

UNITED STATES DEPARTMENT OF DEFENSE

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DEFENSE ADVISORY COMMITTEE ON INVESTIGATION,
PROSECUTION, AND DEFENSE SEXUAL ASSAULT
IN THE ARMED FORCES (DAC-IPAD)

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PUBLIC MEETING

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THURSDAY
OCTOBER 19, 2017

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The Committee met at One Liberty Center, Suite 1432, 875 North Randolph Street, Arlington, Virginia, at 1:15 p.m., Martha Bashford, Chair, presiding.

PRESENT

Ms. Martha Bashford, Chair
Maj. Gen. Marcia M. Anderson, USA, Ret.
The Hon. Leo I. Brisbois
Ms. Kathleen Cannon
Ms. Margaret Garvin
The Hon. Paul W. Grimm
Dean Keith Harrison
Mr. A.J. Kramer
Ms. Jennifer Gentile Long
Mr. James Markey
Dr. Jennifer Markowitz
CMSAF Rodney J. McKinley, USAF, Ret.
Brig. Gen. James Schwenk, USMC, Ret.
Dr. Cassia C. Spohn
Ms. Meghan Tokash
The Hon. Reggie Walton

WITNESSES:

Ms. Hannah Stolberg

Dr. Nathan Galbreath, Deputy Director, Sexual
Assault Prevention and Response Office, US
Department of Defense

Ms. Diana Rangoussis, Senior Legislative and
Policy Advisor, Sexual Assault Prevention
and Response Office, US Department of
Defense

Mr. Paul Rosen, Director, U.S. Navy Sexual
Assault Prevention and Response Branch

Ms. Gail Reed, Policy and Plans Program
Specialist, U.S. Marine Corps Sexual Assault
Prevention and Response

Colonel Melanie A. Prince, U.S. Air Force,
Division Chief, Interpersonal Self-Directed
Violence Response Division

Lieutenant Amanda Styles, U.S. Coast Guard,
Central Assignment Coordinator, Personnel
Service Center Enlisted Personnel Management
Division

Major Simone Jack, U.S. Army, former Special
Victims' Counsel

Lieutenant Commander Clair Huffstetler, U.S.
Navy, Victims' Legal Counsel

Major Jessica Martz, U.S. Marine Corps, Deputy
Officer-in-Charge, Victims' Legal Counsel
Organization

Captain Brittany Tedford, U.S. Air Force, Special
Victims' Counsel

Commander Paul Markland, U.S. Coast Guard,
Special Victims' Counsel

STAFF:

Captain Tammy P. Tideswell, JAGC, U.S. Navy -
Staff Director

Colonel Steven B. Weir, U.S. Army, JAG Corps,
Deputy Staff Director

Dwight Sullivan, Designated Federal Official

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

2 (1:15 p.m.)

3 MR. SULLIVAN: Good afternoon. I'm
4 Dwight Sullivan, I'm the designated federal
5 official of the Defense Advisory Committee on the
6 Investigation and Prosecution and Defense of
7 Sexual Assault in the Armed Forces. This meeting
8 of the Committee is open.

9 If a member of the audience would like
10 to comment on any issue before the Committee,
11 please direct your request to the Committee Staff
12 Director, Captain Tammy Tideswell, who is seated
13 to my right.

14 All public comments will be heard at
15 the end of the meeting and at the discretion of
16 the Chair. It would be inappropriate for any
17 member of the public gallery to offer oral
18 comments at any other time.

19 Written public comments may always be
20 submitted for the Committees consideration. Ms.
21 Bashford, the Chair is yours.

22 CHAIR BASHFORD: Thank you, Mr.

1 Sullivan. Good afternoon all. I'd like to
2 welcome the members, participants and everyone in
3 attendance today to the fourth meeting of the
4 Defense Advisory Committee on Investigation
5 Prosecution and Defense of Sexual Assault in the
6 Armed Forces, or DAC-IPAD.

7 The Secretary of Defense appointed 16
8 members to the Committee, all of whom are
9 participating here today. The DAC-IPAD was
10 created by the Secretary of Defense in accordance
11 with the National Defense Authorization Act for
12 Fiscal Year 2015, as amended.

13 Our mandate is to advise the Secretary
14 of Defense on the investigation, prosecution and
15 defense of allegations of sexual assault and
16 other sexual misconduct involving members of the
17 Armed Forces.

18 Before we get started today I would
19 like to recognize and introduce the new deputy
20 staff director of the DAC-IPAD, Army Colonel
21 Steven Weir. Would you standup please so
22 everybody can see you? Thank you.

1 Colonel Weir comes to us from Newport,
2 Rhode Island where he led the defense institute
3 of international legal studies for the past three
4 years. Colonel Weir has significant experience
5 in Military justice.

6 He has served as a staff judge
7 advocate multiple times, as a chief of military
8 justice, as a defense and senior defense counsel
9 and as a trial counsel. Welcome, Steve, and we
10 are delighted to have you here with us.

11 Please note today's meeting is being
12 transcribed and the complete written transcript
13 will be posted on the DAC-IPAD website at
14 <https://dacipad.whs.mil>. The written materials
15 provided to the Committee Members, in preparation
16 for the meeting, are also available on the DAC-
17 IPAD website.

18 Next, I would like to recognize and
19 introduce our Military Service representatives
20 who will assist the Committee with any policy
21 questions that might arise during our
22 discussions. Could you please stand and just

1 identify yourselves for the benefit of the
2 Committee and the Members of the public? Thank
3 you.

4 LT. COLONEL VERGONA: Hi, I'm
5 Lieutenant Colonel Mary Catherine Vergona. I am
6 the Army representative.

7 MR. MARTINSON: I'm Jim Martinson, I'm
8 the Navy representative.

9 MAJOR SHEW: Good afternoon, I'm Major
10 Wayne Shew, I'm the U.S. Marine Corps
11 representative.

12 CAPTAIN AHLERS: Good afternoon, I'm
13 Captain Joseph Ahlers, United States Air Force.

14 CHAIR BASHFORD: Thank you very much.
15 I'm just going to reiterate what Mr. Sullivan
16 said.

17 Each public meeting of the DAC-IPAD
18 includes a period of time for public comment.
19 The Committee has received no requests for public
20 comment for today's meeting. And again, if a
21 member of the audience would like to comment on
22 an issue, please direct your questions to our

1 staff director, Captain Tammy Tideswell, here.

2 All public comments will be heard at
3 the end of the meeting and at the discretion of
4 the Chair.

5 We'll begin today's meeting with an
6 important reminder of why we are all here, as we
7 listen to the testimony of a courageous former
8 Air Force Senior Airman and sexual assault
9 survivor about her unfortunate experience and how
10 it has affected her life.

11 Next, we will turn our focus to the
12 issue of the Military's expedited transfer policy
13 for Service members who make an unrestricted
14 report of sexual assault. Representatives from
15 the Department of Defense and the Military
16 Services will explain their policies and
17 procedures and how they have been implemented to
18 date.

19 After that, we will hear perspectives
20 from special victim's counsel and victim's legal
21 counsel, from each of the Services, about the
22 victims counsel program and how the expedited

1 transfer policy is working in practice.

2 This meeting will continue tomorrow
3 morning at 8:45 in this location. The focus of
4 tomorrow's meeting will be on the legal and
5 sexual assault response training received by
6 commanders, as well as their experience in
7 handling sexual assault allegations and expedited
8 transfer requests.

9 Thank you very much for joining us
10 today, we are ready to begin the meeting. And I
11 would like to welcome Ms. Hannah Stolberg. Thank
12 you for being here, thank you for sharing your
13 experiences and we are honored to hear from you.

14 MS. STOLBERG: I'm sorry, it will take
15 me just a second to get a little situated here.

16 CHAIR BASHFORD: Take your time.

17 MS. STOLBERG: I'd like to begin by
18 letting you all know that I am so humbled and
19 honored that you would have me here today to
20 share this with you. And I ask that you bear
21 with me, I'm very nervous.

22 I have some word recall issues so

1 there might be some pauses. And it's just me
2 trying to figure out what word decided to leave
3 my head.

4 I also deflect emotion with humor, so
5 please don't be offended by anything I said if I
6 crack some jokes in there. It's either crack
7 some jokes or you can watch me lay in the fetal
8 position and cry. So humor is better. Thank
9 you.

10 Good afternoon, I am retired Senior
11 Airman Hannah Stolberg. I was a 6C0X1, which is
12 the AFSC code for nerd. Also known as a
13 contracting specialist in the Air Force.

14 In -- I'm sorry, let me take a moment.

15 CHAIR BASHFORD: Take all the time you
16 want.

17 MS. STOLBERG: Thank you, ma'am. I
18 was medically retired in May of last year, and I
19 think what's shocking to some people is that I
20 never even deployed. My scariest encounters were
21 TDYs to places like California, Maryland with a
22 population of, I think like seven people at the

1 time.

2 It was while I was at Wright-Patterson
3 Air Force Base, and even Offut. So I really
4 didn't do anything that was that intensive. I
5 was reach back for contingency construction in
6 San Antonio, Texas.

7 But in 2012 I was raped and beaten
8 almost to death by an Air Force NCO. I spent
9 almost two days in and out of consciousness on a
10 concrete floor.

11 It was over Columbus Day weekend, and
12 when I didn't show up to work no one even came to
13 check on me.

14 During the assault, my arm, my right
15 shoulder was dislocated, my left finger was
16 fractured, damage was done to my spine. And I
17 didn't find out for almost a year and a half that
18 I had received a traumatic brain injury.

19 When I reported this to my command to
20 try to get help, I was pulled into my commander's
21 office, with my commander and my superintendent,
22 who is also our acting 1st Sergeant, because we

1 were a small squadron, and told that sometimes
2 it's better to just embrace the suck.

3 I was told that nothing would be done.
4 And it was conveyed that there wouldn't be any
5 help on that front.

6 My superintendent didn't say anything
7 but his silence was his agreement. He didn't
8 question what my commander said, he just went
9 along with it.

10 This led to me trying very hard to
11 suck it up. I didn't find out my femur was
12 fractured for four months. I ran on it the
13 entire time until it almost shattered.

14 Every time I went to the doctor they
15 told me that I was just running too much. And it
16 wasn't until a major realized that something was
17 really wrong and sent me for a bone scan that
18 they realized the damage that had been done.

19 On my commanders part, it wasn't
20 handled well. But what I'd like to point out is
21 that often times we don't give the necessary
22 training to those in charge, in order to give

1 them the tools on how to deal with someone in
2 this kind of situation.

3 And I'm very humbled to let you all
4 know that about two years after this had happened
5 was when a lot of the scandal was coming out of
6 Lackland. And I remember our trainings on sexual
7 assault increased, a lot more awareness was going
8 on.

9 And I was pulled to the side by that
10 same superintendent and acting 1st Sergeant, and
11 he said, Airman Stolberg, we handled your
12 situation wrong, what can I do to support you,
13 what can I do to fix it.

