UNITED STATES DEPARTMENT OF DEFENSE

JUDICIAL PROCEEDINGS PANEL

PUBLIC MEETING

FRIDAY
DECEMBER 12, 2014

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
CONTENTS

Introduction by Chair Holtzman . . . . . . . . . . 4

Non-Military Perspective on the SVC Program
  Don Christensen . . . . . . . . . . . . . . . 8

Perspectives on the SVC Program from Sexual
Assault Response Coordinators
  Phylista Dudzinki . . . . . . . . . . . . . . . . 48
  Simone Hall . . . . . . . . . . . . . . . . . . 53
  Marie Brodie . . . . . . . . . . . . . . . . . . 56
  Gloria Arteaga . . . . . . . . . . . . . . . . 64
  Sgt. Bridgett Joseph . . . . . . . . . . . . . 72

Lunch

Clients and their SVCs:
Experiences from the Field
  Lt. Comm. Kelly Stevens . . . . . . . . . . 147
  Maj. William Ivins . . . . . . . . . . . . . . 156
  Capt. Christopher Mangels . . . . . . . . 158
  Lt. Kathryn DeAngelo . . . . . . . . . . . . 162
  Capt. Brian Stransky . . . . . . . . . . . . 169

Senior Judge Advocate Perspectives
  Vice Adm. M. Nannette DeRenzi
  Lt. Gen. Flora Darpino . . . . . . . . . . . . 245
  Lt. Gen Christopher Burns . . . . . . . . . 259
  Rear Adm. Steven Poulin . . . . . . . . . . 275
  Col. John Baker . . . . . . . . . . . . . . . . 287

Deliberations . . . . . . . . . . . . . . . . . . . . . . . . . . . . 315

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

(10:11 a.m.)

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

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

Today's meeting continues the Panel's assessment of Special Victims' Counsel, or SVC,
programs established by each of the military services in 2013.

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

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

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

Following our lunch break, we will hear from SVCs and clients they have represented. We are grateful that these clients agreed to meet
with us and share their experiences and impressions of working with the SVCs. We think it's important to hear and understand their perspectives.

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

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

Each public meeting in the Judicial Proceedings Panel includes time to receive comments and input from the public. The Panel did not receive any requests from the public to appear at today's meeting. We received one
written comment, which was provided to the Panel members and will be posted to the JPP website. All materials received by the Panel members for today's meeting and previous meetings are available on the JPP website at jpp.whs.mil.

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

MS. FRIED: Madam Chair?

CHAIR HOLTZMAN: Yes.

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

CHAIR HOLTZMAN: Thank you very much. So I guess my comments now ex post facto are legitimate.

(Laughter.)

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

Okay. Our first Panel consists of non-military perspectives on the SVC Program, and we are very pleased to have Colonel Don
Christensen, Retired, of the U.S. Air Force who is the new president of Protect Our Defenders.

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

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

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

Thanks to the efforts of Congress, military survivors of sexual assault now have the right to a confidential advisor to help guide them through the complex and adversarial process.
The SVC Program has given our military survivors a voice where they had none. However, this does not mean the program is without challenges or need of improvement, nor will it impact the degradation of mission readiness caused by the failures to structurally reform the broken military justice system.

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

Within a few days of the Air Force launching the SVC Program, I had the opportunity to meet with the Joint Services Committee to talk
to them about what the Air Force was doing. I also at that time told them that this was a sea change, and that in order for the program to work, the Joint Services Committee needed to propose changes to the Manual to codify the role of the SVC.

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

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

I remember while preparing the
Government's response for the LRM appeal talking
to a very senior member of the Air Force JAG
Corps. He told me the SVC Program was
unnecessary because "the prosecutor represents
the victim."

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

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

As a result of this neglect, SVCs face
a continual struggle to be heard in court, to
receive evidence needed to represent their
survivors, to have access to motions filed by the
parties, or to be consulted prior to the
scheduling of Article 32 hearings, Article 39(a)
sessions, or the court itself.

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

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

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

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

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

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

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

    The SVC Program is an important step,
in providing the few victims who report, a
confidential advisor, someone who is in their
corner to fight to protect their privacy rights.
But those who thought the program was a solution
to addressing the scourge of sexual assault and
rape are not correct. This mischaracterization
misleads Congress and the American public. It is
a cruel disservice to our servicemen and women
who are victims of sexual assault and too often re-victimized by retaliation from their commands and their units.

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

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

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

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

You mentioned that there is still opposition to this idea of SVCs, and you seemed to put part of that at the -- place part of it,
at least, in the responsibility of the JSC. Do you perceive that that has changed any in light of the statute authorizing the SVCs?

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

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

COL (RET) CHRISTENSEN: There has been a change in attitude on some, but there are many in the senior leadership who still don't think it
was the right thing to do, who still think it was an unnecessary step, who still think that they should not be involved in the court-martial process.

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

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

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

Once those rules are in place, then those who are
discriminative of the program will have to follow
along.

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

CHAIR HOLTZMAN: Thank you. Judge
Jones?

JUDGE JONES: Yes, thanks.

Congratulations, Colonel. I wonder about one
thing, and that is resources. Because we have
heard not just that there aren't enough
experienced lawyers to staff SVC, but, in some
instances, there has even been some question
about the level of experience for prosecutors and
defenders. Is any of the opposition, or was any
of it, based on just the fact that there aren't
enough lawyers? And whether it was or it wasn't,
what is your opinion about that?

COL (RET) CHRISTENSEN: Sure. Well,
there is definitely that claim, that there is not
enough attorneys, but I find that a little bit
ironic since we just forced about 100 JAGs out of
the Air Force who were Special Victims' Counsel,
Senior Trial Counsel and Special Victims'
Prosecutors, Defense Counsel.

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

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

COL (RET) CHRISTENSEN: Yes, yes. And
we just went through a process where we forced
out, I believe, 13, I believe, I could be wrong,
maybe 13 -- 13 senior O-6s, including four
members of our judiciary who were forced to
retire early. And then we also had, like I said,
about 100 of our younger captains who were right
in the sweet spot and where we want people to be
who prosecute, defend, and represent clients.
That's a priority issue.
JUDGE JONES: I don't suppose you have any suggestion about what could really be done about that?

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

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

At the time we stood up the SVC Program, eight of our SVCs were forced out of the Air Force. At the time we stood up our Special Victims' Prosecutors program, we forced Special Victims' Prosecutors out of the Air Force.
Our Area Defense Counsel, I believe it was almost 14 or 20 of them were forced out of the Air Force. Area Defense Counsel do a vital role for the military justice system. And this is where our best prosecutors come from, this is where we could have got our best Special Victims' Counsel from, but the priority was reduction versus making sure we had these people in place.

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

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

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

COL (RET) CHRISTENSEN: Yes.

JUDGE JONES: Or maybe that is their model?

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

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

COL (RET) CHRISTENSEN: Absolutely. And if I could give you an example where that discretion occurs currently, and it just was reported yesterday, and it was something that was before Congress, currently our three and four star generals and some two star generals have a total of 300 enlisted aides that do their
laundry, go shopping for them, clean their house. That was a higher priority to keep enlisted aides than it was to keep Special Victims' Counsel. So it is a priority issue. You know, four star generals are very well paid. They can hire someone to clean their house.

JUDGE JONES: That is a pretty stark example.

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

COL (RET) CHRISTENSEN: Yes.

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

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

JUDGE JONES: Okay, thank you.

CHAIR HOLTZMAN: Admiral Tracey.
VADM(R) TRACEY: Thank you for that, Colonel. There are differences in how officers and enlisted can be reduced, so let's not oversimplify that.

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

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

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

We have some Special Victims' Counsel say the commanders have treated them great and that they're very supportive. I've had other Special Victims' Counsel tell me that senior, more senior officers in the line have been very dismissive of their views and told them that they need to remember that they're talking to a
colonel, and so it's a wide range.

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

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

COL (RET) CHRISTENSEN: I am not saying they were targeted. There were approximately 100, and I think about approximately -- that were reduced. And there were approximately, I would say, 30 to 40 that were in military-justice-specific specialties that were reduced. I am not saying they were targeted, I'm just saying it was a priority issue.
I know they'll say that they were overmanned career fields. But we took on the Special Victims' Counsel Program. Within the Air Force, I believe they are up to 40 Special Victims' Counsel. And that was something I think General Welsh could have easily said, hey, this is a new program, it's an important program, it's something we're selling to Congress as the savior of military justice, I want to make sure it's adequately staffed.

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

VADM(RET) TRACEY: Okay. For the record, I mean, there -- it isn't any -- the process for reducing officers is very different from the process for reducing enlisted personnel, so there are a lot more restrictions on how an officer can be identified for forced reduction than there are for enlisted personnel. So it
would be important not to convey that --

COL (RET) CHRISTENSEN: I am not

trying to convey that, but this was an end

strength number --

VADM(RET) TRACEY: Yeah.

COL (RET) CHRISTENSEN: -- and it was

an end strength decision, so.

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

COL (RET) CHRISTENSEN: And I

understand that completely, Admiral. All I'm

saying is the Chief of Staff does have the

ability to set priorities, and the Chief of Staff

-- we are a very small part of the entire Air

Force structure, and he could have set a
different priority.

CHAIR HOLTZMAN: Thank you. Mr.

Stone.

MR. STONE: Thank you. If I can turn

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

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

COL (RET) CHRISTENSEN: Well, I don't think the Judges' Benchbook is the answer. The Judges' Benchbook is guidance, it's not binding on anyone. You know, that's a clear precedent from our highest courts, so a judge would have discretion to either follow the Benchbook or not
follow the Benchbook. They go away from it at their own risk, but when it came to something like establishing rights for an SVC, they would probably be pretty free to ignore what it said.

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

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

It's just -- it's been two years.
It's time to be done. And one of the biggest problems we have right now is that this is
creating appellate issues. I believe the Army has two cases appearing before their Service courts right now, one having to deal with whether or not an SVC -- the attorney in the SVC, if his or her schedule needed to be consulted on before setting the trial date. And the other, I can't remember the exact issue, but it's another SVC issue.

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

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

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

MR. STONE: Is there a way for you to
more directly communicate it, or is that not the right channel?

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

MR. STONE: Thank you.

VADM(RET) TRACEY: May I?

CHAIR HOLTZMAN: Yes, please.

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

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

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

COL (RET) CHRISTENSEN: No, ma'am.

Barely into the job, so it's been a pretty hectic
last couple weeks, so.

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

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

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

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

COL (RET) CHRISTENSEN: Yes.

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

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

CHAIR HOLTZMAN: -- and to the Defense Department, and if you get it to us soon enough, we might have time to consider it in terms of our report. I think that the Joint Services
Committee might pay some careful attention to a recommendation we might make in this area.

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

CHAIR HOLTZMAN: Not today? Okay, all right.

(Laughter.)

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

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

CHAIR HOLTZMAN: I guess we can talk about -- and you've also raised for the first time the Special Victims' Counsel, retaliation against Special Victims' Counsel. We haven't heard that yet. This is the first time we're hearing it. So maybe you want to take that into
account first, but then the question of retaliation against victims. That seems to me to be a very important subject, and we'd like your views on that.

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

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

And when she put up her slogan, "start by believing," you would have thought she was,
you know, saying the most ludicrous thing in the
world, that she had just said that the sun
rotates around the earth as opposed to the
opposite.

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

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

    I also think that changing our
structure, allowing prosecutors to be the one
that makes the decision, will be a huge, huge benefit. Why do I say that? Because of the concept of unlawful command influence. Our commanders -- and we have a lot of wonderful commanders, a lot of great commanders, a lot of great convening authorities -- but their hands are tied because of the concept of unlawful command influence.

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

We have a system that prohibits, basically, commanders from leading on this subject because of unlawful command influence.
If we had a prosecutor-based system and we took
the commander out of that decision process, it
would go a long way to freeing commanders to
lead.

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

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

For example, it is virtually
impossible to remove a commander for his or her
lack of leadership in sexual assault, for to do
so would then give the defense ammunition in
almost every subsequent case in that service for
unlawful command influence. It is --
CHAIR HOLTZMAN: Could you explain that, please?

COL (RET) CHRISTENSEN: Sure.

CHAIR HOLTZMAN: Be concrete.

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

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

And yet Franklin was trying to get
this guy in charge of a group. He was never criticized by the United States Air Force. He was not removed from his position by the United States Air Force. The day he retired, he was overwhelmingly praised by the United States Air Force.

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

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

COL (RET) CHRISTENSEN: Let me make a better -- maybe I misspoke. And I'm not talking
about Colonel Wilkerson being punished, I am
talking about General Franklin being --

CHAIR HOLTZMAN: Yes, right.

COL (RET) CHRISTENSEN: -- fired.

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

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

COL (RET) CHRISTENSEN: Okay, all
right.

CHAIR HOLTZMAN: Let's take a
hypothetical case where a general acted in a way
that condoned, explicitly condoned or supported
the acts of a convicted sex offender. You are
telling me that under the existing military law,
that if that officer or general was disciplined,
That that could be used in every single subsequent case in that military service to exonerate defendants? If that's the case, I would like to understand how that works.

COL (RET) CHRISTENSEN: Yes --

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

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

CHAIR HOLTZMAN: Right.

COL (RET) CHRISTENSEN: That's actual.
The other is the perception of unlawful command, and it's perceived unlawful command influence. And the General Amos case is a perfect example. He came out and made strong statements in support of victims and handling sexual assault, and the -- and a conviction was --

CHAIR HOLTZMAN: Let's keep this hypothetical.

COL (RET) CHRISTENSEN: Okay. Well --

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

COL (RET) CHRISTENSEN: Sure, okay. Well, it's kind of hard to do without a real-world example, but so if a general officer or a lower-ranking officer were to be very supportive of an accused, do something to help that accused achieve an acquittal, under the concept of unlawful command influence, if there was any kind
of negative action taken against a person who supported that accused, that would be what I would say would be evidence of perceived unlawful command influence.

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

The President came out as the Commander in Chief and said we need to take this seriously and the people who commit sexual assault shouldn't be in the military. Okay. I think that's a pretty obvious statement, that we don't want people who commit sexual assault in the military. That statement has raised hundreds of allegations of unlawful command influence. That statement has resulted in hundreds of qualified members being removed from courts purely because they have heard this statement.
We are very concerned about unlawful command influence. The appellate courts are very concerned about unlawful command influence. What I am saying is, if you free up the commanders in an appropriate way to address sexual assault by allowing prosecutors to make these decisions, it gives them greater ability to address these things.

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

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

CHAIR HOLTZMAN: Okay. But what about some other -- since I don't think that that's
likely to happen, that change, so quickly -- do
you have some other concrete recommendations
about retaliation that we could deal with?

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

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

CHAIR HOLTZMAN: I'm sorry, just one
more question in this line. You said that the
victims' counsel, Special Victims' Counsel, can't advise -- or maybe I misunderstood. Can Special Victims' Counsel deal with retaliation to the extent that they could advise the victim, or they themselves contact whoever in the military would be responsible for prosecuting or investigating issues of retaliation?

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

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

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

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

COL (RET) CHRISTENSEN: Yes --

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

COL (RET) CHRISTENSEN: Right, right.

CHAIR HOLTZMAN: Okay.

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

CHAIR HOLTZMAN: Okay. Any other questions?

(No response.)

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

COL (RET) CHRISTENSEN: Thank you, Chairman.

CHAIR HOLTZMAN: Thank you.
Our next presenters are on the subject of Perspectives on the SVC Program From Sexual Assault Response Coordinators, SARCs. We will be hearing -- would you come forward, please? Thank you.

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

MS. DUDZINSKI: Yes, ma'am.

CHAIR HOLTZMAN: Thank you.

MS. DUDZINSKI: Perfectly.

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

MS. DUDZINSKI: Yes.

CHAIR HOLTZMAN: Thank you.

MS. DUDZINSKI: First of all, I would like to thank Madam Chair and the Panel for allowing me an opportunity to give voice to my experiences working with Special Victims' Counsel. They have been an integral part of our
program now for nearly two years, and I have to
say that I think this was probably one of the
most significant steps forward to promote our
program and to give it the depth that it needs to
succeed.

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

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

What we've noticed in our cases is
that, when there's a Special Victims' Counsel
involved, the victim tends to ask the questions
of the counsel which normally they would have
turned to their Victim Advocate to ask. This
means that the Special Victims' Counsel is
handling a lot of informational issues,
referrals, follow-ups that normally, in the past,
the Victim Advocate would handle.

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

In terms of the investigative process,
introducing the Special Victims' Counsel, the
lawyer-client relationship, has definitely slowed
down the initial investigative interview. Our
Special Victims' Counsel are regional, they are
not local. So what that means is, when the
client wishes to have a Special Victims' Counsel,
we have to make contact with them either through
phone or email, which sometimes can take two or
three days in order to set up an appointment.

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

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

I have on occasion had to reach as many as four different Special Victims' Counsels at four different locations in a meeting process. It is awkward at best and does not lead to a
smooth transition between the cases. I
definitely see value added having the Special
Victims' Counsel attend, either by phone or in
person, the meetings, but, as it sits now, it is
a very inefficient process.

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

I realize that this is going to
require a considerable increase in dedicated
resources, both manpower and budget, but I
believe for the program to reach its fullest
capabilities and to best serve the victims of
sexual assault, this has to be the next step
forward in solidifying and strengthening the
quality of our service. Thank you.

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

Our next presenter will be Ms. Simone Hall, Sexual Assault Response Coordinator, U.S. Coast Guard Base National Capital Region.

Welcome, Ms. Hall, thank you for coming.

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

I agree totally with Ms. Dudzinski that the SVC Program has been an invaluable asset to assisting victims of sexual assault. In my personal experience, with my victims that initially had requested a restricted report, at the consult, once they consulted with the SVC and got some information on whether it was collateral misconduct, on the legal process, some of the questions that I as a SARC cannot answer, they, in 30 percent of those cases, they change from restricted to unrestricted, which allows the command to, again, hold those offenders responsible for, accountable for their actions.
So I think the program is invaluable to us advocating and assisting survivors of sexual assault.

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

For the Coast Guard, our challenges would be we don't have enough SVCs for the amount of clients that we have, unfortunately. We cover over 18 districts, and in my case, I am the only SARC for over 16 different commands. So I have one SVC -- actually I have two SVCs that cover the Washington National Capital Area, Baltimore, Maryland up to West Virginia, which is quite
challenging for the SVCs. So a lot of our consultations are done via telephone, which at some times it can seem impersonal.

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

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

CHAIR HOLTZMAN: Thank you very much, Ms. Hall. Our next presenter will be Ms. Marie A. Brodie, Installation Sexual Assault Response
Coordinator, Marine Corps Base Camp Lejeune,

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

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

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

They are not co-located, the VLC with
our Victim Advocates, but that does not interfere
with communications. We still have easy access to them in getting information and becoming aware of any hearings, anything that the Victim Advocate needs to be aware of.

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

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

   It tends to be an enlisted Marine who
2 might be an E1, E2, E3, and they are going to
3 talk to an agent who has got a badge and a gun or
4 they are going to talk to an officer who is also
5 an attorney who has been assigned to their case,
6 and for them to stand in front of that person and
7 say okay, "I don't want to participate any more
8 is extremely difficult."
9
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
22 Also, to be able to explain the
23 process, because it is so confusing. Most of our
victims of sexual assault, their understanding of the legal process is about, you know, watching a couple of episodes of Law & Order. So the VLC can give them a more in-depth understanding of what is this process that they're getting ready to be involved in and answer their questions, which is really not in the realm of what a Victim Advocate should be doing. That should be in the realm of the VLC.

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

And it starts becoming an issue of the legal process and not so much their issue because
they may be getting counseling and other supports and feel like, "Why should I keep sticking with this?" And the VLC is someone who can help explain, why is it important to stick with this process, why is it important to stay with them and to help them, again, feel like they're not alone, because somebody is there with them to help and support them, because many times they have gone beyond this, and each time that they get that contact by NCIS or by the trial counsel it's bringing up something they don't really want to talk about anymore. They don't want it drummed back up, and the VLC, again, can be by their side through that process and help explain that.

