are
10 impartial in nature.

11 Unlike the Federal Sentencing
12 Procedures, the military pre-sentencing phase is
13 adversarial, with live testimony, and maybe even
14 with members present. Additionally, it is
15 governed by Article 42(b) that requires a witness
16 to testify under oath. The JSC is working
17 diligently on this issue, and in the end, may
18 determine that a statutory change to Article 42
19 may be required in order to have a rule change.

20 But I want to assure you we have not
21 turned a blind eye to this issue or any of those
22 other issues, nor are we stubbornly clutching to

1 the old way of doing business. These are real
2 legal issues that JSC must sort through, and they
3 are doing so. And should we get this wrong, the
4 cases will be sent back, potentially for re-
5 sentencing, and that will do a disservice to both
6 the accused and the victim.

7 My final observation concerns the
8 context of Article 120. I concur wholeheartedly
9 with Admiral DeRenzi's comments. The current
10 statute is comprehensive, it's progressive, it's
11 flexible, it's offender focused.

12 I do not believe Article 120 should be
13 revised to separate out penetrative and non-
14 penetrative offenses to make them more distinct
15 statutory provisions. I think that can lead to
16 confusion and potentially four different UCMJs
17 being used for Article 120 in one particular
18 court-martial.

19 With that said, I do concur with the
20 recommendation of the previous panelists that
21 certain definitions within the statute should be
22 modified, such as sexual contact being modified

1 to cover contact by an object, force and
2 incapable of consent being modified to make it
3 more intuitive and workable. And the JSC is also
4 working on some of those issues.

5 I believe that the current statute --
6 I know there is some concern --- but I believe it
7 allows the military justice system to punish
8 those who misuse their position and commit sexual
9 acts with subordinates through threats, coercion,
10 or unlawful inducements.

11 An Army court-martial recently
12 convicted a drill sergeant, a drill instructor of
13 sexually assaulting trainees by various means,
14 including threats to damage their careers. Those
15 threats were charged under the constructive force
16 theory under the current Article 120.

17 The accused contested these and other
18 charges and made legal arguments of the same, but
19 he was found guilty by a military judge despite
20 his plea. He was sentenced to 20 years'
21 confinement and a dishonorable discharge.
22 Relevant records from this case were also

1 provided to you as part of the RFI responses.

2 So, in sum, the intense focus of our
3 senior leaders and our commanders on the issue of
4 sexual assault in the military has driven rapid
5 and positive change across the Services. We have
6 made and will continue to make incredible strides
7 in supporting our courageous victims and the cast
8 of professionals who support them, while
9 diligently protecting the rights of the accused
10 as required by a justice system.

11 While these accomplishments, you know,
12 are notable, DoD understands their work is not
13 done. As leaders and Servicemembers alike
14 realize, there is much more we can do to make our
15 system better, and we look forward to making it
16 better. And I look forward to taking your
17 questions. Thank you.

18 CHAIR HOLTZMAN: Thank you very much,
19 Lieutenant General. Our next presenter will be
20 Lieutenant General Christopher F. Burne.
21 Lieutenant General Burne, we are happy to hear
22 from you. Thank you.

1 LT. GEN. BURNE: Thank you. Good
2 afternoon Madam Chair and members of the Panel.
3 Let me begin with one quick correction of the
4 record, and that is my last name is long E Burne;
5 and I only say that because my 90-year-old World
6 War II vet father would insist that the name be
7 corrected for the record.

8 CHAIR HOLTZMAN: Thank you, so the
9 spelling is B-U-R--

10 LT. GEN. BURNE: N-E, but it's a long
11 E.

12 CHAIR HOLTZMAN: Oh, I'm sorry. Okay,
13 thank you. Apologies.

14 LT. GEN. BURNE: Accepted. Thank you
15 for the opportunity to speak to you today about
16 judicial proceedings conducted under the Uniform
17 Code of Military Justice involving adult sexual
18 assault offenses. The duty of the military
19 justice system to fairly adjudicate allegations
20 of sexual assault is of paramount importance to
21 the Air Force.

22 Your review comes at a critical time

1 in the evolution of our system. As mentioned by
2 my colleagues, we are in the midst of
3 implementing the most extensive revisions to the
4 UCMJ in over 40 years, to include the extension
5 of landmark rights to victims.

6 There are many voices speaking about
7 sexual assault, and this is a good thing.

8 Although the discomfort of our dialogues and
9 studies on this scarring crime that takes place
10 with alarming frequency on college campuses, in
11 our communities and, yes, in our military, I give
12 much credit to our courageous victims, to various
13 victims rights advocacy groups, to our Commander-
14 in-Chief, and to military leaders for speaking
15 out and bringing about necessary changes in our
16 process. Changes in attitude, changes in
17 understanding, and changes in the law and in its
18 implementation.

19 The recently released DoD SAPRO report
20 to the President indicates that our numbers are
21 still way too high, and we must redouble our
22 efforts on prevention and combating retaliation,

1 but it does show promising signs as well. The
2 prevalence percentage is moving at a downward
3 slope, while those that feel the confidence in
4 themselves and in the system to report is
5 increasing. Since fiscal year 2012, sexual
6 assault reporting in the Air Force increased 61%,
7 with a shift to unrestricted reports, which went
8 from 58% of the total reports to 69%.

9 Similarly, the percentage of Airmen
10 who indicated experiencing unwanted sexual
11 contact in the preceding year dropped to its
12 lowest levels since 2006, when sexual assault
13 prevalence was first measured. In fiscal year
14 '12, the prevalence rate among female Airmen was
15 at 3.1%; here in fiscal year 2014, that rate
16 dropped to 2.28%.

17 A similar trend is shared among male
18 Airmen; in fiscal year '12 the unwanted sexual
19 contact prevalence rate was .5%, and in fiscal
20 year '14 the rate dropped to .43%. The decrease
21 in prevalence and increase in reporting resulted
22 in cutting the gap between incidents and

1 reporting in half. In fiscal year '12,
2 approximately one in every six Airmen who
3 experienced unwanted sexual contact reported it;
4 in fiscal year '14, approximately one in every
5 three Airmen who experienced unwanted sexual
6 contact reported it.

7 Having sat with Secretary James and
8 General Welsh in various forums, I can say that
9 the Air Force leadership is absolutely committed
10 to its core to pushing those trend lines further
11 and further in those directions. Since coming
12 into office this past summer, I have spent a
13 great deal of time discussing the issues of
14 sexual assault with my fellow TJAGs, with senior
15 staffers on the SASC, and at the White House with
16 Judge Effron and the Military Justice Review
17 Group, with members of the Joint Service
18 Committee on Military Justice, and now with
19 Judicial Proceedings Panel.

20 I believe we share a common vision to
21 radically reduce the incidence of sexual assault
22 in the military while at the same time

1 compassionately and professionally assist
2 victims. One program designed to do just that
3 is the Special Victims Counsel Program.

4 The Air Force led the way by
5 instituting a program by which victims of sexual
6 assault may chose to have legal representation to
7 guide them, assist them, advocate for them
8 throughout the investigative and military justice
9 process. Now at the risk of some redundancy with
10 my Army and Navy colleagues, I would be remiss if
11 I did not spend a few minutes highlighting the
12 Air Force Special Victims Counsel Program.

13 At the outset, I would like to take
14 this opportunity to thank Ms. R.S. for having the
15 courage to come speak with you today about her
16 experience with the SVC Program. I hope her
17 willingness to step into the public eye, share
18 her insights in this forum will inform any
19 recommendations as to how we can continue to
20 evolve and grow the SVC Program to assist to the
21 maximum extent possible our survivors of sexual
22 assault.

1 The Air Force SVC Program has been in
2 place for close to two years and continues to
3 mature as we encounter new issues that come to
4 the light through the adversarial justice
5 process. Military justice practices and policies
6 pertaining to the SVC Program and witness's
7 counsel more generally will evolve over time and
8 careful continuing assessments and
9 recommendations from victims interest groups and
10 trial practitioners.