14 And I'd like to point that out because
15 as a Senior Master Sergeant, he had no real
16 reason to stick up for me at that point, two
17 years later, and put himself on the line. But he
18 was willing to put his stripes and his reputation
19 on the line for a Senior Airman who is going
20 through a medical board and would be medically
21 retired.

22 And I think that that's really

1 important to talk about the character of someone
2 who has so much humility to come back and correct
3 and address something that's been handled wrong.

4 And in the aspect of what happened
5 with him, it was truly lack of training and lack
6 of even knowing how to deal with this kind of
7 situation, as he'd never encountered it before.

8 During my, well, my recovery process
9 was not very smooth. I spent time inpatient at
10 an intensive, in an intensive program for PTSD.
11 And there I was in a unit with all military
12 members. Both from combat and from MST.

13 And I met women, and men, from all
14 branches who had experienced military sexual
15 assault, military sexual trauma. And it was
16 resounding across the board that the way that the
17 situations were being handled was not very well.

18 I was pulled out of this program
19 despite me saying that I didn't really think I
20 was ready. And the following day I was given an
21 EPR, by my command, well, by my superintendent
22 and my supervisor. And they told me that

1 although I may have outperformed my peers,
2 because I was inpatient and unable to work, and
3 the new EPR system that came out, I would be
4 docked to a four. Because there weren't enough
5 fives to go around and I had been absent to be
6 inpatient.

7 This was on my birthday and they took
8 me to lunch and gave me a cake and had my sign my
9 EPR and I went home and attempted suicide.

10 Obviously, it didn't work, I'm still here. The
11 saving grace was that I didn't have access to a
12 firearm at the time, and so I just went home and
13 I found every pill I could possibly take.

14 The turning point for me was when I
15 got involved with my branch's Air Force Wounded
16 Warrior Program. A DoDI was put out for all the
17 branches to create their own.

18 The Army's is the WTU. I'm not really
19 sure the other ones, but I became involved in
20 this program.

21 At the very end of my time, active
22 duty, they took me out to a, they wanted to take

1 me out to an adaptive sports camp. And my
2 command said that I could go if I forfeit my 15
3 days of permissive TDY, upon retirement, to go to
4 this week-long camp. And I thought, sure, it's
5 at the beach. And I don't remember being at the
6 beach. It was in Florida. And I went.

7 And that was the turning point for me.
8 I was taught that things that I didn't think I
9 could overcome I could.

10 I used to run, believe it or not,
11 despite my physique now. I used to run quite a
12 bit and loved it. And not being able to run any
13 more was pretty devastating to me.

14 But at that camp they put me in a
15 racing chair, and for the first time in two years
16 I felt the wind fly past my helmet hair. And
17 every sport that they gave me, from then on out,
18 helped me grow and helped me claim back some of
19 that confidence.

20 In the program, I was also linked up
21 with the mentorship aspect of the program. And
22 was given a mentor who's been an incredible, an

1 incredible help to my recovery as well.

2 And finally, the aspect that has
3 helped the most is the ambassador program. Where
4 I was taught to hopefully somewhat convey my
5 story, as I heal. And that's where Chief Master
6 Sergeant McKinley heard me speak at a briefing
7 and asked me to attend.

8 It was the support like this that
9 helped me, that helped me grow. And that helped
10 me recover.

11 And I think that that's important to
12 point out, is that the programs that have been
13 put in place are, can be very effective and can
14 be very helpful. As long as there's not push
15 back from command, to be involved in them.

16 When I -- I've spoken on several
17 occasions, although not to this kind of room, so
18 I apologize for my nerves. And I can remember
19 the first time I heard someone speak about how
20 they had been assaulted. And it made an impact
21 on me because when you're in this position you
22 know that others are out there, but there's such

1 a stigma of shame surrounding it that no one
2 speaks about it.

3 You just know that there's other
4 people floating out there and you never know who.
5 And I can remember hearing someone speak on it,
6 and I went up to him afterwards and I can
7 remember saying, me too.

8 If any of you are on social media you
9 probably saw a trend happening this week of
10 people posting the hash tag me too. And I
11 thought, what a mantra, I didn't realize that
12 this was an international, these were the two
13 international words for people like us, who have
14 been through this.

15 I have yet to speak anywhere, to any
16 crowd and not be approached afterwards. And
17 usually in a hushed whisper, in a hushed tone be
18 told, me too. Me too.

19 The impact that more visibility by
20 people who have already been through a trauma and
21 are recovering is something that can't really be
22 ignored. When you know you have someone whose

1 been in that same position, you find strength in
2 it.

3 I'm still learning to find my voice.
4 I hate public speaking, and this is an
5 uncomfortable subject. But I remember being
6 silenced and the pain and the absolute isolation
7 that it brings. And so even if my voice is just
8 a whisper right now, I am very humbled and
9 thankful that you've listened to me.

10 I'm very humbled and thankful that you
11 would take these steps to try to protect and
12 enforce better laws so that in the future, things
13 like this hopefully won't happen as much. Thank
14 you.

15 CHAIR BASHFORD: Okay, thank you. Ms.
16 Stolberg, I do have one question for you if you
17 don't mind. How long was it before, from your
18 attack until you were able to get to that program
19 that was on the beach, that you found very
20 helpful?

21 MS. STOLBERG: So the program has
22 different, that's one of those words that

1 escaping me, one second. The program has
2 different camps that go around each region in the
3 U.S.

4 I didn't go to my first one until
5 April of 2016. My assault happened in 2012. And
6 my MEB started in, it's a good question. 2014 is
7 when my MEB officially started.

8 So it took a couple of years. But I
9 will say that there's been strides made to catch
10 people sooner. As soon as they start the MEB
11 process.

12 And I'm not sure about the other
13 branches, but I at least know that on the Air
14 Force side they've had a huge uptick in
15 enrollment because they've been able to catch
16 people faster than at the end. I think that had
17 I been able to get into a program like this
18 sooner, I might not be quite in the state that I
19 am today. I think my recovery would have been
20 faster and better and not quite so rocky.

21 But I've also seen that, on the side
22 of the way that sexual assault is handled in

1 general, at least on the Air Force side, I was
2 saying earlier that I think that if what happened
3 to me happened to me today, and not in 2012, it
4 would be handled vastly different. And for that
5 I'm very thankful that strides are still being
6 made to make this situation better and better.

7 Did that adequately --

8 CHAIR BASHFORD: That's fine.

9 MS. STOLBERG: Okay.

10 CHIEF MCKINLEY: Hi, Ms. Stolberg,
11 good to see you again. When you got out of the
12 hospital and you went back to the unit, how were
13 you integrated back into the unit and what kind
14 of jobs did they give you?

15 MS. STOLBERG: It sort of depended.
16 I had multiple surgeries. I've had two surgeries
17 on my shoulder and two on my femur to
18 reconstruct. And then of course my stay at
19 inpatient.

20 I'd like to say that when you treat
21 someone like a monster they become a monster.
22 And in general, when this new kind of came out

1 and they didn't really know what to do with me,
2 they just sort of squirreled me away in a cube
3 and gave me some random stuff to do.

4 I took pride in my job. I wasn't
5 going to win like Airmen of the year, but I was
6 very good at my job. I took pride in what I did.

7 And my work definitely suffered
8 afterwards. Part of it was undiagnosed PTSD and
9 TBI. But definitely part of it was just the
10 total lack of support and not really
11 understanding how to go about getting help
12 anymore.

13 So I think it's important to still
14 engage with your members, especially if they can
15 still carry out the mission and the taskings. To
16 be reduced to almost nothing was definitely one
17 of the key factors in me attempting to take my
18 own life.

19 I had been stripped of my dignity of
20 my job, of my profession and of my blue, of my
21 Air Force blue of my family. And to kind of be
22 squirreled away and kept in secret certainly

1 didn't help.

2 CHAIR BASHFORD: From your
3 perspective, I know what happened to you happened
4 in 2012, but as you've seen, as you've been
5 speaking out and talking to people, where do you
6 see the biggest need for improvement?

7 MS. STOLBERG: I am devastated to say
8 that at least half the people I talk to never
9 reported anything. They're not going to be in
10 your statistics. Not even in your restricted
11 reports. They're silent. And they've been
12 silenced.

13 I've talked to many people who have
14 been in the same kind of situation where I have
15 where they've reached out and tried to get help
16 and they were silenced. I've even met people who
17 weren't the victim but knew the victim and spoke
18 out, and they almost lost their life because of
19 it and nothing was done.

20 I have encountered both men and women,
21 the numbers are shocking, that either didn't
22 report at all or never, nothing ever really came

1 of it.

2 And I understand that it's very
3 difficult to prosecute at times, but a lot of
4 times, the way that it's handled there at the
5 beginning, could be the key between going to a
6 trial or not.

7 For me, when I was finally diagnosed
8 with the TBI, they said, well, we could have done
9 more for you if you had come in 24 to 48 hours
10 after this had happened. And 24 to 48 hours I'm
11 still lying on a concrete floor with no one even
12 looking for me.

13 One of the biggest disconnects is
14 between leadership. And I don't think it's
15 malicious, I think it's just a lack of training
16 and ignorance to what to do in this situation.

17 It's still so stigmatized that even
18 commanders don't know what to do when you bring
19 up the fact.

20 MR. MARKEY: First of all, thank you
21 so much for being here. I appreciate your
22 courage to be here in front of this committee,

1 and your courage since 2012.

2 I guess the investigation, I mean part
3 of the task of this particular Committee, is to
4 look at the review process for cases that are
5 investigated by the military. And so I don't
6 know any of the background of the investigative
7 process or whether there was one and what your
8 perspective is on that particular process, in
9 your case.

10 MS. STOLBERG: Okay. So what I was
11 trying to, there's different avenues you can
12 take, as we all know. And I took the avenue of
13 reporting to my command.

14 And when I was shut down, and it was
15 known, made known that I wasn't going to be
16 receiving, they weren't going to have my back, I
17 ended up, after doing quite a bit of research in
18 looking into just trends and how things are, how
19 things go to trial, the percentage of people who,
20 things are even prosecuted and the percentage of
21 action that's taken, even from then, and then to
22 look at, especially in the military you see it

1 come out in the base letters all the time,
2 someone drove drunk and they've been stripped of
3 everything and kicked out of the Air Force, but
4 someone assaults someone and they go in for like
5 a month. They have reduced pay for nine months.

6 Is that what my dignity was worth? Is
7 that what my life is worth?

8 And I see that from so many other
9 people around me. For that reason, I chose to
10 report restricted, knowing that I literally had
11 no one to support me. I'm very sorry.

12 MS. CANNON: Can I ask you a question?

13 MS. STOLBERG: Yes, ma'am.

14 MS. CANNON: I join the others in
15 thanking you for your courage. Did anything
16 happen to either the man who assaulted you or
17 those higher ups that did not do anything to help
18 you?

19 MS. STOLBERG: Nothing happened with
20 the man who assaulted me. As for my commander,
21 because I was having such a hard time at work, I
22 was assigned to help put together his retirement

1 ceremony. And then he sat caddy corner to me, as
2 a GS civilian, for a year and a half. That's
3 what happened to him.