Another example of when things take a long time and the victim gets frustrated is when they are awaiting charges to be preferred, and that's a command decision, and it could take months. We have seen this sometimes drag out, and again, that victim doesn't understand that. It's not a Victim Advocate's job to explain that.
That's a legal proceeding, and the VLC is in the best position to help explain what is happening, why is that taking long, and is there anything to be done to have the process go faster? Because it can be a very long, drawn-out process.

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

So the victim has already lost power by being a victim of an assault. Now they lose power because somebody else is reporting the crime, and that is really important, that they have the Victims' Legal Counsel in that situation to help them get power back in that situation and to have someone who is an attorney be able to
speak on their behalf if they choose not to participate, or if they say, "Okay, I wasn't in control of it being reported, but yes, I want to move forward and help me with that." And it gives control back to that victim of sexual assault. Again, not a job for a Victim Advocate. That is really a job for an attorney to assist them in that process.

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

We also have our VLC participating in continuing education classes that are now a requirement for every Victim Advocate, and again, it helps build that relationship and build that understanding and trust between those two
positions, and we appreciate that from our VLC.

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

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

Everybody in the military expects a SARC and a Victim Advocate to support a victim of sexual assault, but when somebody is a VLC and an attorney saying, "I am here for you and I'm supporting you," it adds some weight and seriousness to the Sexual Assault Prevention and Response Program, and it legitimizes this program
and it institutionalizes the need to support
victims of sexual assault throughout this entire
process, regardless of their decisions to stick
with a prosecution or not.

Those are my main comments about the
VLC.

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

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

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

MS. ARTEAGA: Patuxent.

CHAIR HOLTZMAN: Yeah.

(Laughter.)

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

MS. ARTEAGA: Thank you very much for
having me here to speak about a program that is
very important to the SAPR Program, and I'd like
to also include my other installation, I am on
staff for Naval Station Patuxent River as well as
Naval Support Activity South Potomac under the
Naval District Washington Region. Someone
already mentioned that that one is also included.

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

I would like to speak and start off
with by stating the reasons the program is
beneficial. The Sexual Assault Prevention and
Response Program, the SAPR Program, is a team
effort. It is what makes the program successful.
The Victims' Legal Counsel program was
implemented to assist victims in navigating
through the military justice system by providing
the victims with independent, personalized legal
advice and representation at hearings. It was
meant to complement and contribute to the Sexual
Assault Response Coordinator and the collaborative team aiding victims. Furthermore, their duties are to work closely and in cooperation with the SARC and Victim Advocate to best support and assist the victims.

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

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

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

Most of my clients have worked with the VLC and have had positive experiences with
her. I have never had any issues with her except that she did ask me to leave the room when speaking to the client at an Article 32 at some points.

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

Another statement from a colleague SARC explaining her experience:

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

I'm going to speak about the SAPR team in general, just so you understand how we work at my installations. At both of my installations, the Installation Commanding Officers, the Naval Criminal Investigation Services, the Installation Staff Judge Advocate, the Naval health clinic providers, the Chaplain, and the Fleet and Family
Support Center counselor work together collaboratively in the best interest of the victims without jeopardizing the investigation of NCIS or SAPR victim services with the SJA, Chaplain, medical providers, and counselors.

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

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

The Victim Advocate ought to inform. The Victim Advocates are trained to educate the victims regarding their rights as victims along with their reporting actions, including a further explanation of the Victim Preference Statement. Additionally, they are taught to advise the victim of their right to consult with a VLC on
both restricted and non-restricted cases.

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

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

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

There are a couple of areas that could
use some improvement. First, at times, there is a delay in communicating case disposition and trial outcomes. Some victims say they did not receive the outcome of the hearing prior to their command's knowledge.

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

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

In conclusion, as a SARC, I find it
comforting knowing that victims under my area of responsibility have a legal voice just for them and someone who can answer their questions and put ease to their concerns. This in turn provides the victim with a sense of security and empowers them to be a better witness in court proceedings.

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

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

Lastly, both the SARC and the civilian Victim Advocate support specialists have attended the VLC training to learn about the
program. Subsequently, the VLC Program will benefit from a fellow SAPR training to learn about the SAPR team roles. Conversely, the team may benefit from the VLC's attendance at the case management monthly meetings, as they can provide update to the Captains, the Installation Captain, the victim's Captain, and the rest of the team.

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

CHAIR HOLTZMAN: Thank you very much for your presentation.

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

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

CHAIR HOLTZMAN: Yeah, I'm sure.
(Laughter.)

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

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

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

CHAIR HOLTZMAN: Could you pull the mic closer to you please? Can you do that?

Great.

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

For us, at Schofield Barracks, we have a great working rapport with our SVCs. For one,
they train us, when it comes down to our eight-
hour block instruction. We have a four-hour
block instruction which they then come out and
they train.

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

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

One point of contention would be the
CID agents and SVCs. CID has a 24-hour time
block once they are notified of the case, so they
wouldn't get their hands into the mix right away,
and if you tell them -- and it's not, you know, a detailed clarification, but if you tell them that this client wants an SVC, that sometimes is challenging when you're getting ready to be deployed somewhere or whatever, where the agent is at that point. So that is one of the I guess sticking points that we would have in that sense.

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

Typically what we do is we escort the victim to the SVC for the first warm hand-off, and at that point we wait and see if the victim
wants us to stay there after. We don't go in because of the attorney/client privileges, but we wait kind of on the wings, and then after that, if the victim is comfortable going without us, you know, we don't accompany them, but we pretty much have a good relationship with our SVCs, and we don't have some of the issues that some of the other elements are having.

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

Being in Hawaii, we are on an island, so the other victim in that case had to go off island for her support. That SVC was a little more abrasive, actually a lot more abrasive. I don't know what that SVC said they were dealing with, but the way we deal with our SVC is a little bit more familiar.
I think some of the issues for that particular SVC was he was not included in a lot of the communication with the trial counsels and everybody else, so that was an issue for him. But also the face-time that the client didn't get because her attorney was off-island as opposed to being on-island.

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

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

Also, looking at the transitioning SVC -- so what that means, if you have a military member who has got a PCS, for, if you are going to bring one of the new SVCs and the other SVCs
stay in place, but maybe then go to something else, now that client has to relearn this particular person, and that could be where he or she doesn't want to keep them.

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

Also, some of the things that we deal which is in Hawaii, we have a lot of small deployments. So now you have the portable SARCs and you have your team who can go out, but you don't have an SVC who can go out, and for us, we only have two, so you can't send one to go cover that smaller package and then you only have one left in place. So that is something -- and the reason why I bring that up is because we had two issues where one victim was assaulted by a Malaysian Soldier and another one by an American Soldier, and she had to wait, the woman had to wait, until they got back to receive services
because there was nothing in place.

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

And the reason why I'm saying that is if the commander catches wind of this, say a 120 incident, and if I am recording you when you have the expectation of privacy and they go to CID and then CID doesn't see that as an issue and they communicate to the commander, I don't -- this isn't a sexual offense, and the commander does
not act on it, so indeed, they are not going to
bring in those of us that need to be brought in,
and that can delay the process.

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

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

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

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

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

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

The one thing I'll be interested in
knowing from each member is whether you are
typically the first office to receive a
complaint, or do you normally receive it
somewhere along the line? And I'll just start
with you, Ms. Dudzinski.

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

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

MR. TAYLOR: Okay. Ms. Hall?

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

MR. TAYLOR: Ms. Brodie?

MS. BRODIE: We have a large variety.
We have some victims who come directly to their uniformed or civilian Victim Advocate. We have some who journey themselves directly to NCIS. We have had some who report through the chain of command, some wind up at the Naval hospital with a friend.

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

We have high incidence reporting to medical, now that we have forensic examiners at the clinics now, and also a chaplain and counselors. And when I -- oftentimes, actually, my trainees, even back to GMTs or stand downs for that matter, I get a lot of people coming to my office to either disclose or get guidance for something that happened a long time ago, but it is various ways and avenues.
And also, the Victim Advocates also, they keep their eyes and ears open for any, you know, suspicious situation, so a lot of times they are the ones that first -- even though they are not on the Watch Group, they are the ones that could be the first responders, and they bring their victim to me to make sure that we handle it correctly. So it is a varied ground.

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

MR. TAYLOR: So Sergeant Joseph talked about the extent to which there was a real integration of location, at least for the various resources. And a couple of you have mentioned that one of the big problems is the cumbersome nature of trying to get someone on board.
So putting that aside, how about the other resources that are available to victims? Are they pretty much co-located around your facilities, or do people have to go all over the base or all over the post in order to make the various reports or touch the bases with the people that they need to know? Ms. Dudzinski?

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

MR. TAYLOR: Ms. Hall?

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

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

MR. TAYLOR: Ms. Brodie?
MS. BRODIE: Our resources are on the base and spread out, and sometimes that can be an issue. Again, when you think about the ranks that normally report sexual assault, many times that Marine or Sailor does not have transportation and needs assistance to get to those appointments.

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

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

So there hasn't been an issue at all, and also with like Ms. Hall, our Victim Advocates, they too accompany all the victims only by their choice, of course, if they want
accompaniment, you know, to the Naval health clinic if that's where they want to go at that time, or to the clinic or the hospital nearby where we have established MOUs and give that service.

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

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

MS. ARTEAGA: Yes --

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

Ms. Dudzinski?

MS. DUDZINSKI: I haven't seen any confusion in the roles. I have just seen the shift in the roles with the counsel taking on some of the duties that traditionally, initially
were handled by the Victim Advocate, solely based on the fact that the advocate initially was the only one available to that person.

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

MR. TAYLOR:  Ms. Hall?

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

I think our relationship has been great other than a couple of -- again, the SVC
handling of the retaliation issue, I haven't had
any problems.

MR. TAYLOR: Ms. Brodie?

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

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

MS. BRODIE: I think that there are a
couple of reasons. One is I think it's who is at
our installation. We have a lot of students
there, and they are frequently reporting sexual
assaults that happened prior to service, and so
they are not necessarily in need of legal
assistance or support. Also, they are not
necessarily at our base for a lengthy period of
time because once they finish with SOI, with
School of Infantry, they are moving on to another
location. I think that is part of the reason.

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

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

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

So when I spoke about there is no
clear role for the players, it is because there is no PD, position description yet available for the VLCs. And I think that will help us to at least walk that path.

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

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

MR. TAYLOR: Job description.

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

So to me, it would have been better to
say, this is your VLC, this is what they are going to do, and how you work together in question and answer kind of form, to understand where you all sit and how to work together. Like I work with my NCIS agents and my SJAs, we are very, very connected, and you know, we work together, and I'm happy about that. That part is a little bit missing with the VLC. I think it can be fixed easily, it's just right now, it is lacking a bit. But I think it has ways to be improved.

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

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

I reckon my Victim Advocate is more neutral. You provide the services, but your main thing is to make sure you care for the victim.
If there's an issue with retaliation, at least from the victim's point of view, we can also address it. We don't have to go to the SVC. We have that leeway with our commander, so we can --

MR. TAYLOR: Thank you --

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

MR. TAYLOR: Thank you very much.

CHAIR HOLTZMAN: Judge Jones?

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

MS. ARTEAGA: No, that's pretty much
it. I think it would be beneficial for us and to do our job to be informed as to when the hearings are coming up. They would be the first ones to — I would say in my opinion I think that they are the first ones to hear when the hearing is coming up, so that I can make the proper arrangements for the Victim Advocate to attend those hearings and be a support system for that victim. That is number one.

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

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

JUDGE JONES: Could you tell me a little more about the case management conference? Is that standard for SARC in every service?
MS. ARTEAGA: Yes, pretty much. And then we are still in the process of waiting for a revision to the standard of operating procedures for that Sexual Assault Case Management Team.

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

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

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

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

MS. HALL: If I may --

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

MS. HALL: Yes ma'am. I was just going to add that in the Coast Guard, the SAPR, we have SAPR Critical Intervention Teams that are
mandated to meet monthly, and that is when we
talk about the case, and the SVC is also invited
to that case so that we stay abreast of the legal
process, of the hearings. CGIS is limited on the
information they can talk about from an
investigate standpoint, but they are also members
of that team, and that's mandated by the
Commandant of the Coast Guard.

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

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

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

MS. BRODIE: It is not mandated in the
Marine Corps because the position was created after the Marine Corps Order was written about who must come to the Case Management Group meeting. However, the VLC always comes and always participates and is prepared and ready to discuss cases at the level that they can in this meeting, since it's not a confidential meeting.

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

JUDGE JONES: Ms. Arteaga?

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

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

I -- my installation is in Patuxent River, which is about two hours south from here,
and then also Dahlgren is about an hour, about
another two hours the other way.

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

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

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

JUDGE JONES: You haven't invited them
into the case management --

MS. ARTEAGA: Not to the case management --

JUDGE JONES: -- processes?

MS. ARTEAGA: No.

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

SFC JOSEPH: Excuse me, ma'am.

Actually the Mission Commander pretty much oversees our panel, and every senior mission commander that is within the Army that is in Hawaii, they attend those briefs.

There's I think an SJA that will be there, the head of the CID agency will be there, not necessarily the SVC. We have one of the supervisors who will come, and she will present if she wants to present something, but we have a very limited access to who comes into our case manager meetings because we monitor who comes in, who goes out because we're doing the cases, and also there was an issue with if you have an
active case management brief and there is a
potential for you to sit on a court-martial
proceeding, that came up.

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

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

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

MS. DUDZINSKI: Not appointed, ma'am,
but able to contact --
JUDGE JONES: All right.

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

JUDGE JONES: With the --

MS. DUDZINSKI: -- the victim --

JUDGE JONES: -- the victim --

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

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

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

JUDGE JONES: Within 24 hours?

MS. BRODIE: It is the same for us.

There is not a delay.

MS. ARTEAGA: Yeah. Same with me.

JUDGE JONES: All right. Thank you very much. I don't have any further questions.
CHAIR HOLTZMAN: Admiral Tracey.

VADM(RET) TRACEY: So I'll ask each of you if you perceive issues with the performance of a VLC, what's your recourse as the SARC?

Either that the individual isn't performing to the standard they need to perform to or that that VLC is being retaliated against as the previous witness suggested happens?

MS. DUDZINSKI: I believe my initial instinct would be to sit down and discuss the issue I was having with my JAG, and say is this really -- am I misconstruing what's going on? Is there a legal reason that this is happening?

Maybe I am not interpreting it correctly.

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

VADM(RET) TRACEY: And in your case, if I understand it right, your SJA is not in the
same chain of command as your VLC --

    MS. DUDZINSKI: That's correct.

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

    MS. DUDZINSKI: That is correct.

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

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

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

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

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

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

I know that my wing commander has very specifically told me, point blank, that he thinks the Special Victims' Counsel is the greatest program that we've come up with so far. He is completely behind it.
VADM(RET) TRACEY: Ms. Brodie, you've had three VLCs at Camp Lejeune, is that right?

MS. BRODIE: That's correct.

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

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

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

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

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

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

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

What are they requesting from us or what can we do as a team to best assist our victims? That is mainly -- and also, of course,
like I also expressed before, we look at the environment as to what can we do best to achieve that safe environment at the installation?

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

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

And it's a way to monitor ourselves, and it also is a way for that victim of sexual assault to not fall through the cracks, which is something that we frequently heard many years ago and we don't hear now because we've got our sights on every single open unrestricted case,
and we're looking at it and seeing where it is in the process, and more than one person is required to update that victim monthly about their case. And it's a way that we don't have victims falling through the cracks. We are watching ourselves and what happens in the case.

MS. HALL: And in addition to everything my colleagues have stated, we identify lessons learned, and I'll give you a case in point. We found that we had a hospital that the triage didn't immediately segregate or separate a sexual assault victim, in that victim, we had a victim that actually sat in the emergency room in the waiting room for two hours, waiting on someone to contact the Victim Advocate or the SARC to inform them that we had a victim. And the victim should have been immediately separated so that as other people are walking through the area, they are not, you know, just sitting there waiting after the trauma. So we identify lessons learned in addition to the case management in ensuring that the victim is
receiving all the support services they require.

MS. DUDZINSKI: Ditto.

(Laughter.)

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

MS. ARTEAGA: Are you saying between Services?

VADM(RET) TRACEY: Within your Service.

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

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

MS. ARTEAGA: Yes.

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

MS. ARTEAGA: Oh, often, only because when we do, it's an expedited transfer, we do have to reach out to the SARCs and also let them
know there's a case coming your way. And I want -- and I also follow up after I transfer my cases, so to ensure that there is a connection, that they did meet, that the victim is not going with a lapse in services. So that is often.

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

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

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

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

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

VADM(RET) TRACEY: Okay.

MS. HALL: -- the nation.

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

SFC JOSEPH: For us, we have a monthly meeting. We also have a divisions meeting, so before the SARC, my senior mission commander will get us all down without all the people watching,
and we talk about lessons learned, and we also
collaborate on SAAM, the Sexual Assault Awareness
Month, so we pretty much can talk across,
especially when you're sharing Victim Advocates.

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

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

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

VADM(RET) TRACEY: Thank you.

CHAIR HOLTZMAN: Mr. Stone?
MR. STONE: Thank you. First, I am going to ask you some questions that occurred to me because they seem very -- they seem practically embedded in some of your other answers.

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

And I guess what I want to ask is in those situations, particularly when you would like that victim's attorney, the SVC or the VLC, to be able to be in your office, have you used and do you prefer conference calls to videoteleconferences or Skype, or do you sometimes go to the location with the victim
counsel? Or maybe there's other solutions, but I just wondered if you have experience with those, if you dislike them all, if you think some are better than others, because it may be that one recommendation we could make is that if we can't provide more bodies, maybe there's a way to provide the kind of virtual SVC, particularly I think on these little bases where it's not going to support the person, that would help you.

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

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

They've called and talked telephonically. We have used Skype. We -- typically, we prefer, we have an office space set
aside for them where the counsel can come to our base and meet with the victims. That is certainly by far the best outcome from all of them that we've seen and used.

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

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

(Laughter.)

MS. DUDZINSKI: On site.

MS. HALL: We have not tried the Skype in some of the virtual SVCs. We do a lot of teleconferencing and having the victim in a place where he or she can speak to the counsel via the telephone. That's not my preferred method. I also would prefer the in-person, one-on-one interaction, but we make it work because in the
end, we are trying to do what is best for the victim, and that is all we have, so we make it work.

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

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

(Laughter.)

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

MS. ARTEAGA: I haven't had to use any venue, because we've actually had conversations over the telephone or she's come to our installation, so that's not a problem. I have had to use the VTC with case management with my
Colonel at Indian Head because of the location issue, or teleconference, and that works wonderful, especially when you can see them on the other conference room and you see the players -- and that works for us.

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

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

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

MR. STONE: And have the victims'
counsel always been able to get, when you have been involved, to the actual court hearings, or did they sometimes have to participate in those court hearings by telephone or videoteleconference in your experience? I just wonder if there's enough for the counsel to get to the hearings that you hear about.

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

MS. HALL: Same here.

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

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

I heard a couple of you say you wish you could be better informed about the progress of the case: dates, rulings, and things like
that. I know one of the issues that has occurred
to me is that unlike, for example, federal courts
in a lot of states, there is no electronic,
internet-based electronic judicial case filing
system so that everybody, including you when you
want to know someone's case and they say when is
my next hearing, you just fire it up and say oh,
it says right here they set the trial on so-and-
so.

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

MS. BRODIE: Yes please.

(Laughter.)

SFC JOSEPH: When it comes down to it,
I know for us it comes down to -- for me
specifically and my program's issues, we are
pretty close-knit with our SJAs because your SJAs can go to the system and look and tell you, and when we are doing our case management, if you're not getting that information from the victim who should be updated from the SVCs, then you are going to go and get that information, and this would be from our SJAs because we were on case first. You've got to support your side, before -- what is going on with your case.

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

Do you have any feelings whether, because there is a lot of expense and disruption for the services and those victims' lives, do you feel that that is making it -- having that option available is making a significant difference, that it's -- you know, that that program should
be, you know, I don't know if it would be
expanded, but certainly implemented as fully as
possible?