11 The highlight of our SVC Program is on
12 a successful path. Our victims have stepped
13 forward and answered surveys to help shape the
14 program, and 90% are extremely satisfied with
15 their SVCs, 9% are satisfied, for literally a 99%
16 satisfaction rate. This tells me we are on the
17 right course, not that we have reached the finish
18 line, for there is still much work to do.

19 Air Force JAG Corps leadership pledges
20 to continue to do the work that must be done to
21 assist victims, to empower victims, to guide
22 victims through the military justice process,

1 while at the same time working the process to
2 guarantee it is fair and that all participants
3 advance with their rights protected, for in the
4 end, that is the American justice ideal.

5 One of the keys to building on the
6 early success of the SVC Program is the rigorous
7 selection process we have implemented to ensure
8 the best qualified judge advocates are selected
9 to serve as SVCs. A Judge Advocate invests a
10 significant amount of time, nearly three years,
11 participating in court proceedings, attending
12 formal training, and interacting with a broad
13 client base before he or she is even considered
14 for an SVC assignment. This same standard, by
15 the way, holds true for our Area Defense Counsel
16 and Senior Trial Counsel, placing them on about
17 equal paths of career progression.

18 I would labor on just a few items
19 regarding our SVCs. First, in order to be
20 eligible to serve as an Air Force SVC, a Judge
21 Advocate must have completed our trial
22 certification program. Certification requires

1 serving effectively as Trial Counsel on a number
2 of courts-martial, demonstrating comprehension of
3 fundamental principles of military criminal law,
4 procedure and evidence, and demonstrating
5 competence in fundamental litigation skills. It
6 also involves a nomination process involving
7 staff judge advocates and military judges.

8 Second, my professional development
9 directorate conducts an extensive screening
10 process to identify the best qualified
11 candidates, and I personally assign each judge
12 advocate to serve as an SVC. Although nearly all
13 our SVC candidates are volunteers, not all our
14 volunteers are selected as SVCs.

15 The process starts with a call for
16 nominations to every major command staff judge
17 advocate. Our candidate supervisor staff judge
18 advocate completes an initial assessment,
19 reviewing the judge advocate's fitness to serve
20 as an SVC, taking into consideration foundational
21 experience, successfully representing clients in
22 legal assistance matters, as well as trial

1 experience and prior interaction with victims as
2 a trial counsel or VWAP liaison. All to ensure
3 the candidate possesses the right disposition to
4 handle the demanding nature of serving as an SVC.

5 Additionally, all nominations are
6 coordinated with our Chief, Special Victims
7 Counsel Division, to ensure each candidate meets
8 the expectations of the SVC Program's leadership
9 before I decide whether to select the candidate
10 for the position. I would like to mention that,
11 on account of, to my knowledge, one letter
12 written by one SVC, some have asked if there was
13 any retaliation against SVCs for doing their
14 jobs. The short and direct answer is no.

15 The JAG who wrote that letter was
16 selected for separation at our force shaping
17 boards this past summer. The Air Force must
18 downsize, and every career field was targeted for
19 reduction. The JAG Corps was no exception, and
20 we lost about 80 Captains.

21 But the independent board that reviewed and
22 scored records of incredibly talented JAGs had no

1 direction to go after SVCs. In fact, the numbers
2 that were cut from each slice of our many
3 practice areas bear that out, with the percentage
4 of SVCs selected for separation, a total of six,
5 at a slightly lower percentage than most other
6 fields of practice. And in fact, the Secretary
7 and Chief were concerned with even that small
8 number of SVCs being cut.

9 The overall numbers of cuts, of
10 course, were set a year in advance, and at that
11 time, it appeared feasible. But now that this
12 year has ended and we have had all the data on
13 clients and SVCs and ratios, the current SVC
14 caseload --- it stands at 650 --- and numbers of
15 courts and Article 32 hearings and interviews
16 that our SVCs have participated in -- 191 courts,
17 230 Article 32s, and over 2,000 interviews over
18 the past two years. And we see increasing trend
19 lines in SVC utilization as we see an increase in
20 reporting. We are in the process of adding SVC
21 slots because the work load can now be shown to
22 justify an increase.

1 As a final point regarding SVCs, we
2 have always attracted top notch applicants for
3 the JAG Corps who are interested in the
4 outstanding litigation experience and autonomy
5 available to new JAGs. But recently we have
6 noted applicants for the JAG Corps wanting to
7 know how soon after joining they'll be able to be
8 a Special Victims' Counsel.

9 This expression of interest in the SVC
10 Program demonstrates that its value has
11 transcended the borders of DoD and the Air Force,
12 and provides I believe a positive indication that
13 the next generation of lawyers are eager to be a
14 part of this new means of assisting and
15 empowering victims of sexual assault.

16 Now I'd like to be clear, I am not
17 saying that the SVC Program after only 23 months
18 is perfect, or that every issue of law or
19 procedure is resolved. They are not and anyone
20 with an in depth understanding of the process
21 should not realistically expect them to be. The
22 introduction of another major participant, the

1 SVC, in this already complex yet structured
2 justice process will create new issues. As
3 mentioned by my colleagues, some issues can be
4 resolved through policy, while some will need
5 court precedent or even legislation to resolve.

6 As I have stated in different forums,
7 when we discovery a rough edge, we work very hard
8 to smooth and resolve the issue. For example, we
9 saw that different judges had different opinions
10 as to where an SVC may stand to address the court
11 when advocating on behalf of his or her client
12 victims.

13 I have discussed this matter with our
14 Chief Trial Judge, and a practice rule will be
15 forthcoming and discussed at the upcoming annual
16 Judges' Conference in January. It establishes
17 that an SVC enters the bar and addresses the
18 court from the podium used by trial and defense
19 counsel.

20 Other matters such as access to
21 information, extended participation in scheduling
22 conferences, and the scope of representation as

1 to collateral matters are all issues that are
2 actively and are energetically being worked by
3 engaged practitioners.

4 Turning to one other topic before
5 closing, I wish to echo the views expressed by
6 the Army and Navy TJAGs concerning the revision
7 of Article 120. Because it is currently
8 providing the Government with a functional means
9 of charging sexual assault offenses, and because
10 we have not had the opportunity to see where the
11 appellate courts will take it, and because we are
12 faced with so many changes in other areas, I
13 concur that this article should not be changed
14 yet again.

15 Further overhaul will cause
16 unnecessary confusion, especially in cases where
17 offenses span a period of years. On the other
18 hand, modification of some definitions within the
19 article could prove useful to trial
20 practitioners, and I urge further study followed
21 by recommendations put forth through the JSC to
22 execute those clarifications.

1 In closing, as you review how the
2 military justice system handles adult sexual
3 assault offenses, and assess whether further
4 changes may be warranted, I would ask that you
5 consider the following unique purpose of military
6 law as stated in the preamble to the Manual for
7 Courts-Martial.

8 The purpose of military law is to
9 promote justice, to assist in maintaining good
10 order and discipline in the Armed Forces, to
11 promote efficiency and effectiveness in the
12 military establishment, and thereby to strengthen
13 the national security of the United States.

14 Changes to the UCMJ or to the process of
15 administering military law should be tailored to
16 support this purpose.

17 The Air Force will continue to
18 dedicate tremendous time and the necessary
19 resources to addressing the complex issues
20 arising in the military justice arena. Air Force
21 leadership and the Air Force JAG Corps remain
22 fully engaged to making improvements to our

1 military justice system and looking forward to
2 partnering with the other Services and this Panel
3 to identify substantive and procedural
4 improvements to combat sexual assault in the
5 military. For despite any differences about the
6 path taken, we do share a common vision to
7 empower, to lift up, and to strengthen survivors
8 of sexual assault physically, emotionally,
9 spiritually and legally. It is a trauma that no
10 one should ever be forced to endure.