4 MS. TOKASH: Hannah, is the Air Force
5 -- so at some point did you un-restrict your
6 report?

7 MS. STOLBERG: I have not.

8 MS. TOKASH: Okay.

9 MS. STOLBERG: I'm just speaking. And
10 at this point, when I speak, especially to other
11 wounded warriors who have been in career fields
12 that are much more intense than mine, they tend
13 to want to say, where is this guy, we're going to
14 go get him. You didn't have justice, let's bring
15 justice.

16 And for me I say, someone told me
17 yesterday that there is different kinds of
18 justice. At this point I am five years out.
19 I've been through one heck of a mental health
20 ride. And as I'm sure you can kind of notice,
21 I'm not exactly rock solid on the mental health
22 aspect.

1 So for me, this is my justice. My
2 justice is trying to be a voice for those who are
3 still silenced. My justice is speaking out
4 against this.

5 CHAIR BASHFORD: Well, thank you for
6 doing that, and you're doing it very eloquently.

7 MS. STOLBERG: Thank you, ma'am.

8 CAPT. TIDESWELL: Ms. Stolberg, I
9 don't have a question, I just want to, because
10 you were speaking to us that you're still trying
11 to find your voice, I just want to acknowledge
12 you found it. I know you have places you still
13 want to go, but it's a beautiful, strong thing.
14 Thank you.

15 MS. STOLBERG: Thank you, ma'am.

16 CHAIR BASHFORD: Well, thank you so
17 much for coming and sharing your experience, it's
18 been very moving for all of us.

19 MS. STOLBERG: Yes, ma'am. Thank you
20 for having me.

21 PARTICIPANT: Chair, if I ask for your
22 attention? I would recommend that we take a

1 short break while --

2 CHAIR BASHFORD: I think that's good.

3 PARTICIPANT: We are a bit ahead of
4 schedule.

5 CHAIR BASHFORD: Yes. We're on
6 recess.

7 (Whereupon, the above-entitled matter
8 went off the record at 1:45 p.m. and resumed at
9 1:55 p.m.)

10 CHAIR BASHFORD: Before we continue
11 with our next panel, I would like Ms. Garvin to
12 have the mic for a moment.

13 MS. GARVIN: Yes, thank you. During
14 the break I had the opportunity to speak just a
15 little bit further with Ms. Stolberg, who spoke
16 to us before, and I asked her about her service
17 dog that she had with her, and I apologize for
18 not thinking to ask her while she was there, but
19 she authorized me to share, A, how much the
20 service dog has aided in her recovery and how
21 important the dog is and, B, she authorized me to
22 share that she paid for the dog out of pocket,

1 and did not have access to that as part of her
2 recovery in any formal way. And so I just
3 thought it was important for us to know that
4 piece of information in light of how much it has
5 helped in her recovery.

6 CHAIR BASHFORD: Thank you. Okay,
7 we're now going to begin with the Briefing on the
8 Department of Defense in Military Services
9 Expedited Transfer Policies.

10 We have quite the distinguished panel.
11 The only person is Ms. Massey, who is missing
12 from our printed agenda.

13 Have you determined how you're going
14 to start?

15 DR. GALBREATH: I think I'll just
16 start briefly here and then we'll probably go on
17 down the row. Is that okay with folks? Yes,
18 okay.

19 CHAIR BASHFORD: Okay, Dr. Galbreath,
20 you have the mic.

21 DR. GALBREATH: Okay, great.
22 Greetings all, it's very nice to be here and see

1 you all again. Thank you so much for talking
2 about expedited transfers.

3 To give you a little of bit context
4 for how expedited transfers came up, in about
5 2011 the Sexual Assault Prevention Response
6 Program had been, was about four or five years
7 old. Actually, about six years old.

8 And we had had lots of conversations,
9 we had fielded a cadre of sexual assault response
10 coordinators and victim advocates out to the
11 field. We had created a response system.

12 But what we were finding is, is that
13 there were still some significant gaps in what we
14 could do to support victims as they went through
15 the military justice process as well as the
16 recovery process.

17 So, one of the things that kind of
18 sparked additional focus on this problem was a,
19 was Secretary Panetta. And he went and had a
20 conversation with a number of members of Congress
21 in the Fall of 2011.

22 And he asked, what else could we do to

1 push the program forward, what could we do to
2 make a real difference.

3 One of the first things that we were
4 able to do was to create expedited transfers. We
5 had heard that folks were coming forward, they
6 were making reports of sexual assault. But as
7 you heard previously, some of them were not able
8 to move from a unit or get away from the
9 individual that had sexually assaulted them.

10 And from a clinical psychology
11 standpoint, I would tell you that the continued
12 retraumatization of having to be exposed to that
13 person or the people that impacted you in that
14 horrific way, prevents you from healing. It
15 retards your healing process when you are
16 continually retraumatized.

17 And that's one of the things that we
18 thought that with this expedited transfer
19 process, we might be able to jumpstart, at least
20 give people a chance. And as we were having
21 conversations with, not only victims but also
22 members on the Hill, they thought this was also a

1 very important piece as well. So we all largely
2 came to the conclusion that this would be a
3 helpful approach.

4 So with me today is my senior policy
5 advisor, Diana Rangoussis, and she's going to
6 give you a little bit more of the details to the
7 expedited transfer process.

8 But I just wanted to say, thank you so
9 much for taking a look at this, we think that
10 this is one of the things that has really been
11 helpful for healing. And it has evolved a little
12 bit over time since we kicked it off in 2012.

13 MS. RANGOUSSIS: Thank you very much
14 for inviting us to speak to you today. I have
15 been with the sexual assault prevention response
16 office --

17 CHAIR BASHFORD: You got to keep your
18 voice, either get the mic a little closer or keep
19 your voice up a bit. Thank you.

20 MS. RANGOUSSIS: I will try. I don't
21 project as well as Dr. Galbreath.

22 I have been with the office since

1 2009, so I was responsible for putting together,
2 crafting the first expedited transfer guidance.
3 And so I will detail a little bit of the history,
4 just provide some dates to what Dr. Galbreath
5 already covered and then get into a bit of the
6 details of the policy.

7 The first expedited transfer guidance
8 was issued on May 6th by the then Undersecretary
9 Dr. Stanley. The Services were required to issue
10 guidance with the following three criteria.

11 That there was a presumption in favor
12 of transferring the sexual assault victims, if
13 there was a credible report, ensuring that the
14 transfer would not negatively impact the victim's
15 career, and finally, authorizing an appeal to the
16 first general or flag officer in the chain if the
17 first expedited transfer request was denied.

18 Each Military Service submitted their
19 expedited transfer of policies by May 31st of
20 2011. But as Dr. Galbreath mentioned, there was
21 a lot of congressional interest. There were
22 still a lot of discussions between SAPRO, our

1 department and the Hill.

2 So consequently, in addition to
3 several policies, SAPRO crafted a DoD-wide
4 directive-type memorandum, which is a temporary
5 policy that's across DoD. And this was issued on
6 December 16th and later incorporated into a
7 permanent DoD instruction, then it was updated on
8 March 20th, 2013.

9 Congress passed its own version of the
10 expedited transfer mandate on December 31st in
11 the NDA for FY 2012. And in that mandate, it
12 included 72 hour time frame for making that
13 decision on to approve or disapprove the
14 expedited transfer. And also, the 72 hour for
15 the appeal process.

16 As Dr. Galbreath mentioned, on January
17 18th, a year after, I mean, a month after, the
18 details were issued in the NDAA. And at a DoD
19 news briefing at the Pentagon, Secretary Panetta
20 announced its transfer of policy.

21 And he stated that it would provide
22 greater support for the victims of sexual

1 assault, giving victims protection for possible
2 harassment and removing them from the proximity
3 to the alleged perpetrator.

4 In the NDAAs for FY 2014, Congress
5 spoke again. This time they added to the
6 expedited transfer law by authorizing the
7 transfer of the suspect. This was covered
8 already in our DTM, so we did not have to alter
9 our policy.

10 So let me turn now to a little bit of
11 the detail of the actual policy. So the intent
12 behind the expedited transfer policy is not for
13 safety. It's for a situation where a victim
14 feels safe but feels uncomfortable.

15 So where the victim is in close
16 proximity to the alleged perpetrator, is
17 perceiving ostracism or retaliation, or wants to
18 leave the location where the event occurred to
19 stop triggering these horrible memories.

20 Victims are informed of the
21 availability of expedited transfer at the time
22 that they file their unrestricted report with

1 their sexual assault response coordinator or
2 their victim advocate.

3 It is the victim's choice, and has to
4 be initiated by the Service member. Once it's
5 submitted to the commander, the commander then
6 has to annotate the time and the date, because
7 she has 72 hours to response.

8 The policy does establish a
9 presumption in favor of transferring the Service
10 member if filing a credible report. And that
11 credible report determination is made by the
12 commander, with their advice from SJA and the
13 MCIO, the military criminal investigator, when
14 reviewing all the evidence that is available at
15 the time.

16 If there is no credible report found,
17 then the reasons for that decision must also be
18 documented.

19 There is a misconception as to the
20 presumption though. The presumption is in favor
21 of the transfer. It's not in favor of the exact
22 location of the transfer.

1 So the transfer can be permanent, it
2 could be a temporary detail for 90 days somewhere
3 else, to assess if the victim can recover, it can
4 be outside of the installation, it could be
5 within the installation. To different barracks,
6 to a different duty location.

7 There are a lot of, to a night shift
8 instead of a day shift. And again, also the
9 suspect could be transferred instead of the
10 victim.

11 So the commander has a lot of
12 flexibility based on the victim's wishes but also
13 with the necessity of the operational needs.

14 If approved, the transfer order shall
15 include the Service member's dependent, if
16 accompanied, the military spouse, if his military
17 spouse consents.

18 In most circumstances, the transfers
19 to a different installation should be completed
20 within 30 days. If within the installation it
21 should be completed within a week.

22 And again, we say should because there

1 are a lot of different details and circumstances
2 that go along, especially if there are dependents
3 or military spouses.

4 Again, we mentioned already that the
5 commander must act within 72 hours. If the
6 commander disapproves that expedited transfer, it
7 is the victim's choice, it's not automatic, it's
8 the victims choice whether to appeal.

9 And if the victim wants to appeal
10 that, then the first flag or general officer in
11 the victim's chain has 72 hours for them to
12 approve or disapprove.

13 Military departments are required to
14 make every reasonable effort to minimize
15 destruction to normal career progression of the
16 Service members who request an expedited
17 transfer.

18 When authorizing an expedited
19 transfer, a commander has an enumerated list to
20 review. And I believe all of you have a handout,
21 Handout 1 has that enumerated list.

22 I want to just point out three of the

1 criteria that have to be reviewed. One of them
2 is, whether a transfer, a temporary transfer
3 would meet the Service member's needs and the
4 operational needs of the unit, the availability
5 of positions within other units on the
6 installation, and the status of the investigation
7 and potential impact on the investigation and
8 future dispositions of the offense, after
9 consultation with the investigating NCIOs.

10 Service members requesting a transfer
11 also shall be advised that if the case is
12 determined that it should go to court-martial,
13 that they may have to return for that court-
14 martial proceeding.