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

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

It's been my experience that it has
had a very positive impact, that it's necessary,
that we need to continue to use it. I think it's
incumbent upon us as SARC and Victim Advocates to
have a very honest conversation with the victim
when they are thinking about the transfer to
explain exactly what you said, that -- do you
have a support system where you want to go? Your circle of friends is here right now. Would it be better to stay here?

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

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

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

For the ones that we've had the expedited transfer, it actually was good. We had an agreement to, at first actually not to transfer, but one of the cases didn't, I guess because they wanted a conviction and that didn't happen. Oddly enough, they didn't bring it to her.
Now, she came, and so her next thing was, hey, if he is not going to go to jail, then let me leave. So it works. You know, if the victim wants to leave, for us, they have a wish list. And the Army can accommodate it based off their MOS and bringing that along, they gotta go pretty much on one of those choices that they have.

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

So that need-to-know is very important, and that need-to-know is conveyed at every -- to the Command Group to ensure that when we do call and say we have a report, that is the first thing we talk about -- who needs to know,
not all the chiefs, not everybody in the command
needs to know. You're not going to start a -- or
bring a stand-down and say "We had a report,"
because that's when the rumors begin, and that's
when the conversations start, and all of those
things. They start with a ripple of -- ripple
effect. It starts the rumors swirling, and that's
when the problems begin.

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

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

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

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

So that certain issue that they may
want to reach out to someone, but if their case
has been transferred over to a different route,
you can reach out to that other command. And
that's one of the complaints that some may have,
that -- how do I know I have somebody? That's
not for you to know, and that's another issue,
because they want a fresh start.
MS. BRODIE: The expedited transfer is an important service for a victim if they feel like they need it. What I have noticed more than once with expedited transfer is that for some it creates suspicion, and people think, oh, they may report a sexual assault so that they could get the expedited transfer, and feel like it's a false report. So that's an unintended consequence of that right to request the expedited transfer.

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

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

First, there was a recent report that showed that reporting of sexual assault has gone up. Some people think this is a bad thing. It indicates more sexual offenses taking place in
the military. What's your reaction to that? Do you think that the Special Victims' Counsel Program or the other things that the military has done caused the increase in reporting? In other words, that victims have more confidence that they are going to be treated fairly and compassionately? Or do you think that this is a sign that sexual assault is increasing in the military?

We'll start with you, Ms. Dudzinski.

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

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

CHAIR HOLTZMAN: Let me just add to this. Do you think Special Victims' Counsel
Program -- going back to my question, do you think the Special Victims' Counsel Program has helped to encourage more victims to come forward and report?

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

CHAIR HOLTZMAN: And do they feel better about --

MS. DUDZINSKI: Yes.

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

MS. DUDZINSKI: Yes.

CHAIR HOLTZMAN: Okay. Ms. Hall?

MS. HALL: I think the increase in sexual -- the reports of sexual assault is a good thing. I know that in the Coast Guard, even with the small increase that we achieved, we still have a lot of sexual assaults that's not being
reported. So I want the numbers to go up even
more in the reporting, not that I think we're
having more cases. I think we have more victims
out there that just haven't put that foot forward
to bring out the fact that they are a victim.

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

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

CHAIR HOLTZMAN: Ms. Brodie?

MS. BRODIE: Every time that I've
taught the Uniformed Victim Advocate Course,
someone has come forward and reported a sexual
assault. And frequently what they say is, "I
wish all of these services were around when I was
sexually assaulted."
And so any service that we add that supports the victim of a sexual assault is a good thing and will help increase that reporting. The more support the victim feels like they have, the less alone that they feel that they are, the more likely they are to report.

CHAIR HOLTZMAN: Thank you. Ms. Arteaga?

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

And I'd like to also say, because I do belong to the Sexual Assault Response Team in St. Mary's County, the hospital and the local authorities, to realize that the number of cases that we get are not that different from what's going on in the civilian sector as well. But also, I would like to add that a lot of the cases
that I do receive personally are cases that have
happened a long time ago.

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

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

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

MS. ARTEAGA: Right. But we have had
civilians come forward, too, when we do SAPR-C.
And in SAPR-C training, they bring their victims
of sexual assault trying to cope with that issue,
and so what we do -- what would be then the
resources in our town which we have connections with. So we do our handover to them so that they can take care of the issues they have not dealt with yet.

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

CHAIR HOLTZMAN: Thank you.


SFC JOSEPH: I think for us the issue is that there is confidence in the system, and we are slowly chipping away at the culture. What we're hearing from some of the younger Soldiers
is now "SHARP" is an action word. So instead of saying, you know, "This is a SHARP case," they're saying, "I want to talk to you because I don't want to be SHARPed." So once we, started changing the culture, I think there is confidence that is going to be there. It's going to assist.

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

CHAIR HOLTZMAN: Okay. Let me just switch to another subject, which is retaliation. To what extent is that a serious problem facing
your victims? And do you feel that the system is
-- either the Special Victims' Counsel is
equipped to handle that or you are equipped to
handle that, or the system -- is the system
equipped to handle these issues of retaliation?
Ms. Dudzinski?

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

CHAIR HOLTZMAN: Ms. Hall?

MS. HALL: Yes, ma'am. The
retaliation that I've seen is actually from chain
of command, and the problem that I have -- or the
challenge is having the victim who was brave
enough to bring forth the allegation of sexual
assault and go through this process, this very
intrusive process, and needing to have a chain of
command member not support them through it or
they end up on a duty or threatening to move them
to an assignment that they never wanted to go to
and now they have this added stress.

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

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

MS. HALL: No, ma'am.

CHAIR HOLTZMAN: Think about it.

MS. HALL: Thank you.

CHAIR HOLTZMAN: We would be happy to
receive your comments or thoughts on that
subject.

Ms. Brodie?

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

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

And in terms of solutions to that, I
know that the military is sick of training on
sexual assault, but I'm talking about something
that would be specific training, not your, you
know, run-of-the-mill annual SAPR training, but
helping that chain of command understand the
impact of sexual assault and how it changes this
person's life. And it changes it forever, and
some of those changes can be for the better, but
it can take some people a long time to get over
sexual assault.

CHAIR HOLTZMAN: Thank you.

Ms. Arteaga?

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

And these go to my commanding officer
as the Chair of the Case Management Team, and
discuss some of the -- my concerns about what was
happening, because as the Chair of the Case Management, and also as the Installation Commanding Officer, it is under his jurisdiction to ensure that the commanding officers of the others also follow his mission, basically. And so that issue was addressed, and we had a much better communications and in a much better place right now because I did convey that to my Commanding Officer and he took it on, which is what I --

CHAIR HOLTZMAN: And resolved the problem?

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

CHAIR HOLTZMAN: You mean the commander of the installation.

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

CHAIR HOLTZMAN: Okay.

MS. ARTEAGA: -- after, and that happened -- that was following the right rule of
law based on instructions to get what we needed done.

CHAIR HOLTZMAN: Sergeant Joseph.

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

But the main thing that I would say, we hear a lot about retaliation for restricted victims. What we don't hear is advocacy for the restricted victim. And what I mean by that is if I know a restricted victim, and I'm on that case because I'm going to behavioral health and I'm oversleeping, or if I have an appointment and I
can't tell you, you know -- the Platoon Sergeant
that I've got an appointment. There is no
advocacy for that because the minute I show my
face or I send one of my advocates, they
automatically know that this Soldier who has not
come from other restrictions is a victim.

CHAIR HOLTZMAN: So what is the
solution?

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

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

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

And for me, as a Soldier and a Leader,

I can tell you the effects of when you can't find

that Soldier and what it does to that formation,

because this person gets out as, you know, some

of the -- I know some of you are retired, but

that is something that you don't see, and that is

also -- it also plays a part in whether or not

others are going to come forward, because if I'm

waiting in the wings to report, and I'm seeing

how you're playing this person, more than likely

I'm not going to tell you anything. So that's

something that we don't hear about.

CHAIR HOLTZMAN: Ms. Brodie, do you

have something you want to say?

MS. BRODIE: I've seen the potential

for this to work because of senior leadership.

There is a particular unit where there are

restricted reports, and because of the nature of

the unit the command knows because of how young

that Marine is and that they worked as UVA. But

because of the leadership, they know if I see
that Marine disappear with the UVA, and UVA is not coming and telling me anything, I know I have a restricted report and I know to leave it alone. I know to trust my UVA and know they are taking care of that Marine and --

CHAIR HOLTZMAN: A UVA is a what?

MS. BRODIE: A Uniformed Victim Advocate.

CHAIR HOLTZMAN: Okay.

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

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

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

CHAIR HOLTZMAN: Okay.

SFC JOSEPH: You can -- as the
Commander, maybe that -- in that instance, but by regulation, if you're saying that I know of a particular crime, I am going to go and to leadership positions who are saying, "I'm not going to turn a blind eye. If I know there's a potential problem that has occurred, I'm going to do what I'm supposed to do which is report."

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

So, I mean, if they don't -- the report that you have that certain people -- where if you said, hey, you know, whatever, but for the
most part that's not cut and dry. It's not cut
and dry, and that -- most of those commanders are
not going to turn a blind eye if they know that
there's a potential crime in their organization.

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

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

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

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

CHAIR HOLTZMAN: Good afternoon,
everyone. I see everyone is seated at the presenter's table. So first let me say that this is a panel of Clients and Special Victims' Counsel, and it's called Experiences in the Field.

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

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

We are going to protect your privacy here. Let me just remind you: nobody will be referred -- no victim will be referred to by
name, but, rather, by initials. And this --
there is no video, so that your privacy will be
protected in that respect.

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

Okay. We will begin first with

Lieutenant Commander Kelley Stevens, U.S. Coast
Guard, Special Victims' Counsel at Alameda,
California, and Petty Officer N.S. Lieutenant
Commander Stevens, thank you.

LT CDR STEVENS: Good afternoon.

Thank you very much for inviting me to
participate in this discussion. My name is
Lieutenant Commander Kelley Stevens. I am the
Chief of the Special Victims' Counsel for the
West Coast Detachment in Alameda, California.

I was assigned to this post in July of
this year. Prior to reporting to the Special
Victims' Counsel in Alameda, I served as a
Special Assistant U.S. Attorney in the District
of Puerto Rico prosecuting Coast Guard cases,
primarily drugs and minor cases. Prior to that,
I worked in the Operations Law Group at Coast Guard Headquarters. I also worked in our Public Defense shop, and also with the Navy Legal Service Office with the United States Navy at the Washington Navy Yard.

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

CHAIR HOLTZMAN: Thank you.

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

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

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

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

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

CHAIR HOLTZMAN: Thank you.

Our next presenter will be Major
William D. Ivins, III, U.S. Marine Corps Regional
Victims' Legal Counsel-West, and Ms. J.B. If you could just briefly not just introduce yourselves but give us a very succinct, brief comment on how the program is working, both of you, I would appreciate that.

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

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

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

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

Her allegation of sexual assault was against her husband, a Marine service member assigned to a command in Hawaii. Ms. J.B. resided in Texas at the time, so I was detailed
to Ms. J.B.'s case on 7 January 2014. My representation of Ms. J.B. began after the Article 32 proceeding had taken place, but I represented her during the motions phase and court-martial process in the case.

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

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

Even the basic understanding that we
have an attorney-client relationship gets overlooked. In my opinion, we need procedural rules that clearly define our role in the investigative phase, the initial disposition phase, the preliminary hearing phase, and the judicial process phase.

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

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

Thank you, Madam Chair and distinguished panel members. I look forward to
your questions.

CHAIR HOLTZMAN: Thank you very much.

Ms. J.B., welcome.

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

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

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

One year later, I left behind the
educational opportunities I was given, my work, my extracurricular activities, my friends and family, my bright future, and everything I had ever known to marry my boyfriend and would-be husband and follow him halfway around the world to one of the most isolated group of islands.

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

I was no longer confident. I was quiet. I was scared and paranoid. I can remember with disturbing clarity the trauma and the realization of my mortality at the hands of the monster that was my husband. I still carry that realization with me today that my life is so fragile and could be taken away from me at any moment.
I initially reported my husband to both civil and military investigators, but eventually declined to participate further for two reasons. I was continually reminded that it would ruin his career; and, two, as a strong Catholic, marriage was for life and I wanted to do everything I could to salvage it.

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

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

My VLC was an essential part of that success, and it is to him I owe many thanks -- for helping keep my dignity intact and protected
me in places the law allowed. I am able to tell
you what it is like to testify without a VLC
because I did not have a VLC during the Article
32 process, and I felt exposed and vulnerable
during my testimony.

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

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

I will forever be grateful to the team
of military members and especially for my VLC who
fought for my justice and my life. To them I am
grateful for the safety, clarity, and closure
that I have now and the future that I now have.

CHAIR HOLTZMAN: Thank you very much.

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

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

I joined the military in 2009 as a
Judge Advocate, and since that time I have been a
Chief of Legal Assistance; Chief of Adverse
Actions, which includes administrative actions
and non-judicial punishment; and a Chief of
Military Justice. I personally prosecuted about
25 courts-martial prior to becoming an SVC, and
advised on or oversaw the prosecution of probably another 20.

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

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

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

I note this because I have experience as a prosecutor interacting with SVCs in addition to being an SVC myself. In July of 2014, I
transferred over to become a full-time SVC
stationed at Peterson Air Force Base, and I have
been doing that job ever since.

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

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

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

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

Thank you.

CHAIR HOLTZMAN: Thank you.

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

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

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

The court-martial ended in a conviction with confinement as well, and I do
have to say that the SVC Program -- I did not get in contact with an SVC until after the Article 32 hearing when, just like Ms. J.B. said, you feel vulnerable and realize how much help that you -- like how much more support you need other than the JAG that -- what they provide, and the SARC and the VA as well.

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

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

CHAIR HOLTZMAN: Thank you very much.

Our next presenter will be Lieutenant Kathryn DeAngelo, U.S. Navy Victims' Legal Counsel, Naval Station Norfolk, Virginia, and
Airman V.T. So, Lieutenant.

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

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

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

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

LT DeANGELO: Of course, ma'am.

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

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

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

I believe that Norfolk is the best
place in the world to be a VLC, because of the
strength of our relationships with Trial Counsel
and law enforcement. We are also lucky to have
SARCs and VAs that have accepted us and welcomed
us into the fold. We truly function as a team.

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

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

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

LT DeANGELO: Prosecutorial merit
review.
CHAIR HOLTZMAN: Merit review. Okay.

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

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

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

I think on some level that issue may also end up being a consideration in determining
how long a VLC tour should last. Ultimately, in this job, you learn to really appreciate the wins, and those can be as simple as making a client feel comfortable enough to convert to an unrestricted report, convincing a convening authority to prefer charges, or getting a military protective order in place.

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

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

CHAIR HOLTZMAN: Thank you very much, Lieutenant.

Thank you, Airman V.T. Welcome.

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

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

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

Ultimately, one of the offenders in my case had pled guilty. The other was found guilty
at trial. I don't know if my experience with the justice system makes me want to reenlist, but I can certainly see how a bad experience might change someone's perspective on reenlisting.

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

CHAIR HOLTZMAN: Thank you very much for your testimony.

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

CAPT STRANSKY: Thank you, Madam Chair and distinguished panel members, for having us. I should make one correction. I am not actually stationed as a Special Victims' Counsel at Fort
Carson. I am currently an operational law attorney at Fort Carson, and I was going to be transitioning to become the senior trial counsel there. I served as a Special Victims' Counsel while deployed to Afghanistan in November of 2013. Prior to that --

CHAIR HOLTZMAN: Okay. Thank for the correction.

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

I received my SVC training at Maxwell Air Force Base from the Air Force prior to the Army Judge Advocate General announcing the Army's Program as part of a research project. Once the
Army Program was announced, I volunteered to do double-duty as my employee job and as an SVC downrange, which is where I met Specialist A.S.

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

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

We stayed in contact through both of us redeploying, her to Germany, myself back to CONUS, and we attended the court-martial for the -- her perpetrator back in June of 2014 where he was convicted and sentenced to two years confinement and a dishonorable discharge.
In my experience, the Special Victims' Counsel Program has been extremely beneficial, particularly to victims and especially to answering that one question that is probably always on their mind and is probably the most common question asked which is, "What happens next?" SVCs are in a unique position to answer that question over and over if necessary.

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

And as part of my service as an SVC, as in anything else that I do, I encourage you to ask us questions about how the military justice process has changed and improved with that, as
well as other questions. And I'm very glad that
you, again, have agreed to hear from Specialist
A.S. here today.

Thank you.

CHAIR HOLTZMAN: Thank you. Thank you
very much.

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

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

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

I didn't really know too much about
the company that they needed the support in. My
company was originally a support unit. So I met
Captain Stransky -- I met him during the time that I was actually assaulted. I didn't report the assault until about a month later due to the fact that I was scared and nervous because I didn't have -- I told two people about the incident, and one of them was my husband.

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

So when I -- like I said, when I did report it, I had to report -- I reported it to actually a couple of people, and the right person that did help me report that actually took me to a Brigade, and we reported it to CID. And CID --
they explained to me a little bit what the SVC was, but I did not understand it at all. They didn't really go into it in depth. They just wanted to know who the perpetrator was, you know, question me about what happened. And it was perfectly fine, I understand it, but it was more of, you know, they wanted to help me.

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

Honestly, during those hard times in that courtroom, because you look at -- you look at the panel, you look at the judges, you look at everyone, and you're nervous, you don't know what to say. And when you have somebody there, a support team to focus on, you know that
everything is going to be okay, that, you know, that they're there with you.

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

CHAIR HOLTZMAN: Thank you, Specialist A.S.

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

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

CHAIR HOLTZMAN: Okay.

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

So not to get into the details of the
case, because the case is still ongoing --

CHAIR HOLTZMAN: Right.

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

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

I can say that having that support has been really great, you know, knowing that you have somebody there to back you up and just, you know, support you, even more, though, than just the legal side of it, just, you know, in every
aspect, and it has been a really good experience since then.

CHAIR HOLTZMAN: Thank you very much for that statement.

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

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

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

PETTY OFFICER N.S.: Well, I think with my own experience that that definitely happened. Social isolation, not just from my unit but a lot of the other military rights, it
was a very small Coast Guard town in Port of Los Angeles, and it seemed my entire work life was crumbling, and so I had no friends outside of work.

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

The social aspect of it was really difficult. I mean, I went through stuff such as -- you know, just attacks through social media by military spouses, defacing of a uniform where they put like A's as in the -- like in the movie The Scarlet Letter, just a lot of really terrible stuff, refusal to let me get qualified, always coming up with a reason why I couldn't get the
hours that I needed to quality to move forward in
the position I was in.

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

And then, once I was in A School,

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

So at the time it was hard. You know,
you kind of get that feeling like, this is the
whole Coast Guard, this is the end of the world,
and nobody can help me, because of that initial experience. But then, once you kind of get away from those bad people who did whatever, there's still a lot of good people there that can help you out.

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

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

The problem arises where, you know, if they're in a particularly small career field,
there may be only a few bases that they can go
to, first of all. And, second of all, everybody
knows everybody. So even if, you know, they are
at another base, you know, you may have somebody
talking to folks at the other base, or if the
person they are accusing -- either there is no
action taken against that person or there is an
acquittal in their case, you know, that person
could eventually be transferred and go to that
same base that the victim is now at.

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

The only place that I don't see that
being able to I guess be addressed is, as I said,
at the Academy, where you not only have the fact of, you know, they're all in the military, but it's essentially a college, you know, campus. So, you know, they're not able to cross-train in anything else at that point. They're not going to go -- you can't expedite a transfer because there is no other service academy they can go to. So I don't have the answer for that, but I think that would be -- that's kind of the -- at least in my practice, one of the bigger places where, you know, that social ostracization is coming in, and there is no really easy solution for it.

SPC A.S.: Like I said, with my own personal experience being as active duty, as far as retaliation goes, yes, I've experienced it myself. Coming from, you know, that unit after I deployed with them, and, you know, us going back, for the simple fact that the trial didn't go for a couple of months, so, you know, people knew about what happened; they just didn't know all the facts.
And, you know, you get judged and no one knows the real truth, and, you know, you've got people that's friends with, you know, who is being accused, and they look at you like, "No, she's lying." You know, they don't even know you.