11 The unfortunate truth is there will be
12 victims. Our jobs as military attorneys, our
13 mandate as military leaders is to continue to
14 drive the number of incidents lower and lower
15 while at the same time actively investigating and
16 fairly prosecuting military members accused of
17 these offenses.

18 My obligation is to ensure rules and
19 standards, implement practices and procedures
20 where necessary to protect the rights of the
21 accused, the rights of the Government, and the
22 rights of the victim. My demands are the shared

1 view of members of our JAG Corps, to treat
2 victims with dignity, to treat accused members
3 fairly, and to treat all participants in the
4 military justice process with respect.

5 Simply stated, we must ensure justice
6 for all. I believe that is what motivates each
7 of us to pour our heart and soul into upholding
8 the rule of law and the American military justice
9 process. Thank you for your time today. I look
10 forward to your questions.

11 CHAIR HOLTZMAN: Thank you, Lieutenant
12 General Burne. We'll next hear from Rear Admiral
13 Steven Poulin, thank you so much Rear Admiral for
14 coming.

15 REAR ADM. POULIN: Thank you Madam
16 Chair, members of the Panel, thank you for the
17 opportunity to appear before you this afternoon
18 to discuss the Coast Guard's military justice
19 system.

20 Your work is of great importance to us
21 all, and I look forward to continuing to work
22 with the Panel to assist your evaluation of the

1 military justice process. External review and
2 evaluation of our system is vital to its long-
3 term health. I also look forward to working with
4 you on ideas on how we can better employ the
5 military justice system in our ongoing efforts to
6 eradicate sexual assault in the Coast Guard.

7 As our Commandant Admiral Paul Zukunft
8 stated upon his assumption of command, and as he
9 reiterates at every opportunity, sexual assault
10 and sexual harassment are completely contrary to
11 the Coast Guard's Core Values of honor, respect,
12 and devotion to duty, and degrade readiness.

13 Adhering to our Core Values is a
14 condition of service in the United States Coast
15 Guard. As the Judge Advocate General and Chief
16 Counsel of the Coast Guard, and as a senior
17 leader in our service, I share the Commandant's
18 commitment to eradicate sexual assault and sexual
19 harassment from our ranks.

20 Before proceeding with the remainder
21 of my remarks, I also want to thank Petty Officer
22 N.S. for coming here today to speak with you.

1 The Coast Guard has a long tradition of
2 entrusting very junior members with difficult
3 responsibilities. Through her courage in coming
4 forward to make her report of sexual assault,
5 through her perseverance, and by her willingness
6 to come here to speak today, she has upheld that
7 tradition most admirably.

8 I share the views and the ideals of my
9 colleagues in the Department of the Defense. The
10 size of the Coast Guard and the corresponding
11 small number of military justice cases we handle
12 is the driver of our only notable differences
13 from the other DoD military services. Our small
14 size and the small number of cases we handle does
15 have some positive aspects. I think the Coast
16 Guard is able to adjust and change rapidly
17 because of our small size, but our size also
18 poses some challenges. In the military justice
19 arena, our small number of cases poses a constant
20 challenge to develop and maintain military
21 justice expertise, and here I would be remiss if
22 I did not specifically mention the assistance the

1 DoD Military Services provide the Coast Guard.
2 Training alone cannot completely substitute for
3 experience, but the willingness of the other
4 military services to include the Coast Guard
5 within their training, as well as provide Coast
6 Guard judge advocates opportunities to work with
7 their judge advocates on their cases has been and
8 continues to be invaluable.

9 Let me speak a bit about military
10 justice organization. As the DoD Military
11 Services have looked at ways to increase their
12 military justice experience, I and my
13 predecessors have done the same. But since I
14 became the Judge Advocate General, the issue of
15 the Coast Guard's military justice organization
16 has become a central concern of mine. In fiscal
17 year 2013, the Coast Guard had a total of 23
18 general and special courts-martial. In fiscal
19 year 2014, we completed 45. Now those numbers
20 alone do not reflect all impact of the increasing
21 case load as we tripled the number of contested
22 cases tried last fiscal year.

1 Recognizing the importance of the
2 military justice system, the Coast Guard Senior
3 Leadership has been very supportive of our
4 efforts to provide appropriate resources to the
5 military justice system. In fiscal year '14, the
6 Commandant approved the addition of a GS-15, an
7 additional military counsel to the Office of
8 Military Justice, and a GS-15 along with six new
9 military billets for the Special Victims' Counsel
10 program. While the Coast Guard, similar to the
11 other military Services, has to delicately
12 balance its work force in the midst of tightening
13 budgets, these billet additions represent a
14 significant commitment on behalf of the
15 Commandant to the future of our military justice
16 system.

17 Although we have a much smaller
18 caseload than our DoD counterparts, each of our
19 victims and each of our accused is entitled to
20 the same rights under the UCMJ. Our accused are
21 entitled to a fair trial, and our victims are
22 entitled to justice. Some may look at the

1 relatively small size of our military justice
2 practice and say that we're doing all that we can
3 under the circumstances; that's not acceptable to
4 me nor is it acceptable to the thousands of men
5 and women who proudly wear the Coast Guard
6 uniform and daily go into harm's way to ensure
7 that the nation's maritime safety and security
8 are protected, that the marine environment is
9 protected, and to promote economic prosperity
10 through the facilitation of maritime commerce.

11 Even a Coast Guard judge advocate may
12 serve as Trial Counsel on only one case per year,
13 that case is a life changing moment for both the
14 accused and the victim. It is my job to ensure
15 that regardless of how many cases we try, our
16 system is on par with that of any criminal
17 justice system in the country. To do that, I'm
18 always looking for ways to improve our system,
19 both through our organization and the potential
20 need for more personnel. For example, at
21 present, the Coast Guard has one general court-
22 martial judge for our entire service. With that

1 one judge --- while that one judge has usually
2 been sufficient in the past, with the increase in
3 the number of cases overall and a dramatic
4 increase in the number of contested cases, plus
5 the fact that the judges hear cases from Guam to
6 Boston, the work load at present is more than a
7 single judge can handle.

8 To aid with this, later this month
9 we're bringing a previous chief trial judge back
10 from retired recall for two years. I'm also
11 looking to permanently expand the size of the
12 full time Coast Guard Trial Judiciary. Trial
13 counsel experience is another area of concern of
14 mine. There are 18 Coast Guard legal offices
15 throughout the country, and all 18 legal offices
16 prosecute cases that arise within their
17 jurisdiction. Not all of those legal offices
18 handle many military justice cases. The Legal
19 Services Command, or LSC, is the Coast Guard's
20 national field legal command; it handles by far
21 the largest number of cases in our service, and
22 has the only group of judge advocates who are

1 full-time trial counsel.

2 The other offices try cases using
3 judge advocates that have experience in military
4 justice, but are not full-time prosecutors. One
5 of the first things I did as Judge Advocate
6 General was to charter a group to examine how we
7 might reallocate the division of labor for
8 prosecution of courts-martial to take advantage
9 of the LSC's experience. I just received a
10 report of that group and am working to determine
11 how to implement its recommendation. The changes
12 proposed increasing the number of trial counsel
13 at the LSC and increasing its role in courts-
14 martial Service-wide should develop a greater
15 level of military justice expertise in CGJAG
16 along lines similar to those undertaken by the
17 other military Services. It would also allow us
18 to fully implement a Special Victims' Prosecution
19 Team.

20 I also need to note that the Coast
21 Guard relies on the Navy for defense counsel in
22 Coast Guard courts-martial. The Navy provides

1 those counsel pursuant to a memorandum of
2 understanding that we've had in place for 20
3 years, whereby I provide the Navy Coast Guard
4 judge advocates in Norfolk, Washington,
5 Burlington and Honolulu to supplement the Navy's
6 defense counsel, and in return, the Navy provides
7 counsel to Coast Guard members throughout our
8 service. The significant increase in case load
9 within the Coast Guard impacts not only the Coast
10 Guard, but the Navy as well, and the Navy has
11 asked that I provide additional Coast Guard
12 resources to aid in supporting the increased
13 Coast Guard caseload.