15 Also in that Handout Number 1, there
16 are four additional areas of which a Service
17 member has to be fully informed. One of them
18 that I want to highlight to you is the potential
19 impact of the transfer or reassignment on the
20 investigation and case disposition or the
21 initiating of other adverse action against
22 offender.

1 Now, when the victim is transferred
2 out, there is a warm handoff to the receiving
3 commander if the victim is still receiving
4 advocacy services and if the investigation or the
5 legal proceedings are still ongoing.

6 Now, the reason why this is done is to
7 facilitate the investigation and to facilitate
8 additional services for the victim.

9 So the losing commander will limit the
10 information to objective facts about the victim
11 care provided, the status of the open
12 investigation and the status of ongoing legal
13 proceedings.

14 Handout Number 2 that you have speaks
15 to the commander's responsibility in the monthly
16 case management group. So for every adult sexual
17 assault case that is a unrestricted report, there
18 is a monthly case management group meeting.

19 During that meeting, they review all
20 victim services. And also they discuss direct
21 system coordination.

22 All relevant parties come together,

1 including advocates, health care, investigators,
2 law enforcement, legal officers. And they have a
3 discussion about the case.

4 They discuss any challenges being
5 experienced, they discuss any allegations of
6 retaliation, not only against the victim but
7 against the victim advocate or any responders or
8 any other members to the case. They also discuss
9 expedited transfers, military protective orders
10 and any safety issues.

11 Now, the MCIOs conducting the case, at
12 the original location, have to call in to that
13 monthly CMG at their new location. As do the
14 legal officers.

15 And they provide updates on the
16 progress or challenges with the investigation to
17 the installation commander. In an effort to
18 facilitate any investigation issues.

19 The case will stay on the CMG agenda
20 until all investigations and legal proceedings
21 are complete and the victim has declined any
22 further advocacy services.

1 In conclusion, the expedited transfer
2 program is a service that favorably contributes
3 to victims' lives and recovery. You know, it's
4 very difficult for victims to come forward, as
5 our last survivor who spoke to us told us.

6 This is always extremely challenging.
7 It's amazing that people ever come forward and
8 tell us such a horrific event that happened in
9 their lives.

10 The expedited transfer has been
11 mandated by Congress on two separate occasions.
12 So it has a lot of congressional interest and
13 support.

14 And to echo Secretary Panetta, this
15 service provides great support for victims of
16 sexual assault by protecting them from possible
17 harassment and by removing them from proximity to
18 the alleged perpetrator.

19 Thank you and I look forward to
20 addressing any questions that you may have.

21 CHAIR BASHFORD: I think we'll hold
22 questions, can we hold questions till the end of

1 the, everybody speaks? Thank you.

2 MR. ROSEN: Hi, good afternoon. I'm
3 Paul Rosen with the Navy. I'm the Director of
4 the Navy Sexual Assault Prevention and Response
5 Branch. I've been in that role since 2013, as a
6 civilian, and prior to that in uniform.

7 I'm not going to be duplicative of
8 what Nate and Diana have said, so I'll just talk
9 a little specifically about the importance to the
10 Navy of the expedited transfer policy and
11 process.

12 In addition to it being the right
13 thing to do, which is to support victims in any
14 way that we can, it's important for the Navy, for
15 any sailor that's suffered a trauma, particularly
16 one of this nature, to do everything we can to
17 try to get them both personally and
18 professionally well. And so they can continue
19 their career and continue to contribute to the
20 Service, which hopefully they love, and that we
21 need them to do.

22 We have found that the reasons that

1 sailors request expedited transfers, are as Diana
2 indicated, moving away from the subject of the
3 report.

4 We also find a lot of people who
5 request an expedited transfer to move closer to
6 support infrastructure. Whether that be family
7 or friends.

8 And in some cases, for specific
9 support services. Depending on where they were
10 located prior. Maybe they were worldwide
11 somewhere and they needed to move somewhere for
12 additional support services.

13 The policy has been in place for
14 several years, as you have heard. We've just
15 completed a Navy, a review of our process to try
16 to make sure that it's as good as it can be. And
17 there's probably some minor peaks and tweaks that
18 we're going to make to that.

19 One specific policy piece in the Navy
20 that is a little bit different is that in the
21 request process, if the request by the victim to
22 make an expedited transfer is not approved by the

1 commanding officer with the Navy, it
2 automatically goes to the first flag officer. It
3 doesn't require the victim to make another
4 request. And then there's a 72 hour time period
5 for which that first flag officer then ultimately
6 makes the decision to turn it down or approve it.

7 So again, without being duplicative of
8 what Nate and Diana have said, I want to thank
9 you again for inviting us to discuss this and I
10 look forward to any questions you may have.

11 CHAIR BASHFORD: Okay, Ms. Reed.

12 MS. REED: Yes. Good afternoon. I'm
13 Gail Reed, I work at Headquarters, Marine Corps
14 Sexual Assault Prevention and Response. I'm one
15 of their program and policy specialists.

16 I've been with the program since 2011.
17 And I was onboard when the policies were stood up
18 and the Marine Corps took on the task of
19 implementing the expedited transfer process. And
20 have been supporting it since that time.

21 And when the Marine Corps looked at
22 implementing the policy, which I'm not going to

1 reiterate, it was important to us to keep the
2 victims' needs in mind as well as to make sure
3 that it was a seamless process for our Marine
4 Corps transfers. We wanted the Marine who was
5 getting an expedited transfer to flow back into
6 the normal process and not stand out any more than
7 necessary.

8 So we took it upon ourselves to work
9 with our manpower management SMEs, and together
10 we built a process where Headquarter Marine Corps
11 serves as the liaison, the SARCs, the victim
12 advocates and the commanders work with the
13 victims to submit their requests through. And
14 it's all worked out at their location.

15 It comes to the headquarter staff, we
16 walk downstairs and we work with our, we hand the
17 paperwork to our manpower. And that just flows
18 right into our regular transfer process.

19 There are only certain people in the
20 manpower management that work those expedited
21 transfers. So, again, we're doing our utmost to
22 ensure that the victim is not pointed out or

1 registered within their world, so that when the
2 transfer happens, it just looks on their record
3 as a transfer. That was important to us.

4 We've been very successful. We just
5 went through another review of our own processes
6 and released a new letter of instruction.

7 We have included the expedited
8 transfer process in our pre-command training with
9 our commanders. So that they are getting, from
10 headquarters, what that is to look like in their
11 roles and responsibilities, whether they are
12 receiving a victim or whether they are losing a
13 victim. Because there is things that they need
14 to know on both sides of that equation.

15 So, again, I believe it's been a very
16 successful process. Our SARCs are very
17 supportive at the fleet level and we have support
18 at the headquarters level.

19 So again, I'll be more than happy to
20 answer any questions and thank you for this
21 opportunity.

22 CHAIR BASHFORD: Colonel Prince.

1 COLONEL PRINCE: Good afternoon.

2 CHAIR BASHFORD: Good afternoon.

3 COLONEL PRINCE: I'm Colonel Melanie
4 Prince and I am the Chief of the Interpersonal
5 Self-directed Violence Division at Headquarters
6 Air Force. So that's ISDV.

7 And within ISDV we are, it is
8 responsible for the strategic guidance for five
9 types of violence. One being sexual violence.
10 And it is in the sexual violence branch that we
11 have the Air Force Sexual Assault Prevention and
12 Response Office.

13 So, I've been with the program for all
14 of three months officially. Although I have been
15 engaged with the Air Force SAPRO office for about
16 a year.

17 So again, I'll try not to be
18 repetitive as my colleagues have already
19 mentioned, but our expedited transfer program has
20 policy process and procedures that are codified
21 primarily at the Air Force Personnel Center
22 Assignment Office, the Air Force Sexual Assault

1 Prevention and Response and the Air Force Family
2 Advocacy Program. So three areas where we have
3 regulations.

4 And the expedited transfer process is
5 designed to meet the needs of the victim
6 following an unrestricted report of sexual
7 assault while balancing mission requirements, as
8 assessed by the chain of command.

9 Additionally, as part of a
10 comprehensive and system based response
11 capability for sexual assault victims and
12 survivors, other agencies play a critical role in
13 the execution of the expedited transfer program,
14 as it relates to victim advocacy.

15 To include, but not limited to, the
16 special victims counsel, physical and mental
17 health care from a medical agency, rigorous
18 investigations, from the Office of Special
19 Investigations, accountability via the military
20 justice process facilitated by the Judge Advocate
21 General's Corps a legal agency, and then mission
22 effectiveness and mission continuity from our

1 command leadership structure. Which is also
2 aided by counsel, from a majority of the response
3 agencies that I've just listed. So very much a
4 systems-based approach.

5 So, the result is an expedited
6 transfer program that has vertical and horizontal
7 checks and balances to drive the policy and to
8 fellow Airmen and their families.

9 So the Air Force SAPRO Office assesses
10 the expedited transfer program using feedback,
11 survivor stories and record reviews, to look for
12 opportunities to improve the process. So for
13 example, the Air Force has focused on ensuring
14 that we have the ability to transition victims to
15 locations where the victim feels safe and
16 supported, and continue to heal in process.

17 So when possible, transfers are
18 approved to assist in the victim's recovery, by
19 moving to a new location where no one knows of
20 that sexual assault. But a recent improvement to
21 the process ensures that both the commander, as
22 you've already heard, and the SARC, the gaining

1 SARC, are aware of the arrival of that Airman.

2 And again, based on feedback and
3 reviews that we've done, we ensure
4 confidentiality is maintained, but it allows the
5 unit commander and the SARC to have awareness and
6 the ability to react appropriately, in the event
7 a victim requires additional services, our
8 support after arrival.

9 So this policy change was published
10 this very month through an Air Force Guidance
11 Memorandum that went out to the field last week.

12 So in closing, the Air Force is
13 committed to the smooth and orderly execution of
14 expedited transfer policy, for both victims and
15 alleged offenders. We support victims' recovery
16 by offering expedited transfers of victims and
17 transfers of alleged offenders, as one of several
18 options to facilitate an environment conducive
19 for care and recovery.

20 We facilitate the program by ensuring
21 training is relevant, realistic and rooted in
22 official guidance. And we are continuously

1 reviewing the program at the headquarters level.
2 And also work very diligently to sustain a
3 culture of continuous improvement.

4 We want our program to be
5 collaborative with all the agencies, and we're
6 constantly making these assessments at all levels
7 of the enterprise. So we value feedback of all
8 types and we methodically use it to build the
9 most effective programs possible, to support our
10 Airmen and their families. Especially when we
11 realize that they're most vulnerable.

12 So thank you for the opportunity to
13 speak to you this afternoon and I look forward to
14 your questions.

15 CHAIR BASHFORD: Thank you, colonel.
16 Lieutenant Styles.

17 LT. STYLES: Good afternoon, my name
18 is Lieutenant Amanda Styles, I'm with the United
19 States Coast Guard.

20 I am a Central Assignments Coordinator
21 at the Personnel Service Center. I oversee
22 several rates for enlisted personnel. We focus

1 on transfers of members. Whether it be normal
2 PCS transfers as well as expedited transfer
3 requests.