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

So I would say for -- to help that situation, for the less retaliation, that some people are -- just switch MOSs, like right now I'm planning on going to a different MOS. I decided to stay in the Army, but I'm going to switch my MOS to kind of avoid being in that type of situation or conflict of, you know, having to
meet those same people over and over again.

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

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

SPC A.S.: No. I think it's more
people are unaware. They don't know. Like with
my SVC, he informed me of other things that I can
do, certain situations that I could be in. A lot
of -- the CID agent or a SARC wouldn't kind of
inform me about that, and that's why I feel
people within my situation, an expedited transfer
is due to feeling uncomfortable and no longer
being able to work in that specific type of job
or area because you're scared, you don't know
what to do, you don't know who to go to.

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

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

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

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

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

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

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

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

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

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

So let's say you get a Marine who was...
assaulted at Camp Pendleton and they get
expedited transfer back to Lejeune. Every time
they're leaving, it could be a week at a time.
So I always advise my clients, if they don't want
an expedited transfer, try to do a transfer, you
know, to a base that's within maybe 100 miles.
Like at Camp Pendleton, we're fortunate to have
Miramar, which is 30 miles away. We have -- with
the depot, we have Twentynine Palms, but that's a
lot better than being transferred far away.
I think for the most part if the
Marine is comfortable with that unit, and they
can stay in that unit, they are going to have --
and they want to participate in the judicial
process, they're going to have much more success
potentially, and at least have a fair judicial
process.
Like I said, sometimes the ones that
get transferred far away, they just -- the cases
just end up going away, or eventually the client
puts a -- submits a victim preference statement
saying they don't want to participate anymore
because it's negatively impacting their career
every time they're trying to participate.

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

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

MAJ IVINS: Yes, they can. And they
can -- you know, they can defer it; it's just you
either get -- most of the time when I talk to my
clients and I explain to them that I will be
there with them to help them, and I explain to
them the drawbacks for the transfer, and if --
you know, especially if I get a client who really
wants to participate in the judicial process,
most of them opt to stay. I have only one that
felt that there was a negative culture in her --
felt her command was not giving her the
opportunities she wanted. But I was able -- we
were able to transfer her to a base within
Southern California, so she was still able to
participate in the judicial process.
LT CDR STEVENS: Sir, if I may comment briefly. I think the expedited transfer is a good solution for a very -- for various issues, including, you know, safety for the member away from the offender, moving to be closer to a support unit, and what you mentioned, sir, the potential retaliation or social impact of reporting an assault might cause the member.

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

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

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

So I think the main thing that really needs to be addressed is we receive great training as SVCs. We know what the counterintuitive behaviors of a victim are, and we know how to engage in conversations with the convening authority and the legal command to say, "Hey, this is why maybe she acted that way. This is maybe why she gave an inconsistent statement." But the field units, the immediate supervisors, and the people within the command don't have that awareness and they view it as a negative thing against the person.
So one of the things I'd like to see, and we're trying to do within the Coast Guard, is provide, you know, more unit-based training to not just the SARC and the VA and, you know, legal or trial counsels, but to -- you know, to some of the other shops just on base.

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

Thank you.

MR. STONE: I just have one other question that relates a little bit to what Petty Officer N.S. said and Specialist A.S., and that has to do -- we were asked to consider the problem of abuse of use of authority -- use of authority. And I didn't -- and one of the
subcategories of that was, what about when a
fairly new military member is in training, should
the penalties be even higher there? Because they
are sort of locked into the training unit, and
they're brand new, and they really don't -- it's
a lot harder to say, "I want -- I need a transfer
now," if they haven't gotten any training yet.

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

PETTY OFFICER N.S.: Yes, sir. It was
one of the supervisors who assaulted me, and we
were stationed in such a small station, we had
duty sections and I was the only female. And,
unfortunately, it was a very incestuous
mentality. You know, "We keep it in the family.
You don't report it to the command. I'm the
boss. If there's a problem, you come to me. I'm
going to protect you guys from the command." And
really made it seem like going to the command was
the worst thing you could do. "We need to keep
this in-house. We protect each other." Even
though he would use that, you know, to abuse
other people.

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

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

But I do think that there are commands
who believe that, yeah, the people who are new
are so fresh and -- not necessarily innocent
because we are adults when we go in to the
military, but they are not -- we're not
immediately given that training.

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

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

You know, this member had been in for
almost eight years. There was no question that
he knew better. You know, this wasn't two new
people who weren't real mature. This was
somebody who used his authority specifically
against a new, 19-something year-old.

SPC A.S.: I can also agree with that.

I believe that, yes, because we -- we are new
Soldiers, we are brand new to the Army, we're not
very knowledgeable of all its rules as an old
person within the Army would. If you've been in
the Army for over 20 years, and a new Soldier
comes in, this is like her first six, seven
months, she is not going to be or he is not going
to be more knowledgeable than a 20-year-old --
you know, that 20-year person that has been in
the military. So they are going to not know all
the rules, not know who all to go to, not know
what to say, not know -- it's just they don't
know.

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

And with my situation, my assaultant,
who was a SHARP rep, he did know everything about
SHARP. So you would think, okay, that, you know,
I'm not going to, you know, assault that person.
But it's a different -- I guess he thought
different.

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

And as far as the company goes,
because the company has known that person for
maybe X amount of years, or had faith or really
liked that person, like if the commander was
really great with that person, of course they are
going to kind of value their side more than a new
person or the person who is less informed.

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

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

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

They have to be aware of this, because
it's a constant and common thing that's going on
in the world, and it's not just the Army, it's
not just the Navy, it's not just any branch.
This is throughout the countries, that people do
not know -- do not understand that there is help
out there, and do not let people abuse you just
because you don't have that knowledge.

CHAIR HOLTZMAN: Okay. Admiral

Tracey, please.

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

SPC A.S.: For me, it was different.

Like I said, I reported the incident a month
later. And when I did get the representation, it
wasn't -- I'm not going to say it was bad because
it really wasn't, but to me it wasn't as helpful
as it could have been compared to me having an
SVC, because my SVC stood by me. He never left
me to where -- the point where I felt alone. He
was by my side. He had answers for any type of
questions. He even had his own answers to
everyone else.

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

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

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

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

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

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

SPC A.S.: No.

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

VADM(RET) TRACEY: You became the
intermediary?
CAPT STRANSKY: I beg your pardon?

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

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

VADM(RET) TRACEY: Okay.

CAPT STRANSKY: That was just my view.

VADM(RET) TRACEY: Okay.

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

And also, that it seemed like a SAPR was not -- like they wouldn't communicate with my chain of command that I was in. So I always had
to go to my chain of command and be like, "Hey, I have this coming up," you know, and I feel that you need somebody that would contact your chain of command for you, so you don't have to make those awkward conversations with your chain of command and let them know pretty much all your business.

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

VADM(RET) TRACEY: Thank you. Yes.

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

That was, quite honestly, the perfect fit, and it was really nice to have that, because
sometimes you don't want to go to your parents,
you don't want to go to your family, your
friends, and you can go to this person who is
essentially like you instantly make a friend.
And it's almost for me -- I'm an only child; she
was almost like a sister, a big sister I could
talk to and say, "Hey, I don't know what to do."

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

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

And, in my opinion, the most important
thing -- like the SARC had left as well, a new SARC had come in, I had minimal contact with the new SARC. My VA ended up getting actually pulled by her commander. So I had a lot of change, and that was like there's no consistency. That's really hard when you're a victim, to have constant things changing.

As a civilian, too -- I understand it's a military world, personnel change, but it was nice to have Captain Mangels and he stayed and he made it clear that he was really not going anywhere anytime soon.

And the two most important things are, number one is the SVC for sure, because they have a wealth of knowledge for legal advice that in the military I have no clue what's going on. I really don't. And he could give me updates on the process and let me know, "Hey, this is going to happen next. This is what they're doing." And kind of basically sum it up for me in words that I would understand. So definitely most important.
And as for Captain Mangels, he did get to know me on a personal level, not just legal, "I'm here to represent you." It was a "What can I do?" He would set up a weekly -- every Wednesday morning, actually, we would talk and he would say, "Hey, I don't have any updates, but how are you?" And so it was really nice to have that as well. But if I would have still had my Victim Advocate all the way through, that would have been really nice, too, because she did do quite a bit for me. So --

VADM(RET) TRACEY: Thank you.

MS. J.B.: I first got my Victim Advocate in September 2011, the first time around, and she was the one that was there for me throughout the entire process. But it's a lot different than SVC. The Victim Advocate was there from the very beginning. She's the one that took me to the NCIS office. She kind of talked me through a lot of the things, prepped me for the Article 32, just sat there and kind of -- she was also a military wife, so she was able to
kind of understand where I was coming from, some
of the worries that I had.

But in the Article 32, like I
mentioned earlier, I didn't have an SVC. And so
when I was on the stand, I was very exposed. I
was very much harassed by the defense counsel. I
didn't really have anyone to look out for me. It
is already very difficult, from a domestic
violence to a sexual violence crime, the kind of
questions that you are asked by the defense. And
it's so hurtful to sit up there and answer some
of the questions that you have to answer.

And so I was being asked to draw
certain things, and just very inappropriate
things, whereas the second time around I still
had my Victim Advocate who was there coaching me
through everything, kind of keeping me in the
mentality that I needed to be in, whereas he
would be in the courtroom and then come back out
and tell me what they were fighting over and they
were fighting over my rights, and that was the
entire first day of the courtroom was them
fighting over my rights and what was going to be allowed and what they were going to be allowed to ask me.

And it was a huge win because I wouldn't have to sit up there and be, you know, harassed by the defense counsel. So it's a completely different service, because the prosecutor is focused on getting the perpetrator imprisoned. He is not necessarily focused on protecting me and making sure that, you know, I'm not exposed. So they all offer different services.

PETTY OFFICER N.S.: Unfortunately, once I made my report, my VA was a lieutenant from kind of across the lake. He was there for me, offered, you know, his support, but it was a little uncomfortable. It was the first time we ever met. He was, you know, a uniformed officer. So he did offer me support. He offered to be there with me through the procedure of investigation, which can be hard. You know, you kind of feel like you're being interrogated
sometimes.

    And at first I did not want to be involved in the investigation whatsoever, so he was going to be there to make sure that the Coast Guard investigative services did not push that. And then, you know, when I changed my mind and said, "Okay. I do want to participate, you know, I want to be involved," he was there to support me with that, too.

    But that's kind of where the relationship ended, because I did get to use other services once I reported to the support unit. I had a SARC once I got to Alameda, and it was one of those things -- because I -- I introduced myself, but he was not very helpful to be perfectly honest.

    The Victim Advocate was one of those, you know -- was the SARC, a VA, or an SVC. If I could only have one, I'd definitely have an SVC, because from the first day it was, "If you need counseling, if you need support groups, if you need, you know, other outside medical treatment,
I can get you in touch with these people. I can get you in touch with the people here on base if they are not getting you the treatment that you need."

Any sort of -- he offered understanding as to why I could still get appointments and that would have been handled by -- it's an all-encompassing job, not getting emotional support and that kind of friendship that you need during that time, and, you know, getting that consistently. Very important to me and where the VA is kind of, "Okay. Well, here -- I'm here to help you, to support you. The SARC was supposed to give you the information." He can give you all of that.

VADM(RET) TRACEY: Let me ask the SVCs, how do you integrate with the SARC? And how do you participate in the case management reviews?

LT CDR STEVENS: Typically speaking, when I'm first detailed a case, the first phone call I make is to the SARC. And usually the SARC
is the one requesting on behalf of the victim, Special Victims' Counsel, as opposed to first going over any of the facts or any potential, you know, issues that might, you know, go into the investigation. I like to discuss that with the SARC and then the trial counsel before reaching out to the victim, so that the victim doesn't have to retell their story once again.

So, in my experience thus far, I've had very positive interactions with the SARCs. I feel that in the Coast Guard where we still require some work is getting the SVC on board right off the bat. In FS3's case, she was advised of her right to an SVC well after she was interviewed, well after she reported, and I think a lot of the experiences she had could have been avoided if the SVC had gotten on board right away.

The SARCs that I deal with are well aware of the right for the victim to consult with the counsel on -- you know, upon reporting. We're still working to encourage our
investigative service to provide them with that right in a manner that they can clearly understand. And I always try to reach out, a lot of times even before contacting the victim, to figure out who the agent is and say, "Hey, just so you know, I'm the detailed counsel here. And if she decides that she wants to speak with me first before being interviewed, please, you know, respect that right."

So, all in all, my experience with SARC has been very positive.

MAJ IVINS: My experience at Camp Pendleton with the SARC has been also positive. Before the program was stood up 1 November 2013, I sat down with them and went over their requirement under 10 USC 1565(b) of informing the victims that they have the right to a VLC once we get it up and running.

One of the things that we did is we put together a flyer for the SARC explaining our services, and it has a map and a location where we are located, so that when they see a victim
they present that to the victim, they let the
victim know they have the right to speak to a VLC
before they interview them, before the NCIS
interview, or anything else.

And that's an important thing, that we
get with that victim before they start that
investigative process, because there are so many
rights that can be protected when we're with that
victim at NCIS.

We still do have other problems.
Sometimes the victims are not made aware of our
service, because they reported through a
different chain and what not until after they are
interviewed by NCIS.

We also participate with the SARCs on
quarterly. The SARCs do training, and we go to
that training, and we get -- and in that training
they have a trial team there, they have HQEs, the
high qualified experts there, they have NCIS
there, they have all of the other Victim
Advocates there. And at that training event, we
give them updates on our program, we talk to them
about what is going -- the good, the bad, the
ugly, all those things, and we address those
issues.

We are constantly working with the
SARCs to try and improve the lines of
communication and try to improve the program so
that the victims are aware of our services from
the very beginning, and that's something that is
a challenge but continues to improve. So we have
a very good relationship with the SARC.

CAPT MANGELS: I would agree with my
colleagues. My relationship with all of the
SARCs I deal with is generally pretty positive.
One thing I would just kind of say has been kind
of a learning point that I need to stress to them
is that once I form the attorney-client
relationship with my client, then I have that
privilege and I have the obligation to not reveal
communications and stuff like that.

So I think that's something that they
struggle with a little bit sometimes is I can't
give you information unless my client says I can
give it to you. So, and then with respect to the
Case Management Group, within the Air Force at
least, SVCs are invited to attend but are not
required to attend -- all Case Management Groups.
When I can attend, I do try to, but for me it's
more of a -- me getting information from them
versus me giving information, because, again, I
have that attorney-client privilege where I
cannot give information out.

And, you know, if I have a problem
with a command or something like that, my thought
is generally the Case Management Group is not the
best place to raise that. It's one on one with
the commander or, you know, with the legal office
or something like that.

But where I -- you know, where I can't
attend the Case Management Group or I can only,
you know, do it telephonically or something like
that, a lot of times it's me kind of stepping in
and out because they may be talking about clients
I don't represent. So I can't be in on those
meetings, so it's a little bit of a dance
sometimes. But, you know, I do -- you know, the
SARCs are very good about inviting me, and I do
try to attend the ones I can, but it's not --
it's not universal as far as me being able to
either be there or the information I can provide
while there.

VADM(RET) TRACEY: Thank you.

LT DeANGELO: Ma'am, I think we have
a -- we have a great team -- team mentality in
Norfolk specifically. We are collocated with the
SARCs and the civilian VAs, which is awesome
because I can go across the hall or down the hall
or upstairs to find the SARCs in my region.

Second, the case management meeting,
the monthly meeting, also happens in our building
which is, again, great because we all attend as
VLCs. But it is a trick, and it's a trick that
the SARCs -- quite frankly, they're the ones
jumping through the hoops of, all right, somebody
go get Lieutenant DeAngelo. Okay. Next case is
this VLC; go get this VLC, making sure that we're
within.
I think being at the case management meeting, you know, as long of a day as it is in Norfolk, because it lasts all day, it's very valuable in a sense, because it's the time that your client's commander -- commanding officer or commander, captain, whatever it is, is going to be there. Your client's uniformed VA. If they have a VA from there, command is going to be there, the civilian VA, the SARC, everybody is in one room, and that is our opportunity to just make sure that everybody knows what they need to know and everybody knows where we are going.

I don't see a huge problem with the privilege and the confidentiality there. Obviously, I don't go to case management meetings and talk about what my client has discussed with me, but I do talk about, "Hey, we sat down with the trial counsel. Here's where we're going." Or the new case dates are these because the Judge moved them, or whatever it may be that is good for everybody to get together and know.

I will also say that the SARCs in
Norfolk are such wonderful advocates in their own right. I mean, they are coordinators essentially, and, you know, they do that and they are also the ones that are making sure that the commands are doing the paper report right, and all of those sort of nuts and bolts things, that's their job to be on top of that.

I get most of my cases from them. They're the ones who say, "Hey, wait a second. You know what? I think this one may need some legal advice. Let's see if we can get them a VLC."

I have a recent case where I had a SARC, not knowing what to do because there's three different victims, and she did the legwork of making sure, okay, can I get this VLC to see this person, and can I arrange for this VLC to -- to the point of literally scheduling them for us.

So I think, you know, the SARCs and the civilian VAs in Norfolk make our job so much easier. And I like to believe -- obviously, they're not here to refute it, but from what --
from what I've heard from them, they feel like we improve the process as well.

CAPT STRANSKY: Yes, Admiral. First, I should preface, you know, I'm at Fort Carson. I'm not going to comment on how the process works there because I'm not actually involved there. My prior experience, I have to agree with the Lieutenant and the Captain there, that it's really good practice for the SVC to be able to go to those, not so much as a participant and share information, but to gather information and to, you know, get access to some of that so you can see how things are moving along.

In the Army, things are a bit different because typically we are not collocated with those other providers in a headquarters or in like a one-stop sort of a building. Our SVCs tend to -- not in every case, but they tend to be located at the Office of the Staff Judge Advocate or where the Legal Assistance Division is as a part of that staff. 

So we probably -- it takes a little
more work to sort of, you know, get together with
those folks and make sure that you are doing
probably the most useful thing that you can do
with them, which is we carved out upfront
training, so that when that training -- when you
-- for new arrivals and whatever that the SVC
Program is something that is spoken about so
unfortunate future victims know about it going in
there.

And I just had one other comment that,
you know, one concern that I have seen previously
-- I mean, a lot of these commanders nowadays,
from my experience over the last two years -- I
mean, they are scared to death to not do the
right thing by a victim, so they're willing to
try it. And one of the ways that they are going
to make sure that they don't end up having to
come and testify in front of a panel like this is
to make sure that they are not doing nothing.

And so there is sort of an obsession
with tracking, you know, spreadsheets and, you
know, briefings and making sure we're not letting
anything slip through there. And, unfortunately, with Victim Advocates, SARC's to a less degree, being part of that command, commanders want to use them as a data-gathering resource to make sure they're not missing anything.

You know, the problem with that is there is absolutely no requirement for any victim to ever go talk to a VA or a SARC if they don't want to. They go report it directly to CID or directly to the JAG office, and there is no need to intermediate those folks and they won't know about it. And when a commander goes to one of these meetings and sees that there is a victim from his unit that he didn't know about, it makes it look like maybe his VA isn't doing their job to him because he didn't know about it, or she.

So I think that's a little of concern for me is that the Victim Advocate Program -- to some degree they are kind of being pulled in two directions.

CHAIR HOLTZMAN: Thank you. Mr.

Taylor?
MR. TAYLOR: So I have two questions, and I'm just going to open it up for any of the victims who would like to answer. Everyone in this room --

CHAIR HOLTZMAN: Can I just ask you also to keep your question -- your answers really short because we have another panel that is impatiently waiting to be called, and we've -- I'm sorry, we've run a little bit over. So, I appreciate that.

MR. TAYLOR: So you need not answer either or both of these questions if you don't want to, but we all know that it is still a vastly underreported crime -- sexual assault is. And the fact that there was an 8 percent increase in reporting for the last year is really helpful but not dispositive.

So the question I have for the victims, first question is, what policies do you think we could recommend that would encourage more victims like yourself to have the courage to come forth and report? And the second is, are
there other things we can recommend by way of
resiliency training that would have helped you
bounce back quicker?