14 Let me now turn to the Special Victims
15 Counsel program. We established our Special
16 Victims Counsel program in July of 2013. To
17 start with, the program was staffed by judge
18 advocates who volunteered to act as SVC as a
19 collateral duty. Not only did this allow us to
20 start the program quickly, it brought the added
21 benefit of attracting a number of our most
22 experienced and high-performing mid grade judge

1 advocates who wanted to be part of the program.

2 As I mentioned a moment ago, the Commandant fully
3 backed the SVC Program, and I provided the
4 personnel and training resources to start it, and
5 then we're going to assign full-time staff.

6 We're in the process of hiring a very
7 experienced, retired Air Force judge advocate to
8 run the SVC Program, as well as have two of our
9 most experienced counsel supervising the program
10 and standing up the SVC office in California.

11 You heard from one of those judge advocates, Lt.
12 Cdr. Kelley Stevens, in the previous panel.

13 Because of when the new military billets were
14 approved, we had to fill three of the new full
15 time SVC positions with new judge advocates who
16 are just now completing Naval Justice School.

17 While this is not a desirable situation, with the
18 experienced leadership of the program and the
19 continued participation of collateral duty judge
20 advocates, I'm confident that the level of
21 service our SVCs will be able to provide in the
22 future will continue to be good and sound.

1 Moving ahead as the full-time SVC
2 positions are filled, in the future we plan to
3 use experienced judge advocates to staff them. I
4 do plan to continue using some collateral duty
5 SVCs to supplement the full time staffs and to
6 serve as valuable SVC mentors. Doing so keeps a
7 larger number of judge advocates actively engaged
8 in the SVC Program and ensures that experienced
9 SVCs are always available regardless of the
10 impacts of military transfers and training
11 pipelines.

12 Next, I want to echo the concerns of
13 my colleagues and urge caution concerning
14 continued revisions to Article 120. While I
15 don't want to repeat the points that they made,
16 there is an area where I hope I can add a useful
17 perspective. I know one of the issues the Panel
18 and other members are interested in is examining
19 whether Article 120 is too broad and covers too
20 many different offenses. It's been suggested
21 that by breaking up Article 120 and separating
22 the penetrative from the contact offenses, it

1 would be easier to differentiate between greater
2 and lesser forms of sexual assault.

3 As the Judge Advocate General, and
4 before I assumed this role as the Coast Guard's
5 Director of Governmental and Public Affairs, I
6 sat on the Coast Guard's Sexual Assault
7 Prevention Council, which is a flag and senior
8 executive level council that meets every three
9 weeks to review the Coast Guard's sexual assault
10 prevention and response efforts. In that
11 council, one of the consistent themes we
12 discussed in our prevention activities is the
13 continuum from harassment, through touching to
14 the most serious forms of sexual assault. We
15 spent a lot of time thinking about how preventing
16 lesser forms of sexual misconduct, particularly
17 in the workplace, can lead to prevention of more
18 serious criminal offenses.

19 Viewed in that context, I see value in
20 continuing to group the penetrative and contact
21 offenses together, and I'm concerned about the
22 almost certainly unintended message that would be

1 sent by breaking them apart, that the contact
2 offenses are less worthy of concern. Keeping
3 them grouped together helps reinforce a central
4 message that our prevention efforts have been
5 developing, and that is that no form of sexual
6 misconduct is acceptable, and toleration of any
7 form leads to an atmosphere where its most
8 serious form is likely to occur. Thank you again
9 for allowing me to appear before you; I look
10 forward to answering your questions.

11 CHAIR HOLTZMAN: Thank you very much,
12 Rear Admiral. Our next presenter will be Colonel
13 John Baker, U.S. Marine Corps. Thank you very
14 much, Colonel Baker for being here, and we look
15 forward to your presentation.

16 COL. BAKER: Good afternoon Madam
17 Chair and distinguished members of the Panel,
18 thank you again for the opportunity to talk with
19 you. I'm appearing today on behalf of Major
20 General Ewers, the Staff Judge Advocate of the
21 Commandant of the Marine Corps. Major General
22 Ewers is overseas on a long scheduled, but prior

1 commitment. Because you have heard from me on
2 two prior occasions, I'm going to keep my
3 comments short, but I would like to start on
4 behalf of Major General Ewers, strongly
5 recommending against substantial revisions to
6 Article 120.

7 In FY 12, the Marine Corps changed
8 its delivery model for legal services through
9 what we call the legal reorganization, which
10 affected more than 60 different commands and more
11 than 1,300 active, reserve and civilian billets
12 across the Marine Corps. The reorganization
13 realigned the provision of legal support from
14 independent, decentralized legal offices to
15 regional legal centers structured to provide a
16 full range of legal services. It also removed
17 staff judge advocates from the legal services
18 offices and positioned them to focus on providing
19 independent legal advice to commanders.

20 Relevant to the Marine Corps' fight
21 against sexual assault, the reorganization
22 resulted in enhanced military justice capability

1 for complex discussion of victim cases. It
2 enhanced the ability to communicate effectively
3 across the regional trial offices regarding best
4 practices, and most importantly, added
5 supervisory judge advocates at the regional and
6 legal services support team level to provide
7 guidance and expertise to trial counsel that had
8 previously not been there before. We created a
9 regional trial counsel position at each legal
10 services support section, putting a special
11 victim investigation and prosecution capability
12 under the supervision of a lieutenant colonel
13 with substantial litigation experience.

14 Each regional trial counsel is
15 supported by a civilian prosecutor who's been
16 hired as a highly qualified expert who assists
17 with case review, preparation, witness interviews
18 and trainings. Our HQEs and our RTCs
19 collectively bring several decades of experience
20 in prosecuting sexual assault cases to each legal
21 services support section. This last year, the
22 legal community continued to implement the legal

1 reorganization to raise the quality and
2 consistency of legal support across the Marine
3 Corps. We've instituted a number of process
4 improvements designed to formalize and facilitate
5 higher standards of military justice.

6 This year, we also used the
7 reorganization's framework to establish the
8 Victim Legal Counsel Organization. We
9 established a harmless chain of command for the
10 Victim Legal Counsel Organization, with an O-6
11 officer in charge and a robust regional
12 supervision. Major Ivins, who you heard from
13 today, is representative of the experienced field
14 grade officers leading each of our VLC regions.
15 While assisting victims of sexual assault is the
16 focus of the Victim Legal Counsel Organization,
17 the Marine Corps' program is unique in that we
18 extend victim legal counsel services to all
19 eligible victims of crime who are eligible for
20 legal assistance services.

21 Our Victim Legal Counsel Organization
22 is busy. During FY 14, they provided legal

1 services to more than 600 crime victims,
2 including more than 340 sexual assault victims.
3 Over the last year, the Victim Legal Counsel
4 Organization, military judges, and trial and
5 defense counsel have begun to work through the
6 mechanics of how to best incorporate the VLC into
7 the military justice process. In early 2014, the
8 Staff Judge Advocate to the Commandant of the
9 Marine Corps formalized the roles and
10 responsibilities of the Victim Legal Counsel
11 Organization into the Legal Administration
12 Manual. Further refinements to our program will
13 be published in January in a new Legal Support
14 and Administration manual. Most recently, we
15 have formed a working group of trial counsel,
16 defense counsel and the victim legal counsel to
17 study our Uniform Rules of Court, and we'll be
18 proposing changes to the Trial Judiciary to
19 ensure that we have a consistent set of rules in
20 our courts.