4 Unlike the other DoD Services, the
5 Coast Guard is unique in that the personnel
6 service center handles all transfer requests.
7 And that includes expedited transfers. Local
8 area commanders don't have that authority.

9 So all of those requests will come to
10 the Coast Guard, to PSC, and they'll be evaluated
11 at the time for the appropriate offices. So for
12 officers it will go to OPM, for enlisted
13 personnel it will go to EPM.

14 I'll kind of go through our procedures
15 with that. Upon a request of an expedited
16 transfer, the SAPR CIT, or the Sexual Assault
17 Prevention and Response Crisis Intervention Team,
18 which is a lot like the case management group
19 that was referred to earlier, will convene.

20 That includes the SARC, the special
21 agent in charge, the judge advocate, our Service
22 legal office as well as the medical

1 representative and a senior representative from
2 the victim's and subject's commands.

3 They'll meet to determine how to
4 process the request. They'll determine what area
5 the victim has, if the victim is making the
6 request to transfer themselves or to have the
7 alleged subject moved. That also can occur at
8 the victim's request.

9 The victim will make the request to
10 move, let's say they want to move to an area with
11 a confirmed support network, mother, father,
12 brother, sister, as well as continuing to get
13 those recovery services that they can get.

14 The requests will come to PSC within
15 72 hours. And the PSC will have two weeks to
16 determine if we can approve their request.

17 At that time, we will cut the orders.
18 They have seven days to execute those, and they
19 will be moved.

20 PSC does not make the notification to
21 the receiving command. That responsibility falls
22 to the SAPR CIT to brief the incoming command of

1 the situation.

2 If there is a denial of that request,
3 again, like the DoD, it will go to the next flag
4 officer and then it will be forwarded on to PSC,
5 to our flag, for adjudication of that case, at
6 that time.

7 We find that we want to provide the
8 most career progression for the member, as well
9 as balancing the needs of the Service. We find
10 that we have had very good success in getting the
11 members services. And often we engage with the,
12 we will re-engage with the SARC to confirm that
13 the member is receiving the services that they
14 need and for the best possible outcome of this.

15 I look forward to your questions,
16 thank you.

17 CHAIR BASHFORD: Ms. Massey.

18 MS. MASSEY: Hi, I am Laura Massey.
19 I am the Policy Branch Chief for the Department
20 of Army Sexual Harassment Assault Response and
21 Prevention Office. I have been in this position
22 since 2015.

1 Overall the Army's policy mirrors the
2 DoD policies that were already briefed by SAPRO,
3 but I wanted to take an opportunity to share with
4 you the processes and procedures that are
5 specific to the Army.

6 Our Service-specific expedited
7 transfer policy is contained in an Army Directive
8 titled, Expedited Transfers or Reassignment
9 Procedures for Victims of Sexual Assault dated
10 October 3, 2011. Their annual military personnel
11 messages, or MILPERs, that supplement this policy
12 and the Army's human resources command, published
13 the most current MILPER in February of 2017.

14 It is also the Army's policy that
15 there is a presumption in favor of transfer or
16 reassignment of a sexual assault victim, at his
17 or her request, following a credible report of
18 sexual assault.

19 A report of sexual assault is credible
20 when the commander, battalion or above, after
21 considering all available evidence and advice of
22 the supporting legal officer concludes that there

1 are reasonable grounds to believe an offense
2 constituting sexual assault has been committed
3 against the person requesting the transfer or
4 reassignment.

5 A transfer or reassignment includes,
6 but is not limited to, the victim's temporary or
7 permanent movement to a unit within the same
8 battalion or brigade, to a unit within the same
9 division, to a unit on the same installation or
10 to a unit at a different geographic location.

11 For our Reserve component members, a
12 transfer or reassignment might include provisions
13 to perform their inactive duty on a different
14 weekend or at different times from the subject or
15 with a different unit than in the home drilling
16 location.

17 When a victim files an unrestricted
18 report, the sexual assault response coordinator,
19 or SARC, or the victim advocate, VA, will notify
20 them of their ability to request an expedited
21 transfer. When a victim files their restricted
22 report, they are notified at that time an

1 expedited transfer would not be an option.

2 All SARCs and VAs receive training
3 regarding the expedited transfer process during
4 their professional training.

5 A soldier must initiate the transfer
6 or request in writing, on an Army Personnel
7 Action Form, a DA 4187, and submit the request to
8 their commanding officer. The commanding officer
9 will document the date and time the request is
10 received, and within 72 hours from the receipt of
11 the soldier's request for reassignment or
12 transfer, the commander and the chain of command,
13 an O-5 minimum, must provide a decision regarding
14 the soldier's request.

15 The approval authority for local moves
16 that do not cross Army commands, Army Service
17 component commands and direct reporting units,
18 otherwise known as ACOM, ASCC and DRUs, is the
19 lowest level commander exercising authority over
20 both the losing and gaining unit.

21 The disapproval authority is the first
22 general officer, or senior executive service,

1 GO/SES, in the soldier's chain of command. A
2 decision by the GO/SES must be made within 72
3 hours of the commander's recommendation of
4 disapproval.

5 The approval authority for local moves
6 that do cross the ACOM, ASCC, DRUs is the senior
7 commander at the installation.

8 The disapproval authority for local
9 moves that cross those ACOM, ASCC, DRUs is the
10 senior commander at the installation, provided
11 that the senior commander is a general officer.
12 If the senior officer is not a GO, then
13 disapproval authority is the first GO or SES in
14 the soldier's chain of command. Decision by the
15 GO must be made within 72 hours, again.

16 The commanding general of the human
17 resources command has assignment authority to
18 execute PCS moves for the victims of sexual
19 assault.

20 Command endorsements for the an
21 expedited transfer, involving a PCS move, are
22 sent to HRC and contain a CID case number or

1 civilian equivalent, and a statement from the
2 soldier explaining why they're requesting the
3 move. The command endorsement should include
4 appropriate recommendations to the first
5 commander and the chain of command exercising the
6 general courts-martial convening authority.

7 The commander will include, in the
8 recommendation, that they consulted with the
9 legal advisor and believe there is a credible
10 report of sexual assault that a local move was
11 considered, the victim was informed of any
12 potential impact of the move on the
13 investigation, the victim may have to return for
14 prosecution, future disposition of the allegation
15 and potential prosecution or other adverse action
16 that may be initiated against the alleged
17 offender, the potential for any bonus
18 recruitment, if applicable, reasonably
19 foreseeable career impacts and any other possible
20 outcomes that could come from granting such
21 requests.

22 They also state that the soldier

1 understands the selection of a permanent change
2 of station does not guarantee the station of
3 choice and that they believe the reassignment is
4 in the best interest of the soldier and the
5 organization.

6 Recommendations for PCS disapproval
7 of a credible report require command endorsement
8 with justification, forwarded to HRC with the
9 original request. The commanding general of HRC,
10 normally a major general, is the disapproving
11 authority.

12 A victim may request PCS locations as
13 a part of their expedited transfer request. PCS
14 expedited transfers are ordinarily made to a
15 valid authorized requirement in the continental
16 United States and in accordance with the needs of
17 the Army.

18 However, due to the size of the Army,
19 the Army does have latitude to grant soldier
20 location requests. HRC does its best to honor
21 the PCS location, when possible.

22 If the soldier is in a high density

1 MOS, such as infantry, field artillery, military
2 police, HRC is more likely to honor the request
3 as the Army does have the flexibility. It
4 becomes difficult to honor requests with low
5 density MOSs, such as a parachute rigger or
6 technical specialist, as there must be an
7 authorized requirement at the location.

8 Since the policy went into effect six
9 years ago, more victims have been transferred to
10 Fort Hood than any other location in the
11 Department of the Army.

12 In closing, the Army feels the
13 expedited transfer program is a service offered
14 to victims to help them recover. Victims of
15 sexual assault may not wish to remain in their
16 current unit or organizations after the sexual
17 assault incident.

18 Requiring a soldier to remain when
19 they have a desire to leave the unit or
20 organization, may negatively affect their safety
21 and emotional well-being, as well as the
22 functioning of the unit or the organization.

1 Expediting the review of an action on
2 a victim's request for transfer or reassignment
3 is an important component of a leader's response
4 to a credible report of a sexual assault.

5 Thank you. I look forward to
6 answering your questions.

7 CHAIR BASHFORD: And plenty of time
8 for questions.

9 CHIEF MCKINLEY: I'll start off.

10 CHAIR BASHFORD: Chief McKinley?

11 CHIEF MCKINLEY: Thank you all for
12 being here. I have a question and I'd like for
13 each branch to answer this question so that we
14 can get the perspective from all the Services.

15 Could you tell us the effect of the
16 transfer on the victim participation in the
17 military justice system, the victim care and
18 services, and do you have any data on the
19 retention of those transfer victims in each
20 branch of Service?

21 MR. ROSEN: Okay. On behalf of the
22 Navy then, the effect on the victim within the

1 military justice system I believe, sir, is one of
2 the things you've asked, and I don't have
3 specific statistics that would indicate
4 participation by an expedited transfer victim as
5 a percentage of a whole versus a victim's
6 participation without.

7 So that would be something that if is
8 interested we would have to go back and see if we
9 could grab it. Anecdotally there doesn't appear
10 to be, there is nothing that we are aware of at
11 this point that would indicate a gap in the
12 process any more so than we would find in a non-
13 expedited transfer victim.

14 DR. GALBREATH: So if I may so that
15 everybody can, we can maybe give you a preview of
16 what the data will say when we come back and talk
17 to you in January.

18 Our data right now says that folks
19 that received an expedited transfer participate
20 in the justice system at just about the same rate
21 as folks that don't receive an expedited
22 transfer.

1 But the exact numbers and data and
2 what each Service picture will look like will be
3 coming to you when we come back and see you in
4 January.

5 CHIEF MCKINLEY: Okay. Appreciate it,
6 thank you, sir.

7 MR. ROSEN: And, sir, I think you also
8 asked about the support system for expedited
9 transfer victims?

10 CHIEF MCKINLEY: Yes, victim care and
11 services.

12 MR. ROSEN: Right. And, again, we
13 have no indication that the expedited transfer
14 victim support services and care is any different
15 than any other unrestricted reporting victim, so
16 there is nothing that we have seen that would
17 indicate that. That I am sure --

18 (Simultaneous speaking.)

19 CHIEF MCKINLEY: And then, also,
20 retention, do we have any idea of what the
21 retention is of those transfers?

22 MR. ROSEN: We just began looking at

1 that in the Navy because we did a look at our
2 process and because of the fact that the policy
3 is relatively new there is not a tremendous
4 amount of run time to determine whether we see
5 higher or lower retention than we would for
6 either unrestricted reporting victims who don't
7 request expedited transfer versus sailors who
8 don't make the report of a sexual assault at all.

9 That is something that we are
10 continuing to pursue with a follow-on study since
11 we have a little bit more run time now behind us,
12 but at this point I don't have any data to
13 provide to you.