    I compliment all of you on being here
and how you've gotten your lives together and are
able to talk about this. That's huge. But would
any of the victims like to respond to either of
those two questions? Just do so if you would.

    Yes. Thank you.

    AIRMAN V.T.: I was fairly new on
board, so I guess one of the things that would
probably help is if they had -- when you checked
on board, you met all of your SAPRs or your
higher ups that were going to take care of the
whole SAPR Program. That would have been pretty
helpful. So you just knew who you could talk to
and maybe if they gave like a little presentation
about themselves I guess at the meetings, each
one of them or something. It would probably make
some -- or some of the victims probably feel more
comfortable, and which particular one to pursue,
to ask.
MR. TAYLOR: That's helpful. Thanks.

Anyone else? Yes.

MS. R.S.: As far as the increase in reports go, I mean, I'm not -- I may not be statistically correct, but as a female reporting, I initially was not going to report it. I was actually talking to one of my really good friends, and I was joking around about it, and he reassured me that, no, this is serious.

And I think it's a matter of just society seeing it as an "Oh, whatever, I'll push it away. It's not going to be that big of a deal." I mean, my best friend was assaulted a long time ago as well, and she never reported it until she heard about me. And it was a matter of retaliation from not just -- if it's military, not just from the people in the military, but, I mean, family and friends as well and the way you're looked at by society, "Well, why did you get -- why did you put yourself in that situation?"

So I think the increase is a matter of
the support as well. As for the resiliency and bouncing back, I think that personally depends on each and every one of us. I mean, so we have our lives together -- and I sure the heck don't. I mean, I sure didn't bounce back. But my thing is that I want to turn around, and what happened to me negatively I want to turn it around to help future victims.

And so I think it's a matter of just providing -- keeping and providing what is available to us so when it comes to counseling, saying it's still available, it's still available, you can go, it never -- you know, you never have to stop, you -- keeping in contact -- like with my SVC, it has been awesome because there is still stuff in my case going on that I'm like, what's happening right now? And we're still keeping in contact.

And, like I said, I think it's a matter of personal resiliency, what you can do to help us bounce back.

MR. TAYLOR: Very helpful. Thank you.
Anyone else? Yes?

PETTY OFFICER N.S.: Well, my personal opinion, sir, would be -- it came straight from boot camp, this training. Unfortunately, this is something that does happen in the military, and that is sexual assault and harassment training. But if this happens to you, you know, "Here are your rights," and, you know, inform the victims or potential victims that -- what the SVCs can do for you, what the VA is supposed to do, what the SARC -- that is included in the Coast Guard training.

We do have our annual trainings, but I -- you know, we need to bounce ideas off of -- they have a Coast Guard support number, a 1-800 number. They have a 1-800 SVC number, where we can call and say, "Hey, is this" -- because some people aren't comfortable reporting to their command because of, you know, like I said, that mentality of they kind of keep it in-house.

And I think just training and just driving the point home to people, that, you know,
you -- that we are doing a reform of thinking in
the military as a whole, and that this type of
action is not being tolerated, and we -- you
know, the victims are not going to take that kind
of social ostracization.

I think that if they deal with that in
training and started putting it in the Chiefs
Academy and -- when petty officers are, you know,
entry level, so that everybody is held
accountable for that knowledge, you know, the
command cadre all the way down to the brand-new
boot right out of boot camp. I think that would
really be helpful.

MR. TAYLOR: Thank you. Ms. J.B., did
you want to say something?

MS. J.B.: I would just say from the
very start have all the different services
together with the victim, so that the victim
doesn't have to continuously repeat their story
to 10 or 15 different people, because there is a
certain point where hours and hours and hours of
saying your story in detail every single time,
it's just horrible to have to relive every single incident over and over again. So on the same page from the very beginning.

SPC A.S.: I know that as active duty we hear -- we see these classes all the time, the SHARP classes where we are doing interventions, we're going to these classes. However, that's not going to stop future events to come that may happen.

But, I mean, to help prevent it is -- you know, you continue these classes. I feel like there should be more cards given out from each section -- whether it's VA, SVC, more cards should be given out because a lot of the time people just be giving out these cards not understanding what they are. But if you give them out and explain it, maybe they'll understand more, okay, this happened to me, so I should go report this, I should go talk to this person, or I feel, you know, to -- once they start talking to that person, they feel comfortable to say it.

So it's more a communication.
And like my friend said again, it's more support as well. You have to have that support team behind you in order to accomplish the entire mission, which is basically getting the help, because you're not going to get help if you don't have somebody to support you. You're not going to be okay, you're not going to be well, and I think that's it.

CHAIR HOLTZMAN: Okay. Thank you very much. Thank you very much, members of this panel. Thank you particularly, victims, for coming forward and sharing your thoughts, as painful as this process is. We are very, very grateful to you, every member of the panel.

Thank you so much.

I guess -- are we going to take a five-minute break? We'll take a five-minute break.

(Whereupon, the above-entitled matter went off the record at 2:42 p.m. and resumed at 2:49 p.m.)

CHAIR HOLTZMAN: We are next going to
hear from Senior Judge Advocates and their
deperspectives on the program of the Special
Victims' Counsel, and we really appreciate all
the members of the panel for coming here and
taking time from your very busy schedules. I
think if you've heard the testimony before, we're
trying to get a very independent sense of how
this important program is working, what needs to
be changed, if anything. So we really need to
have your perspective.

Our witnesses will be, or presenters
I should say, first will be Vice Admiral Nanette
M. DeRenzi, the Judge Advocate General of the
U.S. Navy, then we will hear from Lieutenant
General Flora D. Darpino, the Judge Advocate
General of the U.S. Army, then Lieutenant General
Christopher F. Burne, the Judge Advocate General
of the U.S. Air Force, then Rear Admiral Steven
D. Poulin, Judge Advocate General and Chief
Counsel, U.S. Coast Guard, and finally Judge--
excuse me--Colonel John Baker, U.S. Marine Corps
Deputy Director, Judge Advocate Division,
Military Justice and Community Development.

Thank you very much, again, for coming here and sharing your views with us, and first we'll hear from Vice Admiral Nanette M. DeRenzi.

VADM DERENZI: I can't fully thank you, Representative Holtzman. Good afternoon, members of the Panel. I appreciate the opportunity to testify today and provide my views on the implementations report, the Uniform Code, and other initiatives to address rape, sexual assault and other sexual misconduct. This Panel's long term assessment of the impact and effect of the Services' implementation of Congressionally-mandated changes to the military justice system to ensure the interests of justice, the rights of victims, and the due process rights of the accused are protected in accordance with the Constitution and our principles of fundamental fairness.

I can assure you that the Navy's commitment to eliminating all forms of sexual assault is unwavering. Sexual assault is
contrary to our core values, it undermines mission readiness, unit cohesion, and is completely contrary to the standards we set for ourselves. It presents not only legal challenges, but leadership challenges. In this era of unprecedented scrutiny on the Military Code --- Uniform Code of Military Justice and the military justice system, I believe both have shown to be appropriate and capable tools for the administration of justice.

I caution against relying on any single case as a litmus test for the entire system, one way or the other, and would respectfully encourage the Panel to carefully examine the overall effect of changes that have already been implemented and actions that have been undertaken by the Services to respond to this issue as you contemplate further change. As you know, the Response Systems Panel made 132 recommendations for improvements to the military justice system.

CHAIR HOLTZMAN: We're guilty.
VADM DERENZI: And as I was saying to Judge Jones earlier, speaking personally, I appreciate the time and the effort and the sincere, deliberate hard work that was put into that, and we in turn are working our way very hard and thoughtfully through those 132 recommendations.

We're in the process of identifying those that we can implement in the short term, and those that will take longer term implementation plans to come to fruition. Additionally, we're in the process of implementing the extensive requirements of the FY 14 NDAA.

The UCMJ gives commanders effective tools to maintain order and discipline and promote justice. It's a code that sets, informs and guides the standards we expect all Servicemembers to follow, and it helps define our ethos, and it requires adherence to insure our forces are disciplined, ready and effective whenever our nation calls us. Our forces need to
know and understand conduct that's acceptable and conduct that's prohibited, and to do this, the law itself needs to be understandable by those whose conduct we seek to guide, and enforceable by the leaders who rely on disciplined servicemembers ready always to achieve the mission.

The UCMJ standards should not be so complex that they require lawyers and judges to interpret them, for at that point, the law has lost some of its value as a tool to ensure adherence to the standards that foster our readiness. While we should strive for clarity in the Code, the military justice system is comprised of interconnected rules and statutes. Changes to any other part of the system should be reviewed carefully and understood fully to avoid potential unintended consequences.

And as this Panel reviews the latest changes to Article 120, as well as the effect of previous changes, I'd ask you to consider the responses from our service representatives to the
language and the intent of the statute.

Stability in the law is the burden of the prosecutors, defense counsel, the accused and victims; while minor modifications can be a positive change, significant revisions have a potential to negatively impact the process, and should be avoided unless the existing statutes are defective.

We're just now seeing the first appellate opinions for cases prosecuted under the current Article 120 statute. Based on the opinions so far, the current statute appears to have overcome the Constitutional frailty of its predecessor. The law, however, remains to be fully tested at the trial level and reviewed at the appellate level. Trial lawyers and appellate judges are gradually creating a new body of case law to replace the 60 years of precedent lost when prior versions of the statute were rewritten, and when the 2007 amendments were deemed Unconstitutional.

The current version of Article 120 is
not perfect, and as noted in previous testimony by Service military justice experts, clarifying certain terms and definitions within the Article 120 would lend itself to greater consistency in application. I don't believe, however, that an overall to or restructuring of Article 120 is necessary or would be productive at this point.

Like all statutes, it should continue to be monitored to see if issues arise that can't be resolved through clarifying definitions, rules changes, or minor statutory amendments. I am confident that the Navy has the right people in place to effectively litigate sexual assault under the current statute.

In 2007, to improve the overall quality of Navy court-martial litigation, we established the Military Justice Litigation Career Track. We identify and select judge advocates with education, experience and aptitude to excel as criminal trial attorneys and judges via a competitive administrative board process based on demonstrated performance and abilities.
They are then detailed primarily to litigation tours to enhance their experience and professionalism as our core military justice practitioners. To best leverage this core experience, career track designated judge advocates serve as senior trial and defense counsel in each of our region legal service offices and defense services offices respectively. Most have advanced degrees in trial advocacy, and all have attended advanced training courses and have experience litigating sexual assault and other special victim crimes.

Our Senior Trial Counsel provide oversight and support to junior counsel, and personally prosecute the most complex cases. Now that the Military Justice Litigation Career Track program is entering its eighth year, it's important to note that those junior officers who were first selected to the program at its inception are now rising to senior leadership positions. They've grown up in the track, so to speak, and they're now serving as senior trial
counsel, as military judges, and in command, and
they've proven to be an invaluable long-term
investment for my community and for the Navy.

Our Senior Trial Counsel are also
critical to the Navy's Special Victim
Investigation and Prosecution Capability.
Fielded with a team of experienced and specially
trained prosecutors, investigators and support
personnel, they work together to ensure multi-
disciplinary response and effective case
management strategies.

Our Capability ensures that
relationships and lines of communication are
established, in place, and used so when a sexual
assault incident occurs, a multi-disciplinary
response is ready to engage.

Career track counsel also serve as
senior defense counsel. They use their
experience and knowledge in defense of their
clients and their clients' rights as guaranteed
under the Constitution. Overall, our career
track officers are improving the entire process
and practice of military justice. As
prosecutors, defense attorneys and judges, and to
a more limited extent, as staff judge advocates
and as Victims' Legal Counsel.

The Navy's VLC Program is one of the
most significant steps in victim support, and in
my view, it's the most important contribution my
own community has made to victim support. When
first establishing the program in October of
2013, we focused on the total person concept,
when selecting candidates with the ability to
provide responsive and effective assistance to
victims of sexual assault.

Navy VLC qualification requirements
including concluding a two-year first tour judge
Advocate Training Program that all of our new
judge advocates have to complete. It's a
rotation that includes six months in each of our
main practice areas: Command Services, Trial,
Legal Assistance and Defense.

They also must possess litigation
experience as trial or defense counsel, excellent
interpersonal and communication skills, sound
judgment, and positive temperament. The rank and
seniority of officers we assign to the Navy VLC
Program is considered as part of a deliberate
plan to provide a mix of leadership and
experience to serve and relate to the victim
population.

More than half of our VLCs in the
field are O4s or above, and this is not unlike
the relative mix of seniority that we see in our
Navy trial and defense counsel.

Candidates are screened through our
normal assignments process, then are personally
vetted by the O6 Chief of Staff of the Victim
Legal Counsel Program, and then interviewed by me
and one of the Deputy Judge Advocate General of
the Navy before being assigned as a Victim Legal
Counsel. Each Navy VLC attends specialized
training focused on victim rights, victim
advocacy and victim support issues before being
officially certified by me to assume VLC duties.

We considered establishing our own
training program, but we felt strongly that we
wanted to leverage the best of the other services
as well. In a capability as new as this one, we
found that it was better and more prudent to
share our training resources before we started up
one separately, to be quite honest with you.

Our 29 VLC in the field are
distributed among five VLC regions that span the
globe, that afford close mentoring and management
of VLC operations by more senior victim legal
counsel who focus on supervisory and leadership
responsibilities.

Two of those officers in charge, one
on the west coast and one on the east coast, are
litigation specialists within the Military
Justice Litigation Career Track, and they were
specifically detailed and placed to bring the
additional level of education, experience,
mentorship and reach back to VLC operations.

The five officers in charge report to
the Senior O5 Deputy Chief of Staff, and an O6
Chief of Staff for overall guidance and policy
direction, and the Chief of Staff of the Victim
Legal Counsel Program reports directly to the
Deputy Judge Advocate General, in his capacity as
the Commander of Naval Legal Service Command.

While we continue to monitor the
program to discuss areas for growth, change and
improvement, based on our current assessment,
we're confident that the program is and will
continue to be a success. Both the Military
Justice Litigation Career Track and the VLC
Program allow the Navy to leverage proficiency in
case management, victim support and prosecution
through special training, coordinated responses,
and broad litigation experience.

In summary, I believe the military
justice system is fundamentally sound; that any
changes to the UCMJ should be made with precision
rather than with broad strokes, and that
procedures, policies and programs ought to be
given a change to demonstrate progress and given
the ability to identify areas that need
improvement. And while the current focus of
victim rights is appropriate and necessary, and
to some very long overdue, we need to ensure that
the system is and appears to be fair.

It's essential that the system ---
military justice system not only protect victim
rights, but also and always be mindful of and
protect the Constitutional rights of those
accused of committing sexual assault or other
crimes. Presently, I believe we're moving
forward in a balanced and deliberate manner to
achieve both ends, and we should stay that
course. I look forward to taking your questions.

CHAIR HOLTZMAN: Thank you very much,
Vice Admiral. Lieutenant General Darpino, we'll
hear from you. Thank you so much for your time.

LT. GEN. DARPINO: Madam Chair,
distinguished Panel members, thank you for
inviting me to speak here this afternoon about
the Army and sexual assault in the military. As
my --- the Admiral said, you know we are
experiencing a time of unprecedented interest in
our military justice system.
As a result of those changes and recommendations and internal changes that we have made both at Services and through Department of Defense, our system is better able to investigate and prosecute sexual assault cases in a fair and just manner while protecting the interests of the victim and the Constitutional rights of the accused.

And the Army, based on this, has achieved substantial, meaningful progress in the prevention, response and accountability for sexual assault and harassment by focusing on our special victims, investigation and prosecution capabilities.

I won't go into great detail because I know you have heard about our programs before, our Special Victims Prosecutors, or Sexual Assault Investigators, and our Special Victims' Counsel Victim Witness Liaisons, and that capability that we have created.

But when we look at those programs and others in the Army, and we look at the recent
Department of Defense report on sexual assault to the President, I think we do see progress in this area. The Army statistics, if you have seen them, mirror the DoD statistics.

In prevalence, we have seen a 48% decrease in incidents since 2006. We have seen a 35% decrease in prevalence from the report that was issued in 2012, the last time we took prevalence. On the other hand, when it comes to reporting, the Army, like DoD overall, is now reporting at one in four, down in the Army from one in seven in 2012. So prevalence is down, reporting is up.

But we are not done; we know that we are not done. Our goal is to continue to close that gap between those numbers and address the other areas in the report where we did not make the progress that we wanted to make. And so we also, as was said by Admiral DeRenzi, are not stopping in this battle.

We must continue to aggressively address this issue while diligently protecting
the rights of the accused, which is what a justice system is required to do. One present step that we have taken, as initiated by the Department of Defense, begun by our friends in the Air Force, giving victims safety and confidence is the victim advocacy program, or as we call it in the Army, the Special Victims' Counsel Program.

The Army started the program just a little over a year ago, by the direction of the Department of Defense, and we reached full operating capacity in January '14, so it really has not even been at full operating capacity for a year.

At its inception, we trained 53 special victims counsel located at 34 Army installations. We started them by co-locating them with our Special Victims Capability Teams, our special victims prosecutors, our special victims NCOs, our sexual assault investigators, and our special victims witness liaisons, so that's why we ended up initially with 34.
But our goal was to expand the program to every post, camp and station, so today there are over 300 trained counsel in the active, guard and reserve. Seventy-six serve in support of active duty requirements. Our SVCs have represented over 1500 clients. They've conducted nearly 8,000 client consultations. They have accompanied clients to more than 1,800 interviews and pretrial hearings. They have made more than 300 court-martial appearances on the record. They've conducted over 330 post-trial counseling sessions, and yes, they have filed four writs, extraordinary writs, with the Army Court of Criminal Appeals. They have done a phenomenal job in less than a year.

Each of our SVCs are hand-picked. At the start of the program, Staff Judge Advocates were directed to select individuals who had military justice expertise, if possible, but more importantly, individuals who had the maturity and judgment necessary to assist victims and make progress in the community that is crowded or
could be conceived as crowded with Victim Advocates, SARC's, special victims prosecutors, sexual assault investigators, someone who could bridge that gap and make sure that the victim received all the services that they needed, but could also advocate for them in all of those different communities.

As a result, those selected for the program are on par with those that we have selected in years of time in service that we have for our prosecutors and our defense counsel. More than half of them have military justice experience, either as a trial counsel or a defense counsel. And then to ensure they are competent, the Army JAG School has developed three week-long courses to train and certify potential SVCs. They also have online programs for those who want to brush up if they've been serving for awhile. The JAG School has also held one child victim course, as we have been directed to have an expertise in that area also.

Our SVCs are located now at every
Office of the Staff Judge Advocate, and they work directly for the Chief of Legal Assistance. Now this is different than the other services because historically and culturally, the mission of Legal Assistance in the Army is a little different. Aside from helping Soldiers resolve personal problems in Legal Assistance, our Legal Assistance attorneys often take positions and represent contrary to the Commander and the Government's position.

Because of the way the Army's force is arrayed, Legal Assistance attorneys assist their clients with adverse command administrative matters, for example, adverse Efficiency Reports, rebuttals to command's Letters of Reprimand, and they'll even represent counsel or clients before Admin Adverse Separations Boards. And so they are used to taking the position in our Legal Assistance offices contrary to that of the Command.

The result of being embedded in our Legal Assistance offices, our SVCs not only
represent the victims with regard to investigation and prosecution of the sex assault offenses, but they also represent them on collateral issues, which avoids having them have to deal with one or more attorneys.

Should there be issues in conflict with the Government, for professional responsibility reasons and for a technical chain of command, these individuals have reach back to the Office of the Judge Advocate General, where the Program Manager who you met, Colonel Jay McKee, is there to guide them.

Additionally, the Director of the Legal Assistance and Policy Division, a senior civilian, is there to assist them as they navigate conflicts of interest between their representation, and we also have a member of the Senior Executive Service overseeing that program.

But I feel it's important to reiterate that the SVC Program is still in its infancy, as it is only a year old or less. There are still growing pains, and we have to sort through those
legal issues as they arise. There is no civilian counterpart to this program, so all involved, including the judiciary, are working through the balance between the victims' rights and the Constitutional rights of the accused.