21 The Marine Corps certainly has much
22 more work to do, but going forward we believe it

1 is important to maintain the fairness and
2 constitutional soundness of the military justice
3 system. With the newest fundamental changes to
4 the military justice system in the last few
5 years, our legal community, commanders and
6 Marines need time to adapt to the new rules, to
7 analyze the consequences, and to see whether
8 further, far-reaching adjustments are needed.
9 With these principles in mind, the Marine Corps
10 is fully committed to consolidating our gains
11 and continuing to fight to end sexual assault
12 within our ranks. We look forward to continuing
13 to work with you to further refine military
14 justice proceedings to allow us to enhance the
15 Marine Corps' response to sexual assault. I look
16 forward to answering any of your questions.

17 CHAIR HOLTZMAN: Thank you very much.
18 We are nearly running out of time, so I'm going
19 to propose, subject to impeachment and removal, a
20 five-minute rule on questions and answers. So --
21 - for each member, and then if we still have
22 questions after that, we can do that, but we need

1 to have some time for public deliberations. So I
2 hope you'll bear with us, please. Keep your
3 answers short, and we'll start with Judge Jones.

4 JUDGE JONES: I'll ask my question
5 quickly. We heard, and the report bears out that
6 victims of sexual assault are reporting in
7 greater numbers, and that the percentage of
8 victims who make restricted reports and are
9 changing to unrestricted reports has also
10 increased, and I just wonder whether or not
11 there's any analysis being done now as to how
12 many more SVCs and VLCs one might need in the
13 future with this obvious, you know, expansion of
14 clients.

15 VADM DERENZI: Well, we're constantly
16 assessing that --- we look first at distribution,
17 are they distributed appropriately. We started
18 with three concentration areas, and what has
19 always been true we have them in the right
20 places, and we're taking note of the caseload
21 that each counsel has and the nature of support
22 that they're providing, because it ranges in

1 everything from, you know, something that is not
2 a complex long-term representation to a full
3 general court martial for a penetrated rape. So
4 yes ma'am, that's something that we take very
5 great care to see. We have not reached the point
6 now where we think we're going to go; we need to
7 go back to the Navy to look for additional victim
8 legal counsel. We do think we may need to
9 rearrange how they're arrayed out ---

10 JUDGE JONES: Before I let everybody
11 else answer, I apologize, I guess this is really
12 the companion question. We heard some
13 suggestions this morning that with the recent
14 cuts, priority was not given to preserving the
15 number of special victims counsel or victims
16 legal counsel, and I guess really for me the
17 question is after the most recent set of cuts, do
18 we still have the same or greater number of
19 counsel out there that are available? And then
20 now everyone can answer I suppose. Thank you,
21 Admiral DeRenzi.

22 VADM DERENZI: Yes, ma'am, in fact, my

1 legal program has plans to grow across the field;
2 we'll have to see if that's allowed to be
3 maintained as fiscal constraints present
4 themselves, but there's no indication that the
5 JAG Corps is going to suffer cuts in the future.

6 JUDGE JONES: General Darpino?

7 LT. GEN. DARPINO: The Army
8 traditionally of all the Services has the lowest
9 number of restricted reports. That is why we
10 concentrated on the Special Victims Prosecutor
11 program, our reports traditionally have between
12 like 86 or so percent are unrestricted. So while
13 we're seeing a conversion, we don't see that as a
14 groundswell because our majority was always
15 unrestricted. As far as personnel growth, we
16 have added to our JAG Corps with the support of
17 the leadership on both manning documents. There
18 are two types of manning documents in the Army,
19 and we have gotten support both in the war
20 fighting manning document, and also in the
21 garrison manning documents for additional
22 personnel.

1 Obviously as a Soldier, I've been
2 judicious in what I have asked for in order to
3 make sure that as the Army's coming down in size,
4 we don't become an army of lawyers, but I think
5 that we have balanced the two and I don't feel at
6 all under-resourced in this area.

7 JUDGE JONES: General Burne?

8 LT. GEN. BURNE: Well as you heard in
9 my remarks, due to the force shaping boards in
10 the Air Force that took place much earlier this
11 year, we did lose six SVCs, and this was six SVCs
12 in the form of persons, not slots, and so we have
13 backfilled those positions with others. We have
14 now recognized as I also mentioned that we are at
15 a point where we think our ratio between clients
16 and SVCs, with the trend line increasing, would
17 be cause for increasing the number of SVCs, and
18 we're in the course of working with our personnel
19 folks to do that. We're currently at about 33
20 SVCs and we think we're going to go to 40.

21 In addition to that, one side note,
22 there was a reduction in force effort in October

1 that would have affected field grade officers.
2 In the JAG Corps, it would have been 39 majors
3 that would have been cut. But recognizing that
4 we have sustained as much as we could with the
5 cuts of the captains in the JAG Corps, the
6 Secretary of the Air Force made the decision to
7 remove the JAG Corps entirely from that cut,
8 allowing us to keep those majors. A percentage
9 of those majors now are becoming what we're
10 calling our senior SVCs and are going to be
11 assigned starting in January to various places in
12 the country where they'll be clustered, and that
13 way they will then be a line of supervision
14 between the captain SVCs in our wings and the
15 lieutenant colonel/colonel who's in charge of the
16 SVC Program here in Washington. So we are
17 expanding the program to meet demand.

18 JUDGE JONES: Thanks. Admiral Poulin?

19 RADM POULIN: Our statistics certainly
20 bear out the foundation of your question. We are
21 seeing an increase in the number of reports and
22 we have seen a trend towards restricted reports

1 being transitioned to unrestricted reports. For
2 example, last year in FY 14, we had 45
3 restricted reports; 12 of those individuals
4 decided to accept SVC; of those 12, 7 ended up
5 becoming unrestricted reports. So I think those
6 statistics bear out the foundation of your
7 question.

8 We have --- we're just now stepping up
9 our full-time SVC Program, and that's why I need
10 to continue to retain the collateral duty SVCs.
11 I have 30 collateral duty SVCs trained; 15 are
12 currently performing the mission. The fact that
13 I have 30 trained gives me the opportunity to
14 turn that valve and bring more SVCs on if the
15 demand increases. I think we're okay right now,
16 but certainly having more trained is going to
17 allow me to have that flexibility.

18 With respect to cuts to the program,
19 I think we're perhaps differently positioned than
20 the other services, being in the Department of
21 Homeland Security. The Commandant has made it a
22 priority to preserve the work force as much as

1 possible, and it is a challenging budget
2 environment, but I know the Commandant has placed
3 a high priority on the SVC Program and sexual
4 assault, so there are no intended reductions to
5 our SVC Program. Thank you.

6 JUDGE JONES: Thanks. Colonel Baker?

7 COL. BAKER: We are absolutely
8 studying the demand signal for the --

9 JUDGE JONES: I'm sorry, I can't hear
10 you.

11 COL. BAKER: We're absolutely studying
12 the demand signal for the Victim Legal Counsel
13 Organization and the structure at this point.
14 With one year's body of work to look at, we
15 really need a little bit more time to see if we
16 have it right. We have seen lawyers have been
17 excluded from the Marine Corps' reduction in
18 force measures starting the first of January. We
19 are --- the Marine Corps is cutting -- not
20 cutting, as force shaping mechanisms to allow
21 majors and lieutenant colonels to leave the
22 Marine Corps, and lawyers have been excluded from

1 that, partially because of the demands of the
2 military justice system.

3 JUDGE JONES: Thank you.

4 CHAIR HOLTZMAN: Thanks very much.
5 Admiral Tracey?

6 VADM(RET) TRACEY: I'll defer my
7 questions so people who didn't have a chance on
8 the last panel, but I thank all the panel members
9 for their presentations.

10 CHAIR HOLTZMAN: Five minute rule.
11 Mr. Stone?

12 MR. STONE: Thank you. The very first
13 speaker this morning, who was Retired Colonel
14 Christensen, was telling us how important it was
15 that we needed rules of procedure, and he was
16 going to submit to us his suggestions. I was
17 delighted to hear two of you say that you are
18 also working on rules of procedure, and all I was
19 going to ask was if you get to the point where
20 you're submitting them to the judges and you have
21 worked out what you think the rules should be
22 about where the counsel stand and what notice

1 they get of pleadings and things like that, if
2 you could submit your copies to us when you can,
3 that would allow us to have a balanced view and
4 not just one side's view of what they think the
5 rules should be, and I think that would help us
6 enormously. Thank you so much.