14 MS. REED: That would be the same with
15 the Marine Corps with regard to the retention
16 data. The impact on services with regard to
17 victim care and support, one of the things that
18 we look at very closely within the SARCs before
19 the request will come to us and then once it does
20 come through us we are very cognizant of what
21 services are needed and we make sure that the
22 location's manpower management is also very

1 cognizant of what is there.

2 And so our goal is to make sure that
3 they are transferred to a location that has the
4 needed support services that are available to
5 them.

6 We specifically would not, you know,
7 even if a victim would request like an INI or a
8 Reserve unit that is sitting in a remote
9 location, even though it might be near a support
10 system we would have a conversation with the SARC
11 to go through how damaging that could be to be in
12 an isolated location working in a very small unit
13 and we would try to redirect their preference to
14 a location where they would get better support
15 and have the facilities around them.

16 So it's a team effort on our part to
17 ensure that if a victim is still in the process
18 and wanting advocacy that they get placed in a
19 location where they can get that care and
20 support.

21 COLONEL PRINCE: Yes, sir, thank you
22 for that. So similar to my colleagues here I

1 don't have any data either on the retention
2 aspect of your question.

3 In terms of victim care and services,
4 that is one of the considerations that we expect
5 the commanders to discuss with the victim when
6 they are requesting that expedited transfer.

7 And I also believe I mentioned in my
8 remarks that a new guidance memo was published
9 this last week which allows the Air Force to
10 notify that gaining commander and sergeant.

11 So the hope there is that there will
12 be even more discussion and analysis of what is
13 available in the local area to support that
14 victim even prior to transferring to the new
15 location.

16 And in terms of the data on a victim
17 in the military justice system, I know that data
18 is pending, we are collecting that to give to you
19 all a little bit later.

20 But I would just have to say that
21 these are active duty members and I know that the
22 justice system can certainly connect and reach

1 out and touch them at all times from the victim's
2 perspective.

3 We have not found where anything
4 changes in their ability to participate or not
5 participate in the system. Thank you.

6 LT. STYLES: Like my colleagues I
7 don't have any data about the retention or the
8 military justice system, their participation.

9 I will say when we look at Confirmed
10 Support Network in their memo that is submitted
11 to PSC it has a section for medical support
12 services that are requested at that time as well
13 as, what is that, Confirmed Support Network.

14 So we want to ensure that the victims
15 are getting the best possible services where they
16 are going as well as also providing that
17 emotional support system to where they may be
18 PCS'ing to.

19 MS. MASSEY: And also like my
20 colleagues I don't have data on the retention nor
21 the specifics on the participation in the
22 military justice system. I know that is one of

1 the things the commander does discuss with the
2 victim, the possibility they will have to travel
3 back to participate.

4 As far as the support system, as I
5 alluded to, especially our high density MOS's,
6 first they look at making sure there are services
7 at the location, the government-provided
8 services, much that was alluded to like my
9 colleague from the Marine Corps.

10 But then because there a lot of times
11 are multiple locations they can then look at the
12 request of the soldier and see if they have that
13 family or friends support network nearby, so they
14 are able to provide that sort of, not only the
15 victim care, but the support system on the
16 outside as well.

17 DR. GALBREATH: I'm glad you asked
18 that question about retention. It is a research
19 study to do and we are doing that research.

20 I don't think I'll have anything for
21 you in January, but we are looking at number of
22 different sources to get after that and we have

1 funded some research to understand exactly how
2 that works.

3 As you know there is no identifier
4 really in a personnel system that would say that
5 you are a victim of sexual assault or not, so
6 that means that lines up with the folks that we
7 have on file in the Defense Sexual Assault
8 Incident Database and then I have to marry that
9 up with people who have been separated, but then
10 in addition to that we also have to know whether
11 or not that that's, to give you a context we have
12 to know what the normal separation rate is for
13 folks anyway so that you can see whether or not
14 separation is higher or lower for folks that have
15 experienced a sexual assault and participate in
16 the transfer program.

17 So it's not a press the button and
18 watch it print.

19 CHIEF MCKINLEY: I actually believe
20 it's a -- Retention is a very important thing, in
21 all branches we care about retention.

22 PARTICIPANT: Agreed.

1 CHIEF MCKINLEY: But if someone is
2 sexually assaulted, you know, and they choose to
3 leave and not have a career in our military
4 because of this sexual assault they are also
5 going to be a recruiter out there but it's not
6 going to be a positive recruiter for our
7 military.

8 So how we take care of victims and if
9 we can retain them and do positive things for
10 them that's great, but so we actually need the
11 numbers.

12 PARTICIPANT: Agreed.

13 MS. RANGOUSSIS: Sir, I just wanted to
14 add to that. The rule of the monthly case
15 management group meeting is to check up on the
16 victim services.

17 So that's why when the victim is
18 transferred there is that notification to that
19 gaining commander and in that discussion on the
20 monthly meeting they talk about whatever accesses
21 to services the victim wants, so whether it's
22 medical, mental health.

1 If they are having difficulty getting
2 into the mental health clinic that's something
3 that the installation commander could facilitate,
4 maybe facilitate, through an MOU to a nearby
5 facility, or things like that.

6 But that monthly check-in helps to
7 quickly identify what parts of the system were
8 not working for that victim, even when they
9 transfer in.

10 JUDGE GRIMM: I'd like to hear from
11 each of the Service representatives whether or
12 not there is any method in place that you have
13 adopted to assess from the perspective of the
14 Serviceperson requesting transfer how well they
15 think the system is working.

16 When they get to the new command do
17 they feel as though they are arriving without any
18 stigma associated with the circumstances under
19 which they were transferred?

20 Do they view the services that they
21 are receiving as services that are equal to or
22 better than the services that might have been

1 available from the location where they were
2 transferred from?

3 We have foreseen the very similar top-
4 down directors that have come from higher
5 headquarters as to what's to be done, how do you
6 measure your success from the views of the people
7 that you are trying to take care of?

8 DR. GALBREATH: So one of the things
9 that we will make sure that the Committee gets is
10 the results of our force-wide survey that asks
11 the very questions that you just did.

12 Of the folks that received the force-
13 wide survey and experienced the sexual assault
14 and received an expedited transfer we have rates
15 of at least how well that worked for them on a
16 number of different variables.

17 And rather than go into great detail
18 right now we'll make sure that you get the
19 results of those, of a force-wide survey called
20 The Workplace and Gender Relation Survey, as well
21 as the Military Investigation and Justice
22 Experience Survey, which is a survey that goes

1 directly to, just to victims of sexual assault
2 that have completed their participation in the
3 justice system.

4 And so we'll make sure the Committee
5 gets that data, but --

6 JUDGE GRIMM: Anonymous responses?

7 DR. GALBREATH: They are. The Justice
8 Experience Survey is an anonymous survey. The
9 Workplace and Gender Relation Survey is a
10 confidential survey.

11 JUDGE GRIMM: Thank you.

12 DR. GALBREATH: Yes.

13 MS. LONG: I just have a follow-up
14 question. What is the response rate on those
15 surveys? Do you have a high response rate?

16 DR. GALBREATH: Yes. So with the
17 Workplace and Gender Relation Survey our response
18 rate is usually between 29 and 30 percent, but
19 it's a randomized stratified sample, so they are
20 very good and reliable and representative of the
21 entire force and generalizable to the entire
22 force.

1 The Military Justice Experience Survey
2 is a little bit different. I have been looking
3 at ways to boost the response rate, actually a
4 very low response rate to that one and it only
5 represents about 150 or so victims this last year
6 and the first time we did it was two years ago
7 and only about 200 folks responded back to us.

8 So at the end of the day --

9 CHAIR BASHFORD: I'm sorry. How does
10 that translate into a response rate?

11 DR. GALBREATH: Well, I don't have
12 that percentage off the top of my head, but I can
13 tell you it's fairly low.

14 It's not as high as we would like it
15 to be and it certainly is not generalizable, it's
16 a convenient sample of folks that completed the
17 justice process. Again, more information coming
18 to you.

19 JUDGE GRIMM: And just to make sure I
20 understand, you have described the feedback
21 process, is that for all Services, what you
22 identified is identical for all Services?

1 DR. GALBREATH: Yes. The Workplace
2 and Gender Relation Survey is force-wide, so it
3 generates representative numbers for the DoD as a
4 whole.

5 Keep in mind that the smaller
6 categories you go into margins of error increase
7 because it is a representative sample. The
8 bottom line is is that some categories we are not
9 able to necessarily report out by every Service
10 but we can give you the DoD experience as a
11 whole.

12 JUDGE GRIMM: Okay.

13 CHAIR BASHFORD: Judge Walton?

14 JUDGE WALTON: Several of you
15 indicated that the expedited transfer can be both
16 for the victim and the alleged perpetrator. Is
17 that true for all of the Services?

18 MR. ROSEN: Just to clarify, sir, the
19 policy applies to victims that make an
20 unrestricted report of a sexual assault.

21 For the good order and discipline of
22 any unit the commanding officer can always move

1 an individual away from the unit and that would
2 be the policy at least with the Navy that
3 potentially would be used for a subject, it's not
4 a request by the subject though.

5 JUDGE WALTON: Do you know what the
6 percentage is when these type of allegations are
7 made as to whether it was a transfer of the
8 alleged victim or the alleged perpetrator?

9 MR. ROSEN: No, sir, I do not for
10 Navy. I can't speak on behalf of the other
11 Services.

12 JUDGE WALTON: And when an alleged
13 perpetrator is transferred is someone notified at
14 that new location of why the transfer has
15 occurred?

16 MR. ROSEN: Again, speaking on behalf
17 of the Navy, we don't have a policy per se that
18 would enable a subject of a sexual assault to be
19 transferred.

20 Typically what would happen if they
21 are moved out of their unit it's probably within
22 that same chain of command, maybe from like a

1 squadron to a wing level, particularly if there
2 is an investigation and potential adjudication
3 ongoing.

4 That's not necessarily something that,
5 somebody that the Navy would transfer anyway.

6 CHAIR BASHFORD: So, but several
7 branches I thought did say you could transfer the
8 suspect so I would like to know the answer to
9 Judge Walton's question about would the receiving
10 facility in a suspect transfer know the reason
11 why.

12 MS. RANGOUSSIS: And just to clarify,
13 it's required by law. So back in NDAA for 2012
14 that was the expedited transfer for the victim.
15 And, again, a victim initiated within a 72-hour
16 timeframe. For the suspect it came out for the
17 NDAA in FY 14 and there was no timeframe
18 required, it could happen any time.

19 It's not for punitive reasons. They
20 explicitly stated that it's for good order and
21 discipline.

22 CHAIR BASHFORD: I'm sorry, it's for?

1 MS. RANGOUSSIS: Good order and
2 discipline. So both of types of transfers are
3 required by law.

4 MR. KRAMER: And does anybody have any
5 statistics on how often that's done?

6 DR. GALBREATH: Yes, we do, and we can
7 provide those. It's in the SAPRO annual report.
8 Several hundred cases of expedited transfers
9 happen every year. The numbers that are declined
10 are very small.