I submit that any major, substantive change to the program at this stage may be premature. The program is well-regarded and by all accounts, it is working well, and we would not want to throw up any unintentional roadblocks or switchbacks that could set us on the wrong path. I ask for time to work through the implementation of this program, and I think that you'll see we are addressing a lot of the issues that our SVCs are concerned about, our victims are concerned about, as we move forward.

For example, I know that there's a significant concern about access to information for our SVCs and victims. I recently issued policy guidance to all our prosecutors mandating that certain material be provided to the victims and their counsel during particular phases of the
court-martial proceedings. A copy of that policy was provided to you as part of the RFI responses, and the Joint Service Committee, the JSC, will also recommend that the President issue a Rule of Court Martial and Rule of Evidence to ensure that victims have timely notice of important events as the case develops.

And I want to commend the JSC. They are dealing with some very difficult legal issues in a program for which there is no parallel to draw from. They have an important mission of assuring that the justice system remains efficient and effective and passes Constitutional muster, and I ask you to consider their diligent work before recommending any additional changes.

These are complex legal issues that are involved, and they simply must be done right. I understand, for example, that the Joint Service Committee will propose to the President that there are limits on the admission of evidence of previous sexual activity by the victim at an Article 32 preliminary hearing.
The JSC is also recommending revision to the Rule of Court-Martial 702 to ensure that victims who exercise their right not to testify at an Article 32 hearing are not unnecessarily deposed when they would otherwise be available to testify at trial. I'm proud to say that an Army SVC filed an extraordinary writ on behalf of a victim addressing that issue. However, ACCA denied the writ. Should the JSC's recommendation be approved, this issue will be resolved.

The JSC is also recommending substantive revision to MRE 513 that would require a closed hearing conducted by a military judge to consider the production and admissibility of evidence that is implicated in a psychotherapist privilege. Again, an Army SVC filed an extraordinary writ on behalf of a victim on this issue, and in this case, ACCA ruled in the victim's favor, requiring the military judge to make such findings before ordering production.

The JSC is also grappling with the pre-sentencing testimony of the victim. As you
are aware, the accused may make an unsworn
statement in the pre-sentencing phase of a court-
martial. However, the victim's statement must be
sworn. It is important to note that military
pre-sentencing is different than this phase in
the federal system. In the federal system,
judges review sentencing reports, and I know
you're all aware of this. These reports are not
prepared by the parties to the case, but are
impartial in nature.

Unlike the Federal Sentencing
Procedures, the military pre-sentencing phase is
adversarial, with live testimony, and maybe even
with members present. Additionally, it is
governed by Article 42(b) that requires a witness
to testify under oath. The JSC is working
diligently on this issue, and in the end, may
determine that a statutory change to Article 42
may be required in order to have a rule change.

But I want to assure you we have not
turned a blind eye to this issue or any of those
other issues, nor are we stubbornly clutching to
the old way of doing business. These are real legal issues that JSC must sort through, and they are doing so. And should we get this wrong, the cases will be sent back, potentially for re-sentencing, and that will do a disservice to both the accused and the victim.

My final observation concerns the context of Article 120. I concur wholeheartedly with Admiral DeRenzi's comments. The current statute is comprehensive, it's progressive, it's flexible, it's offender focused.

I do not believe Article 120 should be revised to separate out penetrative and non-penetrative offenses to make them more distinct statutory provisions. I think that can lead to confusion and potentially four different UCMJs being used for Article 120 in one particular court-martial.

With that said, I do concur with the recommendation of the previous panelists that certain definitions within the statute should be modified, such as sexual contact being modified
to cover contact by an object, force and
incapable of consent being modified to make it
more intuitive and workable. And the JSC is also
working on some of those issues.

I believe that the current statute --
I know there is some concern --- but I believe it
allows the military justice system to punish
those who misuse their position and commit sexual
acts with subordinates through threats, coercion,
or unlawful inducements.

An Army court-martial recently
convicted a drill sergeant, a drill instructor of
sexually assaulting trainees by various means,
including threats to damage their careers. Those
threats were charged under the constructive force
theory under the current Article 120.

The accused contested these and other
charges and made legal arguments of the same, but
he was found guilty by a military judge despite
his plea. He was sentenced to 20 years'
confinement and a dishonorable discharge.

Relevant records from this case were also
provided to you as part of the RFI responses.

So, in sum, the intense focus of our senior leaders and our commanders on the issue of sexual assault in the military has driven rapid and positive change across the Services. We have made and will continue to make incredible strides in supporting our courageous victims and the cast of professionals who support them, while diligently protecting the rights of the accused as required by a justice system.

While these accomplishments, you know, are notable, DoD understands their work is not done. As leaders and Servicemembers alike realize, there is much more we can do to make our system better, and we look forward to making it better. And I look forward to taking your questions. Thank you.

CHAIR HOLTZMAN: Thank you very much, Lieutenant General. Our next presenter will be Lieutenant General Christopher F. Burne. Lieutenant General Burne, we are happy to hear from you. Thank you.
LT. GEN. BURNE: Thank you. Good afternoon Madam Chair and members of the Panel. Let me begin with one quick correction of the record, and that is my last name is long E Burne; and I only say that because my 90-year-old World War II vet father would insist that the name be corrected for the record.

CHAIR HOLTZMAN: Thank you, so the spelling is B-U-R--

LT. GEN. BURNE: N-E, but it's a long E.

CHAIR HOLTZMAN: Oh, I'm sorry. Okay, thank you. Apologies.

LT. GEN. BURNE: Accepted. Thank you for the opportunity to speak to you today about judicial proceedings conducted under the Uniform Code of Military Justice involving adult sexual assault offenses. The duty of the military justice system to fairly adjudicate allegations of sexual assault is of paramount importance to the Air Force.

Your review comes at a critical time
in the evolution of our system. As mentioned by my colleagues, we are in the midst of implementing the most extensive revisions to the UCMJ in over 40 years, to include the extension of landmark rights to victims.

There are many voices speaking about sexual assault, and this is a good thing. Although the discomfort of our dialogues and studies on this scarring crime that takes place with alarming frequency on college campuses, in our communities and, yes, in our military, I give much credit to our courageous victims, to various victims rights advocacy groups, to our Commander-in-Chief, and to military leaders for speaking out and bringing about necessary changes in our process. Changes in attitude, changes in understanding, and changes in the law and in its implementation.

The recently released DoD SAPRO report to the President indicates that our numbers are still way too high, and we must redouble our efforts on prevention and combating retaliation,
but it does show promising signs as well. The prevalence percentage is moving at a downward slope, while those that feel the confidence in themselves and in the system to report is increasing. Since fiscal year 2012, sexual assault reporting in the Air Force increased 61%, with a shift to unrestricted reports, which went from 58% of the total reports to 69%.

Similarly, the percentage of Airmen who indicated experiencing unwanted sexual contact in the preceding year dropped to its lowest levels since 2006, when sexual assault prevalence was first measured. In fiscal year '12, the prevalence rate among female Airmen was at 3.1%; here in fiscal year 2014, that rate dropped to 2.28%.

A similar trend is shared among male Airmen; in fiscal year '12 the unwanted sexual contact prevalence rate was .5%, and in fiscal year '14 the rate dropped to .43%. The decrease in prevalence and increase in reporting resulted in cutting the gap between incidents and
reporting in half. In fiscal year '12, approximately one in every six Airmen who experienced unwanted sexual contact reported it; in fiscal year '14, approximately one in every three Airmen who experienced unwanted sexual contact reported it.

Having sat with Secretary James and General Welsh in various forums, I can say that the Air Force leadership is absolutely committed to its core to pushing those trend lines further and further in those directions. Since coming into office this past summer, I have spent a great deal of time discussing the issues of sexual assault with my fellow TJAGs, with senior staffers on the SASC, and at the White House with Judge Effron and the Military Justice Review Group, with members of the Joint Service Committee on Military Justice, and now with Judicial Proceedings Panel.

I believe we share a common vision to radically reduce the incidence of sexual assault in the military while at the same time
compassionately and professionally assist
victims. One program designed to do just that
is the Special Victims Counsel Program.

The Air Force led the way by
instituting a program by which victims of sexual
assault may chose to have legal representation to
guide them, assist them, advocate for them
throughout the investigative and military justice
process. Now at the risk of some redundancy with
my Army and Navy colleagues, I would be remiss if
I did not spend a few minutes highlighting the
Air Force Special Victims Counsel Program.

At the outset, I would like to take
this opportunity to thank Ms. R.S. for having the
courage to come speak with you today about her
experience with the SVC Program. I hope her
willingness to step into the public eye, share
her insights in this forum will inform any
recommendations as to how we can continue to
evolve and grow the SVC Program to assist to the
maximum extent possible our survivors of sexual
assault.
The Air Force SVC Program has been in
place for close to two years and continues to
mature as we encounter new issues that come to
the light through the adversarial justice
process. Military justice practices and policies
pertaining to the SVC Program and witness's
counsel more generally will evolve over time and
careful continuing assessments and
recommendations from victims interest groups and
trial practitioners.

The highlight of our SVC Program is on
a successful path. Our victims have stepped
forward and answered surveys to help shape the
program, and 90% are extremely satisfied with
their SVCs, 9% are satisfied, for literally a 99%
satisfaction rate. This tells me we are on the
right course, not that we have reached the finish
line, for there is still much work to do.

Air Force JAG Corps leadership pledges
to continue to do the work that must be done to
assist victims, to empower victims, to guide
victims through the military justice process,
while at the same time working the process to
guarantee it is fair and that all participants
advance with their rights protected, for in the end, that is the American justice ideal.

One of the keys to building on the early success of the SVC Program is the rigorous selection process we have implemented to ensure the best qualified judge advocates are selected to serve as SVCs. A Judge Advocate invests a significant amount of time, nearly three years, participating in court proceedings, attending formal training, and interacting with a broad client base before he or she is even considered for an SVC assignment. This same standard, by the way, holds true for our Area Defense Counsel and Senior Trial Counsel, placing them on about equal paths of career progression.

I would labor on just a few items regarding our SVCs. First, in order to be eligible to serve as an Air Force SVC, a Judge Advocate must have completed our trial certification program. Certification requires
serving effectively as Trial Counsel on a number
of courts-martial, demonstrating comprehension of
fundamental principles of military criminal law,
procedure and evidence, and demonstrating
competence in fundamental litigation skills. It
also involves a nomination process involving
staff judge advocates and military judges.

Second, my professional development
directorate conducts an extensive screening
process to identify the best qualified
candidates, and I personally assign each judge
advocate to serve as an SVC. Although nearly all
our SVC candidates are volunteers, not all our
volunteers are selected as SVCs.

The process starts with a call for
nominations to every major command staff judge
advocate. Our candidate supervisor staff judge
advocate completes an initial assessment,
reviewing the judge advocate's fitness to serve
as an SVC, taking into consideration foundational
experience, successfully representing clients in
legal assistance matters, as well as trial
experience and prior interaction with victims as
a trial counsel or VWAP liaison. All to ensure
the candidate possesses the right disposition to
handle the demanding nature of serving as an SVC.

Additionally, all nominations are
coordinated with our Chief, Special Victims
Counsel Division, to ensure each candidate meets
the expectations of the SVC Program's leadership
before I decide whether to select the candidate
for the position. I would like to mention that,
on account of, to my knowledge, one letter
written by one SVC, some have asked if there was
any retaliation against SVCs for doing their
jobs. The short and direct answer is no.

The JAG who wrote that letter was
selected for separation at our force shaping
boards this past summer. The Air Force must
downsize, and every career field was targeted for
reduction. The JAG Corps was no exception, and
we lost about 80 Captains.

But the independent board that reviewed and
scored records of incredibly talented JAGs had no
direction to go after SVCs. In fact, the numbers
that were cut from each slice of our many
practice areas bear that out, with the percentage
of SVCs selected for separation, a total of six,
at a slightly lower percentage than most other
fields of practice. And in fact, the Secretary
and Chief were concerned with even that small
number of SVCs being cut.

The overall numbers of cuts, of
course, were set a year in advance, and at that
time, it appeared feasible. But now that this
year has ended and we have had all the data on
clients and SVCs and ratios, the current SVC
caseload --- it stands at 650 --- and numbers of
courts and Article 32 hearings and interviews
that our SVCs have participated in -- 191 courts,
230 Article 32s, and over 2,000 interviews over
the past two years. And we see increasing trend
lines in SVC utilization as we see an increase in
reporting. We are in the process of adding SVC
slots because the work load can now be shown to
justify an increase.
As a final point regarding SVCs, we have always attracted top notch applicants for the JAG Corps who are interested in the outstanding litigation experience and autonomy available to new JAGs. But recently we have noted applicants for the JAG Corps wanting to know how soon after joining they'll be able to be a Special Victims' Counsel.

This expression of interest in the SVC Program demonstrates that its value has transcended the borders of DoD and the Air Force, and provides I believe a positive indication that the next generation of lawyers are eager to be a part of this new means of assisting and empowering victims of sexual assault.

Now I'd like to be clear, I am not saying that the SVC Program after only 23 months is perfect, or that every issue of law or procedure is resolved. They are not and anyone with an in depth understanding of the process should not realistically expect them to be. The introduction of another major participant, the
SVC, in this already complex yet structured justice process will create new issues. As mentioned by my colleagues, some issues can be resolved through policy, while some will need court precedent or even legislation to resolve.

As I have stated in different forums, when we discover a rough edge, we work very hard to smooth and resolve the issue. For example, we saw that different judges had different opinions as to where an SVC may stand to address the court when advocating on behalf of his or her client victims.

I have discussed this matter with our Chief Trial Judge, and a practice rule will be forthcoming and discussed at the upcoming annual Judges' Conference in January. It establishes that an SVC enters the bar and addresses the court from the podium used by trial and defense counsel.

Other matters such as access to information, extended participation in scheduling conferences, and the scope of representation as
to collateral matters are all issues that are actively and are energetically being worked by engaged practitioners.

Turning to one other topic before closing, I wish to echo the views expressed by the Army and Navy TJAGs concerning the revision of Article 120. Because it is currently providing the Government with a functional means of charging sexual assault offenses, and because we have not had the opportunity to see where the appellate courts will take it, and because we are faced with so many changes in other areas, I concur that this article should not be changed yet again.

Further overhaul will cause unnecessary confusion, especially in cases where offenses span a period of years. On the other hand, modification of some definitions within the article could prove useful to trial practitioners, and I urge further study followed by recommendations put forth through the JSC to execute those clarifications.
In closing, as you review how the military justice system handles adult sexual assault offenses, and assess whether further changes may be warranted, I would ask that you consider the following unique purpose of military law as stated in the preamble to the Manual for Courts-Martial.

The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces, to promote efficiency and effectiveness in the military establishment, and thereby to strengthen the national security of the United States. Changes to the UCMJ or to the process of administering military law should be tailored to support this purpose.

The Air Force will continue to dedicate tremendous time and the necessary resources to addressing the complex issues arising in the military justice arena. Air Force leadership and the Air Force JAG Corps remain fully engaged to making improvements to our
military justice system and looking forward to partnering with the other Services and this Panel to identify substantive and procedural improvements to combat sexual assault in the military. For despite any differences about the path taken, we do share a common vision to empower, to lift up, and to strengthen survivors of sexual assault physically, emotionally, spiritually and legally. It is a trauma that no one should ever be forced to endure.

The unfortunate truth is there will be victims. Our jobs as military attorneys, our mandate as military leaders is to continue to drive the number of incidents lower and lower while at the same time actively investigating and fairly prosecuting military members accused of these offenses.

My obligation is to ensure rules and standards, implement practices and procedures where necessary to protect the rights of the accused, the rights of the Government, and the rights of the victim. My demands are the shared
view of members of our JAG Corps, to treat
victims with dignity, to treat accused members
fairly, and to treat all participants in the
military justice process with respect.

Simply stated, we must ensure justice
for all. I believe that is what motivates each
of us to pour our heart and soul into upholding
the rule of law and the American military justice
process. Thank you for your time today. I look
forward to your questions.

CHAIR HOLTZMAN: Thank you, Lieutenant
General Burne. We'll next hear from Rear Admiral
Steven Poulin, thank you so much Rear Admiral for
coming.

REAR ADM. POULIN: Thank you Madam
Chair, members of the Panel, thank you for the
opportunity to appear before you this afternoon
to discuss the Coast Guard's military justice
system.

Your work is of great importance to us
all, and I look forward to continuing to work
with the Panel to assist your evaluation of the
military justice process. External review and
evaluation of our system is vital to its long-
term health. I also look forward to working with
you on ideas on how we can better employ the
military justice system in our ongoing efforts to
eradicate sexual assault in the Coast Guard.

As our Commandant Admiral Paul Zukunft
stated upon his assumption of command, and as he
reiterates at every opportunity, sexual assault
and sexual harassment are completely contrary to
the Coast Guard's Core Values of honor, respect,
and devotion to duty, and degrade readiness.

Adhering to our Core Values is a
condition of service in the United States Coast
Guard. As the Judge Advocate General and Chief
Counsel of the Coast Guard, and as a senior
leader in our service, I share the Commandant's
commitment to eradicate sexual assault and sexual
harassment from our ranks.

Before proceeding with the remainder
of my remarks, I also want to thank Petty Officer
N.S. for coming here today to speak with you.
The Coast Guard has a long tradition of entrusting very junior members with difficult responsibilities. Through her courage in coming forward to make her report of sexual assault, through her perseverance, and by her willingness to come here to speak today, she has upheld that tradition most admirably.

I share the views and the ideals of my colleagues in the Department of the Defense. The size of the Coast Guard and the corresponding small number of military justice cases we handle is the driver of our only notable differences from the other DoD military services. Our small size and the small number of cases we handle does have some positive aspects. I think the Coast Guard is able to adjust and change rapidly because of our small size, but our size also poses some challenges. In the military justice arena, our small number of cases poses a constant challenge to develop and maintain military justice expertise, and here I would be remiss if I did not specifically mention the assistance the
DoD Military Services provide the Coast Guard. Training alone cannot completely substitute for experience, but the willingness of the other military services to include the Coast Guard within their training, as well as provide Coast Guard judge advocates opportunities to work with their judge advocates on their cases has been and continues to be invaluable.

Let me speak a bit about military justice organization. As the DoD Military Services have looked at ways to increase their military justice experience, I and my predecessors have done the same. But since I became the Judge Advocate General, the issue of the Coast Guard's military justice organization has become a central concern of mine. In fiscal year 2013, the Coast Guard had a total of 23 general and special courts-martial. In fiscal year 2014, we completed 45. Now those numbers alone do not reflect all impact of the increasing case load as we tripled the number of contested cases tried last fiscal year.
Recognizing the importance of the military justice system, the Coast Guard Senior Leadership has been very supportive of our efforts to provide appropriate resources to the military justice system. In fiscal year '14, the Commandant approved the addition of a GS-15, an additional military counsel to the Office of Military Justice, and a GS-15 along with six new military billets for the Special Victims' Counsel program. While the Coast Guard, similar to the other military Services, has to delicately balance its work force in the midst of tightening budgets, these billet additions represent a significant commitment on behalf of the Commandant to the future of our military justice system.

Although we have a much smaller caseload than our DoD counterparts, each of our victims and each of our accused is entitled to the same rights under the UCMJ. Our accused are entitled to a fair trial, and our victims are entitled to justice. Some may look at the
relatively small size of our military justice practice and say that we're doing all that we can under the circumstances; that's not acceptable to me nor is it acceptable to the thousands of men and women who proudly wear the Coast Guard uniform and daily go into harm's way to ensure that the nation's maritime safety and security are protected, that the marine environment is protected, and to promote economic prosperity through the facilitation of maritime commerce.

Even a Coast Guard judge advocate may serve as Trial Counsel on only one case per year, that case is a life changing moment for both the accused and the victim. It is my job to ensure that regardless of how many cases we try, our system is on par with that of any criminal justice system in the country. To do that, I'm always looking for ways to improve our system, both through our organization and the potential need for more personnel. For example, at present, the Coast Guard has one general court-martial judge for our entire service. With that
one judge --- while that one judge has usually
been sufficient in the past, with the increase in
the number of cases overall and a dramatic
increase in the number of contested cases, plus
the fact that the judges hear cases from Guam to
Boston, the work load at present is more than a
single judge can handle.