7 CHAIR HOLTZMAN: Thank you. Mr.
8 Taylor?

9 MR. TAYLOR: So we've heard testimony
10 from a number of SVCs about their frustration
11 with the lack of clarity with the rules, and I
12 certainly understand the consensus you're at with
13 no overhaul of Article 120, but my question is
14 does anyone have any suggestions about how to
15 expedite the JSC process so that it doesn't take
16 quite so long to move from proposals to something
17 published in the Manual for Courts Martial? It's
18 an open question for anyone to answer who would
19 like to make a suggestion.

20 LT. GEN. DARPINO: I don't know if I
21 have a suggestion, Mr. Taylor, because as you
22 know with rulemaking and the procedures required

1 with rulemaking are in the federal process, and
2 it has to go to the President after public
3 comment. I'm not sure aside from what they've
4 done already, which is limit the public time
5 line, that it would go any quicker, and I know
6 they're working very hard on it, but it's a
7 matter of law that rulemaking in the federal
8 government is done a certain way for the rules
9 themselves. For procedures inside a courtroom as
10 we mentioned, the Trial Judiciary in the Army is
11 also working on that. But when it comes to RCMS
12 and MREs, I don't know if anybody else has any
13 rulemaking -- I'm not a great ad law attorney, I
14 admit it.

15 COL. BAKER: I'd like to add another
16 comment, sir. The process --- as an example, the
17 public comment period, where we receive --- JSC
18 receives input from the public is incredibly
19 valuable, and as we get public comment as one of
20 the speakers mentioned, as we get public comment
21 on what was drafted, it allows the JSC to look
22 and perhaps rethink the rules that they created.

1 I guess I would like to perhaps re-emphasize that
2 for most of us, this system is less than a year
3 old, and I think that slow and deliberative and
4 right is better than quick and not getting it
5 right.

6 LT. GEN. BURNE: I would just add that
7 as a very small means of trying to accelerate the
8 process, one thing that we have initiated amongst
9 the TJAGs that had not been occurring from what I
10 understand with a degree of regularity in the
11 past, is we meet now on a very regular basis and
12 discuss what's happening with the JSC, and where
13 they intend to -- the direction of where they
14 intend to go with items as to Article 32, Article
15 60 changes, et cetera, SVC changes, Rules of
16 Practice. And we amongst ourselves try to come
17 up with a consensus as to what direction we would
18 like to see this go in, and then as principals,
19 give that direction to our representatives, short
20 cutting a lot of the staffing process that used
21 to occur in between. It seems to have
22 accelerated the process slightly, but as stated,

1 the bureaucratic wheels sometimes turn much too
2 slowly. I'm not sure that we can rectify all of
3 that, but I think we're doing our parts at our
4 level to try to accelerate it.

5 MR. TAYLOR: Well thanks to all of you
6 for your leadership. That's all I have, ma'am.

7 CHAIR HOLTZMAN: Thank you. All of
8 you mentioned that the program, the SVC Program
9 is relatively new, newer in some branches than in
10 others, and it's not perfect, so I'd ask you to
11 identify the two top problems you see and what
12 you plan to do to correct them with the special
13 victims counsel or legal victims counsel program.

14 VADM DERENZI: I don't know ma'am that
15 I would classify them as problems --

16 CHAIR HOLTZMAN: I don't mean to be
17 derogatory, I mean I understand that this is a
18 program that needs to be fine tuned.

19 VADM DERENZI: And I think we've hit
20 on that. I would look at areas where we need to
21 clarify and standardize where we can, things like
22 access to information, things like the procedures

1 that you just referenced. I think those are the
2 areas where we need to and where we are focusing
3 our efforts. I, too, get impatient with the pace
4 of bureaucracy, but I will tell you that I am
5 more active than I have ever been as the Judge
6 Advocate General. I've been in the position for
7 two and half years now, a little more than that.
8 Particularly when it comes to this, because it is
9 so very important that we get it right, and to
10 the extent that it may take a little bit longer,
11 speaking for myself, as I try to sort through
12 what we should do now, what should we let develop
13 through the court systems, and when we should
14 promulgate a rule or guidance, I stop always to
15 try to consider the second and third wind
16 effects, the things that we may not be thinking
17 of under the gun to do things quickly, and I
18 think that's critically important, and as General
19 Burne said, we've brought our experience to bear
20 as a group, and I found it very, very helpful.

21 LT. GEN. DARPINO: I echo exactly what
22 my fellow TJAGs said, and I think the other thing

1 that we've been trying to do as a team when it
2 comes to challenges, access for information is
3 clearly one of them, what, you know, as TJAGs
4 sitting down with my team and saying what is
5 clear that I can change by policy? What can I do
6 by policy and what are legal or constitutional
7 issues that could impact the court martial or the
8 investigation? And thinking through that, then
9 issuing a policy which is what I did with access
10 to information once the investigation is
11 complete. And immediately upon issuing that,
12 sending it out by email to my fellow TJAGs so
13 that they then too can determine what they want
14 to.

15 And we talk about while the
16 investigation is going on and the concerns, you
17 know, valid concerns that the MCIOs have
18 regarding giving information to witnesses while
19 an investigation is still ongoing. Going to my
20 fellow Provost Marshal General on staff and
21 saying we're going to have a working group; what
22 do you think? And now CID is sitting down with

1 our members of the JFC, the Army members, and
2 we're sorting through what are true issues when
3 it comes to investigation, and at what point can
4 we influence this by policy? Because I don't own
5 the investigation portion; I only own it once
6 it's complete. And so let's push them, where can
7 we go with policy?

8 So we're trying when we see these
9 challenges to effect change with our JFC as they
10 mentioned, figuring where we can issue policy,
11 and then working also with the judiciary to make
12 sure they're aware and hopefully programmatically
13 through the rules, being able to also solve some
14 of those problems. I hope that answered your
15 question.

16 CHAIR HOLTZMAN: Thank you. Lt. Gen.
17 Burne?

18 LT. GEN. BURNE: I see --- and I'll
19 quickly touch on, and make perhaps three points,
20 but access to information needs to be sorted out.
21 We are pursuing the access of information through
22 official use channels versus a strict FOIA

1 approach; that's kind of a subset of that or
2 argument of that. I understand that that
3 question came up with the Panel and that DoD
4 General Counsel is submitting a letter to you
5 today that echoed our approach on that. But it
6 doesn't answer all of the questions on access,
7 and so that's an issue that we're actively
8 engaged in.

9 Another is the SVC balancing SVC
10 availability with the investigator's zeal to
11 continue. Our investigators in particular, OSI,
12 have invested tremendous resources into the
13 specialized role of investigating sexual assault
14 offenses. They have set metrics for themselves,
15 and they want to advance on these cases. The
16 frustration comes when the investigator, when
17 confronted with a new matter, wants to get with
18 that victim, and the victim says well thank you,
19 but I want my SVC with me, and my SVC this week
20 is at Grand Forks Air Force Base at a court
21 martial representing another victim, and after
22 that they're at a different base, and they'll be

1 back here two and a half, three weeks, and the
2 investigators are saying well we don't want to
3 wait two and a half or three weeks. So by
4 introducing --- what we already talked about --
5 more SVCs into the system, that will alleviate
6 that.

7 Another thing is I'm working with the
8 Inspector General, who OSI falls under, and the
9 OSI commander, so that there is a better
10 understanding among investigators as to the value
11 added of having the SVC right there with their
12 client and how that actually enhances the
13 interview and the free flow of information which
14 I think we've heard a little bit about also. And
15 so as that --- again it's a new program, but as
16 we work through that, I think that will help
17 alleviate that particular rough edge that we're
18 experiencing.