11 I don't have the numbers right off the
12 top of my head, but I can tell you that one of
13 the reasons that we track is that the subject, or
14 the accused, was moved instead, and I have
15 numbers on that.

16 CHAIR BASHFORD: But, again, I just
17 want to follow up on Judge Walton's question,
18 whether it's being said it's for the good of the
19 order it's still a suspect being transferred
20 presumably where the complainant doesn't want to
21 be or elects not to.

22 So is the receiving institution told

1 the underlying reason for the good of the order
2 that this person is being transferred?

3 MS. REED: For the Marine Corps there
4 is a requirement for the commanders to be
5 reviewing all inbound personnel and if there is a
6 sexual assault related incident it would be on
7 that record.

8 So it's a protocol that is followed
9 for any inbound transfer and they should be
10 annotating, it would be annotated, but I would
11 concur with the Navy that the commanders have
12 that good order and discipline and they are
13 probably maintaining control of the alleged
14 offender or the alleged subject.

15 But in any event, the commanders are
16 -- it would be on that Marine's record and the
17 commander would have eyes on that.

18 MEMBER WALTON: Is the policy any
19 different for any of the other branches?

20 COLONEL PRINCE: So for the Air Force
21 I would have to confirm with my colleagues just
22 because I am a little bit new at this, so to

1 answer that specific question as to whether the
2 gaining command is notified of the circumstances
3 surrounding the alleged offender was similar to
4 my colleague here, any inbound airman certainly
5 the commanders are looking into that person's
6 record, but I can certainly get back to the
7 Committee on that.

8 And there was another question. So,
9 yes, the Air Force, as she said, this is law,
10 both victim and alleged offender do have the
11 opportunity for that expedited transfer.

12 I can say though that the receiving
13 Sexual Assault Response Coordinator, the SARC,
14 will not be a participant on the alleged offender
15 aspect of the transfer because they are advocates
16 for the victim.

17 MS. REED: If I might clarify, and
18 thank you for bringing that up, yes, we do not,
19 our program at the Headquarters Marine Corps, we
20 are not involved in any movement of the alleged
21 offender.

22 We do not classify that as an

1 expedited transfer, it's all managed under the
2 commander's options for good order and discipline
3 and it's just a Marine Corps move, if that is,
4 you know, if that is the direction the commander
5 opts to take.

6 CHAIR BASHFORD: Let them finish up
7 with the last two branches.

8 MS. MASSEY: For the Coast Guard that
9 is something that is handled. We do have the
10 alleged subject moved. We have policies in place
11 for that.

12 The receiving command will be notified
13 through the SAPRO SIT. Usually it's done through
14 the legal channels and we usually try to place
15 the alleged subject within the same jurisdiction
16 area.

17 So let's say the incident occurs in
18 Miami, we're going to try to keep that person
19 somewhere within Florida in order to allow the
20 case to continue.

21 But the alleged subject has to be
22 offered the opportunity to continue to progress

1 within their career, to be serving in a public
2 area and, you know, with oversight, but the
3 number of people that know is limited to the
4 senior command officials.

5 MS. MASSEY: And for the Army it is
6 very similar as well. The commander can decide
7 to move a subject, often does not for the
8 purposes of the judicial process.

9 However, all subjects are, their
10 personnel folders, files, are flagged. So if a
11 subject is moved that flag would be in their file
12 for the new command team to see that they are a
13 subject.

14 JUDGE GRIMM: On that, I just want to
15 make sure I understand what it is that the new
16 command has as information about the reason for
17 the suspect being transferred?

18 I appreciate it's delicate, but there
19 may, the investigation may be new, there may be,
20 by definition there was a credible determination
21 of the complaint, otherwise, it would not be
22 something that would be brought necessary of good

1 order and discipline in the military, but that's
2 a generic category and if the receiving command
3 only hears that there is a flag on the file and
4 that they have been transferred for the good
5 order and discipline and they don't have some
6 idea, even though there has been no adjudication
7 and you have to protect both the rights of the
8 victim as well as the rights of the accused, do
9 they have information at least that alerts them
10 that there may have been this allegation, if for
11 no other reason than to make sure that they are
12 not sending them to another location where there
13 could be another victim?

14 That's I think the level of detail
15 that we are trying to get our hands on. Just to
16 have a stamp that says they are being sent out
17 for the good order and discipline of the military
18 and that there is a flag on that that allows any
19 number of inferences that can be drawn.

20 DR. GALBREATH: So let me -- I cannot
21 answer for the Services as to what policies they
22 have, but let me provide the Committee a little

1 bit of context.

2 In my former life I was an Air Force
3 Office of Special Investigations Criminal
4 Investigator and while this policy didn't exist
5 when I was a criminal investigator what I will
6 tell you is is that when a criminal investigation
7 happens one of the first steps is is that the
8 individual is put on some kind of administrative
9 hold, flagged, or things along those lines.

10 This is so that the individual can't
11 initiate a PCS move, can't initiate any kind of
12 go to school or train and things like that, and
13 move away, retire, or separate. So that's the
14 first thing.

15 The second thing is is that command is
16 regularly briefed about the status of a criminal
17 investigation, and so a move like this at the end
18 of the drill I would tell you is that the staff
19 judge advocates, the defense attorneys, the
20 criminal investigators, all are going to have
21 dibs on where the accused is going to be.

22 In other words, the person isn't just

1 picked up and moved off into a system somewhere,
2 that person is part or the target or the subject
3 of an active criminal investigation.

4 So it's not as though someone is going
5 to turn up in your unit and you would not know
6 that this person is under investigation because
7 this person is going to be going through a
8 justice proceeding or things along those lines.

9 So allow us to connect the dots for
10 you on what the policies say in each of the
11 Services, but that's the context.

12 JUDGE GRIMM: Very helpful, but under
13 investigation for a sexual assault or just under
14 investigation for any of the 134 Articles in the
15 Uniform Code of Military Justice?

16 DR. GALBREATH: That's correct. We'll
17 have to find that out for you.

18 MEMBER PROVOST: All right.

19 MS. TOKASH: I have a follow-up to
20 that. Are there any due process rights for the
21 accused or the suspect when they are moved?

22 For example, do they -- I understand

1 that it's for good order and discipline, but for
2 them being a subject of a sex assault
3 investigation, there is no other reason for them
4 to be moved for good order and discipline.

5 So my question is do they get, is
6 there an appeals process for them, and then,
7 also, the follow-up to that is how are the
8 military defense bars responding to suspect
9 moves?

10 Are they filing motions for relief for
11 unlawful pretrial treatment, are they seeking
12 mason credit, do we know if there is any impact
13 on the military justice system?

14 DR. GALBREATH: So I'll give you a
15 very respectful I don't know, I'm not an
16 attorney, but what I would offer to you is is
17 those are really good questions for the follow-up
18 attorneys for some of those.

19 In the law I can tell you that there
20 is no provision that I know of that allows a
21 commander to move the suspects that are accused
22 of a sexual assault of any kind of relief or

1 anything because it's not as the result of a
2 legal determination.

3 Again, Congress was very explicit that
4 it was for the good order and discipline within
5 the unit. So I would say you have to follow up
6 with the staff judge advocates, the SVCs, and the
7 defense counsel.

8 CHAIR BASHFORD: I have a question on
9 the, it seems to me that people covered under
10 FAP, F-A-P, I don't know how you say it --

11 DR. GALBREATH: Family Advocacy
12 Program, yes.

13 CHAIR BASHFORD: -- are, there is a
14 carve out for the expedited transfer, so if
15 somebody who would be covered under FAP is the
16 victim of a sexual assault what avenues are
17 available to them?

18 DR. GALBREATH: And Kathy Robertson
19 will be here in January to answer your questions
20 on the Family Advocacy Program.

21 CHAIR BASHFORD: But so anybody who
22 falls under that is not covered in the stats we

1 get under expedited transfers?

2 DR. GALBREATH: From the SAPRO
3 Program, that is correct.

4 CHAIR BASHFORD: And from the
5 Services, do you all have a carve out for that,
6 all of you?

7 DR. GALBREATH: Yes.

8 CHAIR BASHFORD: So any stats from the
9 Navy, Air Force, Marines, Coast Guard, Army, for
10 expedited transfers would not cover family
11 members then, right?

12 DR. GALBREATH: Right.

13 CHAIR BASHFORD: Okay.

14 BGEN SCHWENK: But the statute doesn't
15 make a distinction, does it?

16 DR. GALBREATH: Well --

17 BGEN SCHWENK: Does the statute make
18 a distinction?

19 DR. GALBREATH: Well, yes --

20 PARTICIPANT: The statute does not.

21 BGEN SCHWENK: It just talks about
22 sexual assault, right?

1 PARTICIPANT: The statute just refers
2 to the Articles.

3 BGEN SCHWENK: So theoretically there
4 should be something similar out the other side?

5 DR. GALBREATH: Yes. Kathy Robertson
6 has some data for you.

7 CAPT. TIDESWELL: Chair Bashford, I
8 just want to draw the Committee's attention to
9 the data that Dr. Galbreath was kind enough to
10 reference, the military transfer data from the FY
11 16 data report.

12 (Simultaneous speaking.)

13 CAPT. TIDESWELL: It's actually in
14 your reading -- file.

15 DR. SPOHN: I had a question about --
16 I noticed in looking at that data for 2016 there
17 were 19 cases, I believe that was the right
18 number, where the request by the victim for an
19 expedited transfer was denied.

20 Why are those requests denied
21 typically?

22 DR. GALBREATH: We have all the

1 reasons why, sometimes the person is undergoing a
2 medical evaluation board and that locks them out
3 of being able to be moved, sometimes the accused
4 is moved instead, sometimes there is not a
5 credible report, and then there is a couple other
6 categories that I don't remember right off the
7 top of my head.

8 MS. TOKASH: Are the cases where it's
9 determined that the report was not credible, do
10 you have any data or anecdotal information on the
11 impact of the victim's credibility at trial?

12 DR. GALBREATH: I do not.

13 MS. TOKASH: So, for example, a
14 defense attorney saying you put in, you know,
15 under cross examination, you requested an
16 expedited transfer, true? Yes, I did. And it
17 was denied, wasn't it? Yes, it was. And it was
18 denied because your commander and the military
19 police found that there was not credible
20 information? True.

21 DR. GALBREATH: It's a possibility,
22 but because the numbers are so small my guess --

1 and in addition to that if there was no credible
2 evidence at that time that might be going, end up
3 in an unfounded case that wouldn't necessarily go
4 forward in the justice process.

5 That's my guess with knowing how the
6 data works, but, again, I can't answer directly
7 for that.

8 MS. TOKASH: So an expedited transfer
9 determination could potentially have an impact on
10 even whether a case can be shepherded through the
11 military justice system?

12 DR. GALBREATH: It's possible. It
13 certainly is possible.

14 MS. REED: But I think they would have
15 to look at -- Respectfully, I mean expedited
16 transfer requests come in at very different
17 times.