To aid with this, later this month
we're bringing a previous chief trial judge back
from retired recall for two years. I'm also
looking to permanently expand the size of the
full time Coast Guard Trial Judiciary. Trial
counsel experience is another area of concern of
mine. There are 18 Coast Guard legal offices
throughout the country, and all 18 legal offices
prosecute cases that arise within their
jurisdiction. Not all of those legal offices
handle many military justice cases. The Legal
Services Command, or LSC, is the Coast Guard's
national field legal command; it handles by far
the largest number of cases in our service, and
has the only group of judge advocates who are
full-time trial counsel.

The other offices try cases using judge advocates that have experience in military justice, but are not full-time prosecutors. One of the first things I did as Judge Advocate General was to charter a group to examine how we might reallocate the division of labor for prosecution of courts-martial to take advantage of the LSC's experience. I just received a report of that group and am working to determine how to implement its recommendation. The changes proposed increasing the number of trial counsel at the LSC and increasing its role in courts-martial Service-wide should develop a greater level of military justice expertise in CGJAG along lines similar to those undertaken by the other military Services. It would also allow us to fully implement a Special Victims' Prosecution Team.

I also need to note that the Coast Guard relies on the Navy for defense counsel in Coast Guard courts-martial. The Navy provides
those counsel pursuant to a memorandum of understanding that we've had in place for 20 years, whereby I provide the Navy Coast Guard judge advocates in Norfolk, Washington, Burlington and Honolulu to supplement the Navy's defense counsel, and in return, the Navy provides counsel to Coast Guard members throughout our service. The significant increase in case load within the Coast Guard impacts not only the Coast Guard, but the Navy as well, and the Navy has asked that I provide additional Coast Guard resources to aid in supporting the increased Coast Guard caseload.

Let me now turn to the Special Victims Counsel program. We established our Special Victims Counsel program in July of 2013. To start with, the program was staffed by judge advocates who volunteered to act as SVC as a collateral duty. Not only did this allow us to start the program quickly, it brought the added benefit of attracting a number of our most experienced and high-performing mid grade judge
advocates who wanted to be part of the program.

As I mentioned a moment ago, the Commandant fully
backed the SVC Program, and I provided the
personnel and training resources to start it, and
then we're going to assign full-time staff.

We're in the process of hiring a very
experienced, retired Air Force judge advocate to
run the SVC Program, as well as have two of our
most experienced counsel supervising the program
and standing up the SVC office in California.

You heard from one of those judge advocates, Lt.
Cdr. Kelley Stevens, in the previous panel.

Because of when the new military billets were
approved, we had to fill three of the new full
time SVC positions with new judge advocates who
are just now completing Naval Justice School.

While this is not a desirable situation, with the
experienced leadership of the program and the
continued participation of collateral duty judge
advocates, I'm confident that the level of
service our SVCs will be able to provide in the
future will continue to be good and sound.
Moving ahead as the full-time SVC positions are filled, in the future we plan to use experienced judge advocates to staff them. I do plan to continue using some collateral duty SVCs to supplement the full time staffs and to serve as valuable SVC mentors. Doing so keeps a larger number of judge advocates actively engaged in the SVC Program and ensures that experienced SVCs are always available regardless of the impacts of military transfers and training pipelines.

Next, I want to echo the concerns of my colleagues and urge caution concerning continued revisions to Article 120. While I don't want to repeat the points that they made, there is an area where I hope I can add a useful perspective. I know one of the issues the Panel and other members are interested in is examining whether Article 120 is too broad and covers too many different offenses. It's been suggested that by breaking up Article 120 and separating the penetrative from the contact offenses, it
would be easier to differentiate between greater
and lesser forms of sexual assault.

As the Judge Advocate General, and
before I assumed this role as the Coast Guard's
Director of Governmental and Public Affairs, I
sat on the Coast Guard's Sexual Assault
Prevention Council, which is a flag and senior
executive level council that meets every three
weeks to review the Coast Guard's sexual assault
prevention and response efforts. In that
council, one of the consistent themes we
discussed in our prevention activities is the
continuum from harassment, through touching to
the most serious forms of sexual assault. We
spent a lot of time thinking about how preventing
lesser forms of sexual misconduct, particularly
in the workplace, can lead to prevention of more
serious criminal offenses.

Viewed in that context, I see value in
continuing to group the penetrative and contact
offenses together, and I'm concerned about the
almost certainly unintended message that would be
sent by breaking them apart, that the contact
offenses are less worthy of concern. Keeping
them grouped together helps reinforce a central
message that our prevention efforts have been
developing, and that is that no form of sexual
misconduct is acceptable, and toleration of any
form leads to an atmosphere where its most
serious form is likely to occur. Thank you again
for allowing me to appear before you; I look
forward to answering your questions.

CHAIR HOLTZMAN: Thank you very much,
Rear Admiral. Our next presenter will be Colonel
John Baker, U.S. Marine Corps. Thank you very
much, Colonel Baker for being here, and we look
forward to your presentation.

COL. BAKER: Good afternoon Madam
Chair and distinguished members of the Panel,
thank you again for the opportunity to talk with
you. I'm appearing today on behalf of Major
General Ewers, the Staff Judge Advocate of the
Commandant of the Marine Corps. Major General
Ewers is overseas on a long scheduled, but prior
commitment. Because you have heard from me on
two prior occasions, I'm going to keep my
comments short, but I would like to start on
behalf of Major General Ewers, strongly
recommending against substantial revisions to
Article 120.

In FY 12, the Marine Corps changed
its delivery model for legal services through
what we call the legal reorganization, which
affected more than 60 different commands and more
than 1,300 active, reserve and civilian billets
across the Marine Corps. The reorganization
realigned the provision of legal support from
independent, decentralized legal offices to
regional legal centers structured to provide a
full range of legal services. It also removed
staff judge advocates from the legal services
offices and positioned them to focus on providing
independent legal advice to commanders.

Relevant to the Marine Corps' fight
against sexual assault, the reorganization
resulted in enhanced military justice capability
for complex discussion of victim cases. It
enhanced the ability to communicate effectively
across the regional trial offices regarding best
practices, and most importantly, added
supervisory judge advocates at the regional and
legal services support team level to provide
guidance and expertise to trial counsel that had
previously not been there before. We created a
regional trial counsel position at each legal
services support section, putting a special
victim investigation and prosecution capability
under the supervision of a lieutenant colonel
with substantial litigation experience.

Each regional trial counsel is
supported by a civilian prosecutor who's been
hired as a highly qualified expert who assists
with case review, preparation, witness interviews
and trainings. Our HQEs and our RTCs
collectively bring several decades of experience
in prosecuting sexual assault cases to each legal
services support section. This last year, the
legal community continued to implement the legal
reorganization to raise the quality and
consistency of legal support across the Marine
Corps. We've instituted a number of process
improvements designed to formalize and facilitate
higher standards of military justice.

This year, we also used the
reorganization's framework to establish the
Victim Legal Counsel Organization. We
established a harmless chain of command for the
Victim Legal Counsel Organization, with an O-6
officer in charge and a robust regional
supervision. Major Ivins, who you heard from
today, is representative of the experienced field
grade officers leading each of our VLC regions.
While assisting victims of sexual assault is the
focus of the Victim Legal Counsel Organization,
the Marine Corps' program is unique in that we
extend victim legal counsel services to all
eligible victims of crime who are eligible for
legal assistance services.

Our Victim Legal Counsel Organization
is busy. During FY 14, they provided legal
services to more than 600 crime victims,
including more than 340 sexual assault victims.
Over the last year, the Victim Legal Counsel
Organization, military judges, and trial and
defense counsel have begun to work through the
mechanics of how to best incorporate the VLC into
the military justice process. In early 2014, the
Staff Judge Advocate to the Commandant of the
Marine Corps formalized the roles and
responsibilities of the Victim Legal Counsel
Organization into the Legal Administration
Manual. Further refinements to our program will
be published in January in a new Legal Support
and Administration manual. Most recently, we
have formed a working group of trial counsel,
defense counsel and the victim legal counsel to
study our Uniform Rules of Court, and we'll be
proposing changes to the Trial Judiciary to
ensure that we have a consistent set of rules in
our courts.

The Marine Corps certainly has much
more work to do, but going forward we believe it
is important to maintain the fairness and constitutional soundness of the military justice system. With the newest fundamental changes to the military justice system in the last few years, our legal community, commanders and Marines need time to adapt to the new rules, to analyze the consequences, and to see whether further, far-reaching adjustments are needed.

With these principles in mind, the Marine Corps is fully committed to consolidating our gains and continuing to fight to end sexual assault within our ranks. We look forward to continuing to work with you to further refine military justice proceedings to allow us to enhance the Marine Corps' response to sexual assault. I look forward to answering any of your questions.

CHAIR HOLTZMAN: Thank you very much.

We are nearly running out of time, so I'm going to propose, subject to impeachment and removal, a five-minute rule on questions and answers. So -- for each member, and then if we still have questions after that, we can do that, but we need
to have some time for public deliberations. So I hope you'll bear with us, please. Keep your answers short, and we'll start with Judge Jones.

JUDGE JONES: I'll ask my question quickly. We heard, and the report bears out that victims of sexual assault are reporting in greater numbers, and that the percentage of victims who make restricted reports and are changing to unrestricted reports has also increased, and I just wonder whether or not there's any analysis being done now as to how many more SVCs and VLCs one might need in the future with this obvious, you know, expansion of clients.

VADM DERENZI: Well, we're constantly assessing that --- we look first at distribution, are they distributed appropriately. We started with three concentration areas, and what has always been true we have them in the right places, and we're taking note of the caseload that each counsel has and the nature of support that they're providing, because it ranges in
everything from, you know, something that is not a complex long-term representation to a full general court martial for a penetrated rape. So yes ma'am, that's something that we take very great care to see. We have not reached the point now where we think we're going to go; we need to go back to the Navy to look for additional victim legal counsel. We do think we may need to rearrange how they're arrayed out ---

JUDGE JONES: Before I let everybody else answer, I apologize, I guess this is really the companion question. We heard some suggestions this morning that with the recent cuts, priority was not given to preserving the number of special victims counsel or victims legal counsel, and I guess really for me the question is after the most recent set of cuts, do we still have the same or greater number of counsel out there that are available? And then now everyone can answer I suppose. Thank you, Admiral DeRenzi.

VADM DERENZI: Yes, ma'am, in fact, my
legal program has plans to grow across the field;
we'll have to see if that's allowed to be
maintained as fiscal constraints present
themselves, but there's no indication that the
JAG Corps is going to suffer cuts in the future.

JUDGE JONES: General Darpino?

LT. GEN. DARPINO: The Army

traditionally of all the Services has the lowest
number of restricted reports. That is why we
concentrated on the Special Victims Prosecutor
program, our reports traditionally have between
like 86 or so percent are unrestricted. So while
we're seeing a conversion, we don't see that as a
groundswell because our majority was always
unrestricted. As far as personnel growth, we
have added to our JAG Corps with the support of
the leadership on both manning documents. There
are two types of manning documents in the Army,
and we have gotten support both in the war
fighting Manning document, and also in the
garrison Manning documents for additional
personnel.
Obviously as a Soldier, I've been judicious in what I have asked for in order to make sure that as the Army's coming down in size, we don't become an army of lawyers, but I think that we have balanced the two and I don't feel at all under-resourced in this area.

JUDGE JONES: General Burne?

LT. GEN. BURNE: Well as you heard in my remarks, due to the force shaping boards in the Air Force that took place much earlier this year, we did lose six SVCs, and this was six SVCs in the form of persons, not slots, and so we have backfilled those positions with others. We have now recognized as I also mentioned that we are at a point where we think our ratio between clients and SVCs, with the trend line increasing, would be cause for increasing the number of SVCs, and we're in the course of working with our personnel folks to do that. We're currently at about 33 SVCs and we think we're going to go to 40.

In addition to that, one side note, there was a reduction in force effort in October
that would have affected field grade officers. In the JAG Corps, it would have been 39 majors that would have been cut. But recognizing that we have sustained as much as we could with the cuts of the captains in the JAG Corps, the Secretary of the Air Force made the decision to remove the JAG Corps entirely from that cut, allowing us to keep those majors. A percentage of those majors now are becoming what we're calling our senior SVCs and are going to be assigned starting in January to various places in the country where they'll be clustered, and that way they will then be a line of supervision between the captain SVCs in our wings and the lieutenant colonel/colonel who's in charge of the SVC Program here in Washington. So we are expanding the program to meet demand.

JUDGE JONES: Thanks. Admiral Poulin?

RADM POULIN: Our statistics certainly bear out the foundation of your question. We are seeing an increase in the number of reports and we have seen a trend towards restricted reports
being transitioned to unrestricted reports. For example, last year in FY 14, we had 45 restricted reports; 12 of those individuals decided to accept SVC; of those 12, 7 ended up becoming unrestricted reports. So I think those statistics bear out the foundation of your question.

We have --- we're just now stepping up our full-time SVC Program, and that's why I need to continue to retain the collateral duty SVCs. I have 30 collateral duty SVCs trained; 15 are currently performing the mission. The fact that I have 30 trained gives me the opportunity to turn that valve and bring more SVCs on if the demand increases. I think we're okay right now, but certainly having more trained is going to allow me to have that flexibility.

With respect to cuts to the program, I think we're perhaps differently positioned than the other services, being in the Department of Homeland Security. The Commandant has made it a priority to preserve the work force as much as
possible, and it is a challenging budget environment, but I know the Commandant has placed a high priority on the SVC Program and sexual assault, so there are no intended reductions to our SVC Program. Thank you.

JUDGE JONES: Thanks. Colonel Baker?

COL. BAKER: We are absolutely studying the demand signal for the —

JUDGE JONES: I'm sorry, I can't hear you.

COL. BAKER: We're absolutely studying the demand signal for the Victim Legal Counsel Organization and the structure at this point. With one year's body of work to look at, we really need a little bit more time to see if we have it right. We have seen lawyers have been excluded from the Marine Corps' reduction in force measures starting the first of January. We are --- the Marine Corps is cutting --- not cutting, as force shaping mechanisms to allow majors and lieutenant colonels to leave the Marine Corps, and lawyers have been excluded from
that, partially because of the demands of the
military justice system.

JUDGE JONES: Thank you.

CHAIR HOLTZMAN: Thanks very much.

Admiral Tracey?

VADM(RET) TRACEY: I'll defer my
questions so people who didn't have a chance on
the last panel, but I thank all the panel members
for their presentations.

CHAIR HOLTZMAN: Five minute rule.

Mr. Stone?

MR. STONE: Thank you. The very first
speaker this morning, who was Retired Colonel
Christensen, was telling us how important it was
that we needed rules of procedure, and he was
going to submit to us his suggestions. I was
delighted to hear two of you say that you are
also working on rules of procedure, and all I was
going to ask was if you get to the point where
you're submitting them to the judges and you have
worked out what you think the rules should be
about where the counsel stand and what notice
they get of pleadings and things like that, if
you could submit your copies to us when you can,
that would allow us to have a balanced view and
not just one side's view of what they think the
rules should be, and I think that would help us
enormously. Thank you so much.

CHAIR HOLTZMAN: Thank you. Mr. Taylor?

MR. TAYLOR: So we've heard testimony
from a number of SVCs about their frustration
with the lack of clarity with the rules, and I
certainly understand the consensus you're at with
no overhaul of Article 120, but my question is
does anyone have any suggestions about how to
expedite the JSC process so that it doesn't take
quite so long to move from proposals to something
an open question for anyone to answer who would
like to make a suggestion.

LT. GEN. DARPINO: I don't know if I
have a suggestion, Mr. Taylor, because as you
know with rulemaking and the procedures required
with rulemaking are in the federal process, and it has to go to the President after public comment. I'm not sure aside from what they've done already, which is limit the public time line, that it would go any quicker, and I know they're working very hard on it, but it's a matter of law that rulemaking in the federal government is done a certain way for the rules themselves. For procedures inside a courtroom as we mentioned, the Trial Judiciary in the Army is also working on that. But when it comes to RCMs and MREs, I don't know if anybody else has any rulemaking -- I'm not a great ad law attorney, I admit it.

COL. BAKER: I'd like to add another comment, sir. The process --- as an example, the public comment period, where we receive --- JSC receives input from the public is incredibly valuable, and as we get public comment as one of the speakers mentioned, as we get public comment on what was drafted, it allows the JSC to look and perhaps rethink the rules that they created.
I guess I would like to perhaps re-emphasize that for most of us, this system is less than a year old, and I think that slow and deliberative and right is better than quick and not getting it right.

LT. GEN. BURNE: I would just add that as a very small means of trying to accelerate the process, one thing that we have initiated amongst the TJAGs that had not been occurring from what I understand with a degree of regularity in the past, is we meet now on a very regular basis and discuss what's happening with the JSC, and where they intend to -- the direction of where they intend to go with items as to Article 32, Article 60 changes, et cetera, SVC changes, Rules of Practice. And we amongst ourselves try to come up with a consensus as to what direction we would like to see this go in, and then as principals, give that direction to our representatives, short cutting a lot of the staffing process that used to occur in between. It seems to have accelerated the process slightly, but as stated,
the bureaucratic wheels sometimes turn much too slowly. I'm not sure that we can rectify all of that, but I think we're doing our parts at our level to try to accelerate it.

MR. TAYLOR: Well thanks to all of you for your leadership. That's all I have, ma'am.

CHAIR HOLTZMAN: Thank you. All of you mentioned that the program, the SVC Program is relatively new, newer in some branches than in others, and it's not perfect, so I'd ask you to identify the two top problems you see and what you plan to do to correct them with the special victims counsel or legal victims counsel program.

VADM DERENZI: I don't know ma'am that I would classify them as problems --

CHAIR HOLTZMAN: I don't mean to be derogatory, I mean I understand that this is a program that needs to be fine tuned.

VADM DERENZI: And I think we've hit on that. I would look at areas where we need to clarify and standardize where we can, things like access to information, things like the procedures
that you just referenced. I think those are the areas where we need to and where we are focusing our efforts. I, too, get impatient with the pace of bureaucracy, but I will tell you that I am more active than I have ever been as the Judge Advocate General. I've been in the position for two and a half years now, a little more than that. Particularly when it comes to this, because it is so very important that we get it right, and to the extent that it may take a little bit longer, speaking for myself, as I try to sort through what we should do now, what should we let develop through the court systems, and when we should promulgate a rule or guidance, I stop always to try to consider the second and third wind effects, the things that we may not be thinking of under the gun to do things quickly, and I think that's critically important, and as General Burne said, we've brought our experience to bear as a group, and I found it very, very helpful.

LT. GEN. DARPINO: I echo exactly what my fellow TJAGs said, and I think the other thing
that we've been trying to do as a team when it comes to challenges, access for information is clearly one of them, what, you know, as TJAGs sitting down with my team and saying what is clear that I can change by policy? What can I do by policy and what are legal or constitutional issues that could impact the court martial or the investigation? And thinking through that, then issuing a policy which is what I did with access to information once the investigation is complete. And immediately upon issuing that, sending it out by email to my fellow TJAGs so that they then too can determine what they want to.

And we talk about while the investigation is going on and the concerns, you know, valid concerns that the MCIOs have regarding giving information to witnesses while an investigation is still ongoing. Going to my fellow Provost Marshal General on staff and saying we're going to have a working group; what do you think? And now CID is sitting down with
our members of the JFC, the Army members, and
we're sorting through what are true issues when
it comes to investigation, and at what point can
we influence this by policy? Because I don't own
the investigation portion; I only own it once
it's complete. And so let's push them, where can
we go with policy?

So we're trying when we see these
challenges to effect change with our JFC as they
mentioned, figuring where we can issue policy,
and then working also with the judiciary to make
sure they're aware and hopefully programmatically
through the rules, being able to also solve some
of those problems. I hope that answered your
question.

Burne?