19 And finally, very briefly, SVC
20 availability for the scheduling of hearings in
21 cases, they're not formally a party to the
22 proceedings, and at the current time, they must

1 go through the trial counsel with their
2 schedules and hope that the trial counsel
3 advances the SVC's calendar when the judges are
4 setting the schedules for hearings. We'd like to
5 work through that also, the rough edge as I call
6 it, to smooth that to give SVCs greater access
7 and availability to those scheduling hearings so
8 that all these participants in this trial process
9 can fully engage in the process. Thank you.

10 CHAIR HOLTZMAN: Thank you very much,
11 sir. Rear Admiral Poulin?

12 RADM POULIN: Madam Chair, I would
13 highlight two concerns. One is experience in the
14 SVC Program, and the other is geographic
15 assignment and availability of SVCs. With
16 respect to the first issue, experience, the
17 situation I have now is not desirable where I
18 have new attorneys coming in to staff those full
19 time SVC positions. I've already made a decision
20 that in the future, as we look at assignments in
21 the out years, that those SVC positions, to the
22 maximum extent practicable, will be experienced

1 attorneys, attorneys like Lt. Cdr. Kelley Stevens
2 that you talked with earlier. I want seasoned
3 attorneys in those positions. The other way is
4 to make sure that I keep that collateral duty SVC
5 Program alive, because that's the way that I can
6 pull in more seasoned attorneys as well.

7 On the geographic availability, one
8 thing I should note here is that unlike the other
9 military services, we're not in big bases. We
10 are geographically dispersed all over the country
11 in small units; I was an operational commander
12 down in Mobile, and I had Mississippi, Alabama,
13 Florida Panhandle, and I had 600 people that were
14 geographically dispersed throughout that entire
15 region. I had one 87 foot patrol boat that was
16 in Carrabelle, Florida that had 10 people on it.
17 So that just gives you an example of how
18 dispersed we are.

19 So my concern is that our SVCs,
20 especially the full time SVCs, exist in
21 Washington, D.C., and Alameda, California. How
22 can I make sure that those folks are

1 geographically available? One is, I'm centrally
2 managing travel funding for the SVC Program to
3 make sure that I have a sufficient pot of money
4 to make sure that those SVCs can go out and
5 travel and meet with their clients. The second
6 is back to the collateral duty SVC Program;
7 that's one of the reasons why I have to keep that
8 as a viable program. Thank you.

9 CHAIR HOLTZMAN: Thank you. Col.
10 Baker, sir?

11 COL. BAKER: Ma'am, the first one is
12 one that everybody has touched on, and that's the
13 need for consistency in the rule process.

14 CHAIR HOLTZMAN: Will you pull the mic
15 closer to you, please?

16 COL. BAKER: The first is one that
17 others have touched on, and that's really a need
18 for consistency in some of the rulemaking
19 process. The second is one --- is really
20 awareness of the program. This program is new,
21 Col. Joyce, our OIC, has gone around the Marine
22 Corps, talked to all the commanders; the

1 Commandant recently invited her to talk to all of
2 our three and four stars, and her counsel are out
3 there trying to get the word out, we've had media
4 coverage and whatnot. But we want to make sure
5 that everybody knows about the program, and then
6 I know, I guess a third is the issue of
7 eligibility. When we get our operational
8 planning team to stand up to Victim Legal
9 Counsel, it seemed like this would be easy. If
10 you rate legal assistance, we provide you with
11 services. But we didn't think about what happens
12 if you get divorced right before court, and Col.
13 Joyce and I talk almost every day, and I know the
14 thing that she struggles with the most is --- the
15 eligibility requirements.

16 CHAIR HOLTZMAN: Okay thank you. Does
17 anybody else on the Panel have any--is there any
18 questions?

19 MR. STONE: Well I would just ask if
20 anybody has anything to tell us about whether on
21 anybody's radar screen is the fact that the
22 military doesn't have an electronic docketing

1 system, case filing system like the federal
2 government, like lots of states, where everything
3 is posted, including documents for people to
4 download, and it takes the load off the trial
5 counsel that people say you haven't notified me
6 and the public documents are available to
7 everybody including, as we hear the Victim
8 Advocates who say we don't know when the trial
9 is, I just wondered if that's being considered in
10 any of the services.

11 LT. GEN. BURNE: It certainly is in
12 the Air Force, Mr. Stone. You know, we have our
13 AMJAMS system which we can talk about, but that
14 is a case management system which allows input
15 from wings and all to track cases as to their
16 development. It is not very good --- once it
17 gets into the trial stage of doing the types of
18 important things that you mentioned. So we have
19 the same team of folks in our directorate that
20 handles our computer legal research and
21 development programs that are studying that. I
22 fully expect recommendations on that to be coming

1 forth sometime in the beginning, first half of
2 2015.

3 CHAIR HOLTZMAN: And I assume you'll
4 share some of that information with your
5 colleagues?

6 LT. GEN. BURNE: We absolutely will,
7 yes ma'am.

8 CHAIR HOLTZMAN: Well thank you--okay,
9 well thank you very, very much. You always are
10 welcome to share any thoughts or suggestions or
11 concerns with us; we have an open door. Thank
12 you again very, very much for the guidance and
13 for your time. Okay, we'll take a three-minute
14 break, and then we'll have an half hour, 30
15 minutes to deliberate.

16 (Whereupon, the proceedings recessed
17 from 4:21 p.m. to 4:30 p.m.)

18 CHAIR HOLTZMAN: Well, I'm sorry that
19 we don't have our full compliment, but we will go
20 ahead and start--I suggest that we begin
21 deliberations as we have to with regard to our
22 February report that's due on February 15 to the

1 Congress and the Secretary of Defense. The staff
2 has sent a proposed outline to the members, and
3 I just thought we would start--we don't have to
4 finish, but get a sense of your feelings about
5 this proposed outline and--which appears on the
6 first page, and then of course let's fill it in a
7 bit in these other pages. But to give us a sense
8 of how you feel about the proposed outline, does
9 it have any major omissions, does it have any
10 sections that you think shouldn't appear in it.
11 I just want to remind you that we have a--we'd
12 really like to be out of here by 10 to 5 if
13 that's possible, because some of us have to catch
14 a train to another destination unspecified.
15 Anybody can start the conversation.

16 JUDGE JONES: Well I mean I generally
17 like the outline. I think when you go through
18 the Article 120 section, it basically faithfully
19 reflects what that comments many of us made
20 during the earlier meetings, and it also I think
21 accurately expresses what we want it to do in
22 terms of creating a subcommittee and having the

1 subcommittee delve more deeply into--and I won't
2 go through every one of them now, but each of the
3 possible suggestions for change to Article 120.

4 And the only other thing I wanted to
5 raise, and I actually have already mentioned it
6 to you, Madam Chair, is I think this outline
7 suggests that we were going to send MRE 412 and
8 MRE 513 to either that committee, that
9 subcommittee or another one, and I didn't think
10 we had decided to do that.

11 CHAIR HOLTZMAN: Yes, I think that the
12 staff got a little ahead of itself.

13 JUDGE JONES: Oh, okay.

14 CHAIR HOLTZMAN: They were anticipating
15 that we might.

16 JUDGE JONES: Okay.

17 CHAIR HOLTZMAN: And maybe we would
18 want to at some later point, but I think you're
19 absolutely accurate that we had not as a panel
20 made that recommendation, but of course we
21 reserve the right at any point if that--if and
22 when that subcommittee is created, to refer other

1 matters to them if we think it's appropriate. So
2 thank you for pointing that out. Mr. Taylor, do
3 you have comments on this draft, the proposed
4 outline?