LT. GEN. BURNE: I see --- and I'll
quickly touch on, and make perhaps three points,
but access to information needs to be sorted out.
We are pursuing the access of information through
official use channels versus a strict FOIA
approach; that's kind of a subset of that or
argument of that. I understand that that
question came up with the Panel and that DoD
General Counsel is submitting a letter to you
today that echoed our approach on that. But it
doesn't answer all of the questions on access,
and so that's an issue that we're actively
engaged in.

Another is the SVC balancing SVC
availability with the investigator's zeal to
continue. Our investigators in particular, OSI,
have invested tremendous resources into the
specialized role of investigating sexual assault
offenses. They have set metrics for themselves,
and they want to advance on these cases. The
frustration comes when the investigator, when
confronted with a new matter, wants to get with
that victim, and the victim says well thank you,
but I want my SVC with me, and my SVC this week
is at Grand Forks Air Force Base at a court
martial representing another victim, and after
that they're at a different base, and they'll be
back here two and a half, three weeks, and the investigators are saying well we don't want to wait two and a half or three weeks. So by introducing --- what we already talked about --- more SVCs into the system, that will alleviate that.

Another thing is I'm working with the Inspector General, who OSI falls under, and the OSI commander, so that there is a better understanding among investigators as to the value added of having the SVC right there with their client and how that actually enhances the interview and the free flow of information which I think we've heard a little bit about also. And so as that --- again it's a new program, but as we work through that, I think that will help alleviate that particular rough edge that we're experiencing.

And finally, very briefly, SVC availability for the scheduling of hearings in cases, they're not formally a party to the proceedings, and at the current time, they must
go through the trial counsel with their
schedules and hope that the trial counsel
advances the SVC's calendar when the judges are
setting the schedules for hearings. We'd like to
work through that also, the rough edge as I call
it, to smooth that to give SVCs greater access
and availability to those scheduling hearings so
that all these participants in this trial process
can fully engage in the process. Thank you.

CHAIR HOLTZMAN: Thank you very much,
sir. Rear Admiral Poulin?

RADM POULIN: Madam Chair, I would
highlight two concerns. One is experience in the
SVC Program, and the other is geographic
assignment and availability of SVCs. With
respect to the first issue, experience, the
situation I have now is not desirable where I
have new attorneys coming in to staff those full
time SVC positions. I've already made a decision
that in the future, as we look at assignments in
the out years, that those SVC positions, to the
maximum extent practicable, will be experienced
attorneys, attorneys like Lt. Cdr. Kelley Stevens
that you talked with earlier. I want seasoned
attorneys in those positions. The other way is
to make sure that I keep that collateral duty SVC
Program alive, because that's the way that I can
pull in more seasoned attorneys as well.

On the geographic availability, one
thing I should note here is that unlike the other
military services, we're not in big bases. We
are geographically dispersed all over the country
in small units; I was an operational commander
down in Mobile, and I had Mississippi, Alabama,
Florida Panhandle, and I had 600 people that were
geographically dispersed throughout that entire
region. I had one 87 foot patrol boat that was
in Carrabelle, Florida that had 10 people on it.
So that just gives you an example of how
dispersed we are.

So my concern is that our SVCs,
especially the full time SVCs, exist in
Washington, D.C., and Alameda, California. How
can I make sure that those folks are
geographically available? One is, I'm centrally
managing travel funding for the SVC Program to
make sure that I have a sufficient pot of money
to make sure that those SVCs can go out and
travel and meet with their clients. The second
is back to the collateral duty SVC Program;
that's one of the reasons why I have to keep that
as a viable program. Thank you.

CHAIR HOLTZMAN: Thank you. Col.

Baker, sir?

COL. BAKER: Ma'am, the first one is
one that everybody has touched on, and that's the
need for consistency in the rule process.

CHAIR HOLTZMAN: Will you pull the mic
closer to you, please?

COL. BAKER: The first is one that
others have touched on, and that's really a need
for consistency in some of the rulemaking
process. The second is one --- is really
awareness of the program. This program is new,
Col. Joyce, our OIC, has gone around the Marine
Corps, talked to all the commanders; the
Commandant recently invited her to talk to all of our three and four stars, and her counsel are out there trying to get the word out, we've had media coverage and whatnot. But we want to make sure that everybody knows about the program, and then I know, I guess a third is the issue of eligibility. When we get our operational planning team to stand up to Victim Legal Counsel, it seemed like this would be easy. If you rate legal assistance, we provide you with services. But we didn't think about what happens if you get divorced right before court, and Col. Joyce and I talk almost every day, and I know the thing that she struggles with the most is --- the eligibility requirements.

CHAIR HOLTZMAN: Okay thank you. Does anybody else on the Panel have any--is there any questions?

MR. STONE: Well I would just ask if anybody has anything to tell us about whether on anybody's radar screen is the fact that the military doesn't have an electronic docketing
system, case filing system like the federal
government, like lots of states, where everything
is posted, including documents for people to
download, and it takes the load off the trial
counsel that people say you haven't notified me
and the public documents are available to
everybody including, as we hear the Victim
Advocates who say we don't know when the trial
is, I just wondered if that's being considered in
any of the services.

LT. GEN. BURNE: It certainly is in
the Air Force, Mr. Stone. You know, we have our
AMJAMS system which we can talk about, but that
is a case management system which allows input
from wings and all to track cases as to their
development. It is not very good --- once it
gets into the trial stage of doing the types of
important things that you mentioned. So we have
the same team of folks in our directorate that
handles our computer legal research and
development programs that are studying that. I
fully expect recommendations on that to be coming
forth sometime in the beginning, first half of
2015.

CHAIR HOLTZMAN: And I assume you'll
share some of that information with your
colleagues?

LT. GEN. BURNE: We absolutely will,
yes ma'am.

CHAIR HOLTZMAN: Well thank you--okay,
well thank you very, very much. You always are
welcome to share any thoughts or suggestions or
concerns with us; we have an open door. Thank
you again very, very much for the guidance and
for your time. Okay, we'll take a three-minute
break, and then we'll have an half hour, 30
minutes to deliberate.

(Whereupon, the proceedings recessed
from 4:21 p.m. to 4:30 p.m.)

CHAIR HOLTZMAN: Well, I'm sorry that
we don't have our full compliment, but we will go
ahead and start--I suggest that we begin
deliberations as we have to with regard to our
February report that's due on February 15 to the
Congress and the Secretary of Defense. The staff has sent a proposed outline to the members, and I just thought we would start—we don't have to finish, but get a sense of your feelings about this proposed outline and—which appears on the first page, and then of course let's fill it in a bit in these other pages. But to give us a sense of how you feel about the proposed outline, does it have any major omissions, does it have any sections that you think shouldn't appear in it. I just want to remind you that we have a—we'd really like to be out of here by 10 to 5 if that's possible, because some of us have to catch a train to another destination unspecified. Anybody can start the conversation.

JUDGE JONES: Well I mean I generally like the outline. I think when you go through the Article 120 section, it basically faithfully reflects what that comments many of us made during the earlier meetings, and it also I think accurately expresses what we want it to do in terms of creating a subcommittee and having the
subcommittee delve more deeply into—and I won't
go through every one of them now, but each of the
possible suggestions for change to Article 120.

And the only other thing I wanted to
raise, and I actually have already mentioned it
to you, Madam Chair, is I think this outline
suggests that we were going to send MRE 412 and
MRE 513 to either that committee, that
subcommittee or another one, and I didn't think
we had decided to do that.

CHAIR HOLTZMAN: Yes, I think that the
staff got a little ahead of itself.

JUDGE JONES: Oh, okay.

CHAIR HOLTZMAN: They were anticipating
that we might.

JUDGE JONES: Okay.

CHAIR HOLTZMAN: And maybe we would
want to at some later point, but I think you're
absolutely accurate that we had not as a panel
made that recommendation, but of course we
reserve the right at any point if that—if and
when that subcommittee is created, to refer other
matters to them if we think it's appropriate. So thank you for pointing that out. Mr. Taylor, do you have comments on this draft, the proposed outline?

MR. TAYLOR: Yes, thank you. I certainly agree with Judge Jones that this faithfully represents pretty much the discussion we've had to this point about what to do. I would say that on page 5, where the draft says "the JPP did not unanimously find issues with the provision regarding the administration," I think at that time, Judge Jones and I felt that we really didn't need to do anything more on this, and that's just what the footnote reflects, and that's what my memory serves. It also represents that we felt maybe there would be some more specific information that we needed from the Services, and I don't know whether—if we ever followed up on that or not. So I was comfortable at the time with just leaving that as it is, and I still am. But I just thought I'd mention that for what it's worth.
CHAIR HOLTZMAN: Colonel Kyle, do you have any—I mean Colonel Green, I'm sorry.

LT. COL. GREEN: Ma'am, we have not asked through a request for information for the Services' information on this specific topic. I guess it's up to whether we want to do that prior to having subcommittee consider that as part of its deliberations and analysis or whether the Panel feels it needs more information as part of its reporting process in February.

CHAIR HOLTZMAN: Well I think that the other concern is according to Mr. Taylor, we're not sure that this accurately reflects our conclusion; is that correct, or—

MR. TAYLOR: Well, no ma'am, I didn't mean to say that. I think it does reflect where we left it. I think we left it in an incomplete state, whereas I was willing to say this is one we don't need to spend any more time on and we can take it to the table. That's what I intended to say.

CHAIR HOLTZMAN: And I think I
remembered that I agreed with you, now that I
review it.

LT. COL. GREEN: We can request
information and talk to the Services about that,
and at the January meeting, we can provide any
information we determine for the Panel to
consider.

CHAIR HOLTZMAN: Mr. Stone?

MR. STONE: The only--I like the
outline and I like what I've seen so far, I
thought it was very good. There is a section
down at the bottom we haven't gotten to yet, on
the outline roman numeral 4, the rights of
sexual assault victims throughout the judicial
process, and capital B, information of rights of
victims to be able to exercise their rights. I
just want to make a note that that goes beyond
the victims legal counsel for the victims
assistance. In the rest of the United States and
federal practice, for example, victims in every
single federal district can look up on the U.S.
Attorneys site and see, there's a victims--it's
on the website and you don't need a password, and
you can see the progress of the cases you're in.

So you get a PIN number to dial into
the victim notification system if they want to
find out anything that's in the victim
notification system. So there will be victims
who maybe never or maybe not yet have chosen to
think they need assistance, but they will fall
within victims who need to be able to have
information, so I just think when that part is
written, it should be broad enough to recognize,
and that's why I talked about something like an
Internet electronic case filing system, which
ever person can see. You have to realize that in
fact, that will take some of the burden off of
the providing -- a victim assistant and the
Special Victims' Counsel every time a victim
wants to know something. They shouldn't have to
call the office every single time. Other victims
don't, and it allows the resources to be saved
for when they actually have something they can't
just read and understand; when is the next court
hearing and what was the last one. That's my
only observation, so I hope that when we write
that, we at least look at it a little bit
broadly.

CHAIR HOLTZMAN: I wanted to--oh, I'm
sorry. Admiral Tracey.

VADM(R) TRACEY: I support the outline
as it's written, and I sort of remember the same
thing that Mr. Taylor did about page 5, and would
be willing to suggest that that requires not much
further review.

CHAIR HOLTZMAN: Okay, well I'm not
sure that I fully understand that yet, so I'm not
sure that I'm going to support my very esteemed
colleagues in this point. I respect their
judgment enormously, but I'm not there yet, not
because I don't agree with it, I just haven't
reflected on it. The only point I would make,
and Kelly, who showed me a much more
comprehensive outline, was the--in the first
roman numeral, that Article 120, it doesn't
really quite deal with the issue of consent.
That was an issue that Mr. Taylor had raised, but
I see that in Col. Kelly's very exhaustive
outline number 2, or maybe it's 3 or 4, I don't
know, or 10, that consent is in there. So that
will be dealt with, and I think that that's
obviously a vital issue.

And I think also in the last list of
items, roman numeral IV, I don't know how much
information we really have on all of these
issues. For example, victim interlocutory
appeals. That was an issue that the Response
Panel raised, but I'm not exactly sure that we
know--

JUDGE JONES: And we just heard today
that there were four writs against, I think it
was Lt. Gen. Darpino, but I think I know what two
of them were about, but we do need more
information.

CHAIR HOLTZMAN: So there may be, you
know, those are really important issues, I'm not
sure that the Panel has enough information. If
we don't have enough information, then perhaps we
can't really report on it.

    LT. COL. GREEN: I think ma'am the outline reflects a mix of information received or facts that have been gathered and particularly on the special victims counsel program, privacy issues and the access to information of the rights of victims to the judicial process. Obviously, we've not had deliberations of the Panel on recommendations, and so I think one of the things you mentioned was the more detailed outline. The staff is writing to try to assemble all the information within those areas of information that you received, either through your meetings or through the request for information, and so we're building those to provide you in advance of that deliberations meeting. I think the challenge or the goal would be at your January meeting to determine what of that you feel like you have enough information to make recommendations versus what you believe you need to continue to study.

    CHAIR HOLTZMAN: Okay, so that this
is--so point number 4 and the items underneath it
aren't necessarily going to be included in the
final report if we determine we don't have enough
information to make that report?

LT. COL. GREEN: That's right, or they
may just be reflective of what we basically
learned and what we think we need to gather more
information on.

CHAIR HOLTZMAN: Okay, great. Okay.
Well I just want to compliment the staff for
doing really an excellent job. This is very well
written and contains basically--fully reflects
what we've been doing, so I want to thank you
Col. Green and Col. McGovern and all the rest of
the staff for the very good work, and we look
forward to some additional work. Is there
anything else, any other comment with regard to
this report? I think just to--our plan is to
have a meeting in January where we can just fully
discuss the report and maybe, and plan for a
second meeting if one meeting will not be
sufficient, and what's the staff's estimate about
when we're going to get a full document?

LT. COL. GREEN: Our goal is to have all of that for you a week in advance of the January meeting, probably even more than that.

CHAIR HOLTZMAN: Yes, do we have one date scheduled already?

LT. COL GREEN: For the meeting?

CHAIR HOLTZMAN: Yes.

LT. COL GREEN: Yes ma'am, it's 16th of January, so second or the third Friday just given the holidays, so yes ma'am, the 16th of January.

It will be at the federal courthouse down--

CHAIR HOLTZMAN: I hope we can have a writer on board too too--even though this report doesn't necessarily reflect a need for that, it certainly will help the staff focus on the substance.

LT. COL. GREEN: Yes, ma'am.

CHAIR HOLTZMAN: Well, if there are no further points that anybody wants to make, thank the staff again, wish everybody Happy Holidays and Happy New Year, Merry Christmas and all the
other holidays, and I know Maria has to say
something, otherwise it's not legitimate,
whatever we do.

             MS. FRIED:  Happy Holidays everyone,
and this meeting is closed. Thank you.

             (Whereupon, the proceedings were
concluded at 4:43 p.m.)
fruition 235:11
frustrated 60:17
frustration 301:10
308:16
FS3's 193:6 213:13
Fuel 167:20
fueling 167:22
fulfill 150:18
full 154:12 161:12
169:10 180:18 248:11
248:13 281:12 284:14
285:5 288:16 294:2
310:18 311:20 315:19
326:1
full-bird 54:12
full-time 160:1 282:1,4
284:5 285:1 298:9
fullest 52:19
fully 12:10 121:2
151:16 160:21 233:5
236:17 237:15 273:22
282:18 284:2 291:22
310:9 314:22 322:13
325:12,19
function 165:5
functional 272:8
fundamental 37:14
233:19 267:3,5 292:3
fundamentally 15:5
34:6 37:5 244:16
funding 312:2
further 68:11,19 88:12
101:22 145:11 156:3
234:18 263:10,11
272:15,20 273:3
291:12 292:6,13
322:11 326:20
Furthermore 66:2
future 69:20 154:20
155:3 158:2 222:8
227:8 230:8 279:15
284:22 285:2 293:13
295:5 310:20
FY 235:13 288:7 290:22
298:2
G

gains 292:10

game 12:11

gap 57:6 247:16 250:4
262:22

garrison 295:21

gather 221:11 325:7

gathered 324:4

gathers 112:10

Gen 3:14 15 245:16
260:1,10,14 295:7
296:8 301:20 303:6
305:21 307:16,18
314:11 315:6 323:16

general 2:10,10 9:9,9
9:15 17:6 26:6 31:17
34:15 36:12,16 38:10
38:15 40:2,5,18,22
42:3,12,18 67:17
159:10 161:5 166:20
170:21 232:13,15,16
232:16,17,19 242:16
244:3 245:14 252:10
259:19,20,21 263:8
275:12 276:15 278:14
278:18 280:21 282:6
286:3 287:20,21
288:4 294:3 295:6
296:7 305:6,18
306:20 308:4 309:8
General's 170:12
generally 216:13
217:12 265:7 316:16
generals 9:11 22:21,21
23:5 29:6

generation 270:13

geographic 310:14
311:7

geographical 55:18
84:9

geographically 311:10
311:14 312:1

geography 111:16

George 176:20

Germany 171:18

173:13,17 186:21

getting 30:13 47:19
57:2 59:5,16,17 60:1
61:10 75:4 77:11
79:10 106:17 120:4
124:15 128:9 143:13
166:12 166:17 195:9
207:3 210:8 212:3,8
212:11 213:12 217:6
231:4 303:4

Gillibrand 37:6
give 22:17 23:17 37:20
38:6 48:20 49:4 57:10
57:14 59:4 63:11 86:4
108:9 133:10 140:14
145:10 150:3 158:13
160:21 161:2 172:12
176:8 185:3 187:18
192:16 200:4,5
207:17 212:14,15
215:22 216:22 217:1
217:9 230:16 261:11
303:19 310:6 316:7

given 9:1 22:11 155:1
163:13 169:11 197:4

198:20 230:12,14
244:20,20 294:14
326:10

gives 44:7 62:5 107:12
132:11 235:15 298:13
311:17

giving 136:19 191:18
217:7 230:15 248:5
306:18


glad 33:10 173:1

globe 243:9

Gloria 2:3 37:4 64:9,20

GMTs 82:18

go 23:1 29:1 31:4,6
33:9 36:12 37:3 44:19
59:12 61:4 73:7 76:1
76:17 77:12 78:1,13
78:14,15 79:19 81:16
81:18 84:4,18 86:2
92:3 93:18 95:12,19
103:22 104:3 109:14
110:7 112:6 113:11
113:22 116:8 117:17
119:15 120:2,6
121:15 122:1,9 123:2
123:6 125:10 129:1
134:20 135:2 137:20
141:1 143:12 144:3
145:12 156:10 161:17
174:12,15,16,17,17
175:3,8,15 180:11
182:1,9,16 183:6,7,19
185:12 186:3,4,5
187:5 196:18 197:2
198:14 200:11 202:4
205:1 206:1,2,3 213:4
215:16 218:12,20,21
219:15 221:9 223:9,9
226:4 227:13 230:18
230:19 246:15 269:1
280:6 294:6,7 296:20
302:5 303:14,18
307:7 310:1 312:4
315:9 316:17 317:2

goal 247:15 249:1
324:17 326:2

goes 44:16 99:21
133:11 164:11 183:16
199:17 223:12 320:17

-going 17:21 19:8 20:15
20:16 29:15 42:11
44:15 52:16 58:3,5
64:15 67:16 74:15
76:4 77:21 80:1 91:2
92:17 95:21 98:17
102:12 104:17 106:2
110:4 113:2 114:8
116:7 117:20 120:6,9

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Secondly 70:6
Secretary 263:7 269:6 297:6 316:1
sections 195:18 316:10
sector 130:21
seek 236:4
seeking 171:11
sees 223:13
segment 108:11
select 129:23 238:8 249:18 268:9
selected 150:12 239:19 250:8, 10 266:8 267:14 268:16 269:4
selecting 14:8 241:11
selection 266:7
selling 26:8
yellow 194:14
yesterday 22:19
York 8:4 33:11
younger 19:19 132:22
zeal 308:10
Zukunft 276:7
yellow 194:14
yesterday 22:19
York 8:4 33:11
younger 19:19 132:22
zeal 308:10
Zukunft 276:7
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In the matter of: Judicial Proceedings Panel

Before: DOHA

Date: 12-12-14

Place: Arlington, VA

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