5 MR. TAYLOR: Yes, thank you. I
6 certainly agree with Judge Jones that this
7 faithfully represents pretty much the discussion
8 we've had to this point about what to do. I
9 would say that on page 5, where the draft says
10 "the JPP did not unanimously find issues with the
11 provision regarding the administration," I think
12 at that time, Judge Jones and I felt that we
13 really didn't need to do anything more on this,
14 and that's just what the footnote reflects, and
15 that's what my memory serves. It also represents
16 that we felt maybe there would be some more
17 specific information that we needed from the
18 Services, and I don't know whether--if we ever
19 followed up on that or not. So I was comfortable
20 at the time with just leaving that as it is, and
21 I still am. But I just thought I'd mention that
22 for what it's worth.

1 CHAIR HOLTZMAN: Colonel Kyle, do yo
2 have any--I mean Colonel Green, I'm sorry.

3 LT. COL. GREEN: Ma'am,, we have not
4 asked through a request for information for the
5 Services' information on this specific topic. I
6 guess it's up to whether we want to do that prior
7 to having subcommittee consider that as part of
8 its deliberations and analysis or whether the
9 Panel feels it needs more information as part of
10 its reporting process in February.

11 CHAIR HOLTZMAN: Well I think that the
12 other concern is according to Mr. Taylor, we're
13 not sure that this accurately reflects our
14 conclusion; is that correct, or--

15 MR. TAYLOR: Well, no ma'am, I didn't
16 mean to say that. I think it does reflect where
17 we left it. I think we left it in an incomplete
18 state, whereas I was willing to say this is one
19 we don't need to spend any more time on and we
20 can take it to the table. That's what I intended
21 to say.

22 CHAIR HOLTZMAN: And I think I

1 remembered that I agreed with you, now that I
2 review it.

3 LT. COL. GREEN: We can request
4 information and talk to the Services about that,
5 and at the January meeting, we can provide any
6 information we determine for the Panel to
7 consider.

8 CHAIR HOLTZMAN: Mr. Stone?

9 MR. STONE: The only--I like the
10 outline and I like what I've seen so far, I
11 thought it was very good. There is a section
12 down at the bottom we haven't gotten to yet, on
13 the outline roman numeral 4, the rights of
14 sexual assault victims throughout the judicial
15 process, and capital B, information of rights of
16 victims to be able to exercise their rights. I
17 just want to make a note that that goes beyond
18 the victims legal counsel for the victims
19 assistance. In the rest of the United States and
20 federal practice, for example, victims in every
21 single federal district can look up on the U.S.
22 Attorneys site and see, there's a victims--it's

1 on the website and you don't need a password, and
2 you can see the progress of the cases you're in.

3 So you get a PIN number to dial into
4 the victim notification system if they want to
5 find out anything that's in the victim
6 notification system. So there will be victims
7 who maybe never or maybe not yet have chosen to
8 think they need assistance, but they will fall
9 within victims who need to be able to have
10 information, so I just think when that part is
11 written, it should be broad enough to recognize,
12 and that's why I talked about something like an
13 Internet electronic case filing system, which
14 ever person can see. You have to realize that in
15 fact, that will take some of the burden off of
16 the providing -- a victim assistant and the
17 Special Victims' Counsel every time a victim
18 wants to know something. They shouldn't have to
19 call the office every single time. Other victims
20 don't, and it allows the resources to be saved
21 for when they actually have something they can't
22 just read and understand; when is the next court

1 hearing and what was the last one. That's my
2 only observation, so I hope that when we write
3 that, we at least look at it a little bit
4 broadly.

5 CHAIR HOLTZMAN: I wanted to--oh, I'm
6 sorry. Admiral Tracey.

7 VADM(R) TRACEY: I support the outline
8 as it's written, and I sort of remember the same
9 thing that Mr. Taylor did about page 5, and would
10 be willing to suggest that that requires not much
11 further review.

12 CHAIR HOLTZMAN: Okay, well I'm not
13 sure that I fully understand that yet, so I'm not
14 sure that I'm going to support my very esteemed
15 colleagues in this point. I respect their
16 judgment enormously, but I'm not there yet, not
17 because I don't agree with it, I just haven't
18 reflected on it. The only point I would make,
19 and Kelly, who showed me a much more
20 comprehensive outline, was the--in the first
21 roman numeral, that Article 120, it doesn't
22 really quite deal with the issue of consent.

1 That was an issue that Mr. Taylor had raised, but
2 I see that in Col. Kelly's very exhaustive
3 outline number 2, or maybe it's 3 or 4, I don't
4 know, or 10, that consent is in there. So that
5 will be dealt with, and I think that that's
6 obviously a vital issue.

7 And I think also in the last list of
8 items, roman numeral IV, I don't know how much
9 information we really have on all of these
10 issues. For example, victim interlocutory
11 appeals. That was an issue that the Response
12 Panel raised, but I'm not exactly sure that we
13 know--

14 JUDGE JONES: And we just heard today
15 that there were four writs against, I think it
16 was Lt. Gen. Darpino, but I think I know what two
17 of them were about, but we do need more
18 information.

19 CHAIR HOLTZMAN: So there may be, you
20 know, those are really important issues, I'm not
21 sure that the Panel has enough information. If
22 we don't have enough information, then perhaps we

1 can't really report on it.

2 LT. COL. GREEN: I think ma'am the
3 outline reflects a mix of information received or
4 facts that have been gathered and particularly on
5 the special victims counsel program, privacy
6 issues and the access to information of the
7 rights of victims to the judicial process.

8 Obviously, we've not had deliberations of the
9 Panel on recommendations, and so I think one of
10 the things you mentioned was the more detailed
11 outline. The staff is writing to try to assemble
12 all the information within those areas of
13 information that you received, either through
14 your meetings or through the request for
15 information, and so we're building those to
16 provide you in advance of that deliberations
17 meeting. I think the challenge or the goal would
18 be at your January meeting to determine what of
19 that you feel like you have enough information to
20 make recommendations versus what you believe you
21 need to continue to study.

22 CHAIR HOLTZMAN: Okay, so that this

1 is--so point number 4 and the items underneath it
2 aren't necessarily going to be included in the
3 final report if we determine we don't have enough
4 information to make that report?

5 LT. COL. GREEN: That's right, or they
6 may just be reflective of what we basically
7 learned and what we think we need to gather more
8 information on.

9 CHAIR HOLTZMAN: Okay, great. Okay.
10 Well I just want to compliment the staff for
11 doing really an excellent job. This is very well
12 written and contains basically--fully reflects
13 what we've been doing, so I want to thank you
14 Col. Green and Col. McGovern and all the rest of
15 the staff for the very good work, and we look
16 forward to some additional work. Is there
17 anything else, any other comment with regard to
18 this report? I think just to--our plan is to
19 have a meeting in January where we can just fully
20 discuss the report and maybe, and plan for a
21 second meeting if one meeting will not be
22 sufficient, and what's the staff's estimate about

1 when we're going to get a full document?

2 LT. COL. GREEN: Our goal is to have
3 all of that for you a week in advance of the
4 January meeting, probably even more than that.

5 CHAIR HOLTZMAN: Yes, do we have one
6 date scheduled already?

7 LT. COL GREEN: For the meeting?

8 CHAIR HOLTZMAN: Yes.

9 LT. COL GREEN: Yes ma'am, it's 16th of
10 January, so second or the third Friday just given
11 the holidays, so yes ma'am, the 16th of January.
12 It will be at the federal courthouse down--

13 CHAIR HOLTZMAN: I hope we can have a
14 writer on board too to--even though this report
15 doesn't necessarily reflect a need for that, it
16 certainly will help the staff focus on the
17 substance.

18 LT. COL. GREEN: Yes, ma'am.

19 CHAIR HOLTZMAN: Well, if there are no
20 further points that anybody wants to make, thank
21 the staff again, wish everybody Happy Holidays
22 and Happy New Year, Merry Christmas and all the

1 other holidays, and I know Maria has to say
2 something, otherwise it's not legitimate,
3 whatever we do.

4 MS. FRIED: Happy Holidays everyone,
5 and this meeting is closed. Thank you.

6 (Whereupon, the proceedings were
7 concluded at 4:43 p.m.)
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