18 DR. GALBREATH: Yes.

19 MS. REED: I mean we have expedited --

20 PARTICIPANT: I'm sorry, we're really
21 having trouble --

22 MS. REED: Okay. Expedited transfer

1 requests come in at different times. They even
2 come in after the end of courts-martial when the
3 suspect is found not guilty, right.

4 So depending on when the expedited
5 transfer request comes in is when they are
6 looking at the evidence before them. Just
7 because there is not enough evidence or to find a
8 credible report at that moment does not mean that
9 there is not more evidence coming in later on.

10 MS. TOKASH: And I understand that.

11 MS. REED: All right.

12 MS. TOKASH: My primary concern is the
13 impact on the victim should that victim find him
14 or herself on the witness stand at a trial and
15 earlier in the process they have been denied an
16 expedited transfer because there wasn't credible
17 information. That's all I was wondering about.

18 DR. GALBREATH: And I would offer to
19 you that that situation would probably be
20 exceptionally rare. This last year there were
21 only three cases out of about 700-some where a
22 credible report, they didn't move the person

1 because there wasn't a credible report. Like I
2 said, it's very, very rare.

3 And if you would like to look at this,
4 this is the data from the SAPRO report is here
5 and that information about the categories is on
6 the last page right before Tab 6 and you can see
7 all the reasons why people didn't move.

8 CHAIR BASHFORD: But Lieutenant
9 Styles, you mentioned that in deciding this it's
10 also the needs of the member balanced with the
11 needs of the Services, and, Colonel Prince, you
12 said we want to meet the victim's needs while
13 balancing mission requirement needs.

14 Do the other forces have the same
15 mission requirement need built into there?

16 MR. ROSEN: Yes, ma'am. For Navy when
17 the request is made it goes to our Navy Personnel
18 Command and they are looking for the fit based on
19 the reasons that the request was made and also
20 what the needs of the Navy are and the needs of
21 the sailor professionally going forward.

22 So we don't want to send somebody who

1 is an aviation technician to a surface base, a
2 surface ship base where they can't work on
3 aircraft.

4 So all those things are looked at by
5 our Navy Personnel Command and if there is a
6 little bit of trade space there there is a
7 discussion with the command to try to find out
8 what the best fit would be both for Navy and for
9 the requesting Servicemember.

10 CHAIR BASHFORD: Are the Marines the
11 same?

12 MS. REED: Yes. Our victims are
13 encouraged to submit three desired preferred
14 locations, understanding, you know, managing
15 expectations, but then within manpower their goal
16 is to keep them within their MOS and to put them
17 in a place, because they are working with a
18 monitor who has been tracking this Marine
19 throughout their career and that monitor is
20 providing that overlook to make sure that where
21 they are going is still going to move them
22 forward in their career progression.

1 They make every effort to, again, move
2 a Marine out of their MOS or into a location that
3 would not assist them moving forward.

4 CHAIR BASHFORD: Army, you're so big
5 you can always find a place, right?

6 PARTICIPANT: Yes.

7 CHAIR BASHFORD: A.J.?

8 MR. KRAMER: I have a couple of
9 questions, one pretty simple probably, it's a
10 follow-up to a bunch of questions that were asked
11 earlier, but I didn't hear this specific mention,
12 and it probably ties into the retention rate, but
13 is there, in this questionnaire that's being
14 done, or survey, is there, and I heard said that
15 it's not supposed to affect the career of the
16 person being transferred, is there a question in
17 there about whether the person feels that it has
18 affected their career along the way?

19 DR. GALBREATH: So I don't -- I can't
20 break that out by folks with an expedited
21 transfer, but I do have --

22 MR. KRAMER: Well, that's what I mean,

1 people who've taken an expedited transfer.

2 DR. GALBREATH: Yes. No, in general
3 I have a question that says that, that goes to
4 the folks that said they experienced sexual
5 assault in the past year, and the question is did
6 you take any active steps to separate or did you
7 think about separating, and that information is
8 in our Workplace and Gender Relation Survey and I
9 can provide that back to the Committee.

10 MR. KRAMER: Because it would seem to
11 me extremely important because one of the
12 criteria we heard -- And is it Rangoussis?

13 MS. REED: Rangoussis.

14 MR. KRAMER: Rangoussis, I'm sorry.

15 MS. REED: That's all right.

16 MR. KRAMER: And by the way I want to
17 thank you all, it's been extremely valuable, for
18 coming here.

19 It seems to me it would be important
20 to note retention rates may reflect whether they
21 think their career was hurt, but as somebody else
22 said it may also reflect that just the nature of

1 the sexual assault may want to make them
2 separate.

3 But it would seem to me to tie in
4 whether they think their career has been affected
5 would be extremely important for the expedited
6 transfer request to know.

7 DR. GALBREATH: It is. And so, like
8 I said, is I do have some data that talks about
9 their career. A vast majority of the folks that
10 go through an expedited transfer say that their
11 experience with their living situation is about
12 the same or better.

13 With their support, their medical and
14 mental health care is about the same or better.
15 Their career progression, a little bit less than
16 the other things, but like I said is we'll get
17 you that data.

18 The challenge is is that the number of
19 people in the expedited transfer bucket is about
20 700 folks every year versus the several thousand
21 people that may have experienced a sexual assault
22 and not reported it and not gone through the

1 process, and so as a result my numbers in the
2 survey get a little fuzzy, so it's hard to run
3 that.

4 MR. KRAMER: And then I have one
5 totally unrelated question, probably for Mr.
6 Rosen. The number of unrestricted reports
7 requesting transfer in the Navy are three times
8 or twice as high as some of the other Services,
9 is that because the nature in the Navy people are
10 on ships or do you know why it's so much higher?

11 MR. ROSEN: No, sir, I don't. We run
12 somewhere between 28 and 30 percent of our
13 unrestricted reports end up in an expedited
14 transfer request.

15 MR. KRAMER: Right.

16 MR. ROSEN: Some of that probably does
17 have to do with the expeditionary nature of how
18 we do business, particularly if there is a victim
19 that is looking at ongoing services and support,
20 and if they are on a ship that's either getting
21 ready to deploy or on deployment that may drive
22 that number up, but that's just speculation on my

1 part.

2 MR. KRAMER: Because it's three times
3 as high as the Air Force and more than twice as
4 high as the Army and still 50 percent more than
5 the Marine Corps. I'm just -- does anybody have
6 any ideas why that is?

7 CHAIR BASHFORD: Okay. Do you break
8 out the requests by the nature of the complaint
9 whether it's a penetrative or non-penetrative
10 offense, do we know?

11 COLONEL PRINCE: The Air Force does
12 not.

13 CHAIR BASHFORD: It does not or you
14 don't have it?

15 COLONEL PRINCE: Does not break it out
16 --

17 (Simultaneous speaking.)

18 CHAIR BASHFORD: Okay. Army?

19 MS. MASSEY: To my knowledge, no, we
20 don't break it out either.

21 CHAIR BASHFORD: Coast Guard?

22 LT. STYLES: We do not, ma'am.

1 MS. REED: Not within this process,
2 no.

3 CHAIR BASHFORD: And Navy?

4 MR. ROSEN: The same thing.

5 CHAIR BASHFORD: I am sure we have
6 more questions. Yes, okay, over here. Dean
7 Harrison?

8 DEAN HARRISON: As I understand the
9 definition of a transfer, in a large command it
10 could be moving a person from upstairs to
11 downstairs or from one side of the base to the
12 other, and I guess theoretically even an aircraft
13 carrier not even off the boat, but the goal of
14 this is to minimize the encounters between the
15 victim and the alleged accuser.

16 Do you have any data on how many times
17 a person is not really geographically moved but
18 considered transferred?

19 DR. GALBREATH: I do in a very general
20 sense. I have numbers about how often that they
21 go, they result in a PCS move, an installation
22 transfer versus basically a unit or a duty

1 transfer, but I don't have anything back
2 underneath that.

3 But essentially there were 62 requests
4 for unit or duty transfers, that would be kind of
5 a PCA or across the base move or a different unit
6 move, and then in 2016 there were 684 requests
7 for installation transfers.

8 DEAN HARRISON: Okay. So the victim
9 decides what level they want to be transferred?

10 DR. GALBREATH: Often times that is
11 part of their request.

12 DEAN HARRISON: Okay. Do you keep
13 count as to -- Is a transfer considered to be
14 granted when a victim requests a PCS move and is
15 given basically an intra-base move?

16 DR. GALBREATH: I don't think so,
17 largely because if they have requested a PCS move
18 and that doesn't satisfy their need at that time
19 then that's a reason that they could appeal to
20 the next higher, to the General Officer next in
21 the chain.

22 DEAN HARRISON: Lieutenant Styles, I

1 have a question for you about the Coast Guard,
2 and I know the Coast Guard is not part of DoD,
3 but the 72-hour action timeline does apply to the
4 Coast Guard.

5 Did I hear you correctly that your
6 decision-making line is two weeks?

7 LT. STYLES: It's two weeks for us to
8 make a decision. That's what is written into our
9 policy, but we find that the timeline is a lot
10 faster in actual processing these requests.

11 DEAN HARRISON: Does the statute
12 require 72 hours or is that just DoD policy?

13 LT. STYLES: It's upon reporting to --
14 for us to receive the actual request.

15 DEAN HARRISON: Okay. And --

16 LT. STYLES: So once it comes to PSC
17 we have up to two weeks to adjudicate the request
18 and sometimes it does take us time because we may
19 have to go back to the command, let's say we
20 don't know where the Confirmed Support Network is
21 or we want to, you know, engage through the SARC
22 to find the best fit for the member with their

1 career progression.

2 So that may take some time, but most
3 of the time we're processing these requests
4 within a few days.

5 DEAN HARRISON: And your office is
6 part of the Commandant's Office, isn't it, or --

7 LT. STYLES: No. We are --

8 DEAN HARRISON: -- it's part of Coast
9 Guard Headquarters?

10 LT. STYLES: We are geographically
11 located at Coast Guard Headquarters, but the
12 Personnel Service Center we are our own unit. So
13 we fall under the Human Resources CG-1.

14 DEAN HARRISON: I'm just trying to
15 understand the structure. If you deny, whose
16 command is making that decision and who is the
17 next flag officer?

18 LT. STYLES: So we have our own flag
19 officer at the Personnel Service Center and then
20 so the next flag officer in that chain of command
21 will make a recommendation.

22 So let's say it's a denial, it will go

1 to that victim's next flag officer, so it could
2 be at a District, that request will then be sent
3 to PSC, the PSC Admiral will then review it and
4 make a determination at that time.

5 DEAN HARRISON: Thank you.

6 CHAIR BASHFORD: Dr. Markowitz?

7 DR. MARKOWITZ: Dr. Galbreath, I very
8 much appreciate having this data, but obviously
9 Coast Guard is not reflected in the data.

10 So a very simple question, do we have
11 the ability to get from you for the Coast Guard
12 similar data about expedited transfer numbers and
13 denials?

14 LT. STYLES: I think we provided the

15 --

16 DR. MARKOWITZ: Did I just miss it?
17 That's entirely possible.

18 LT. STYLES: There should be -- We
19 had, I believe it's 18 different, in the
20 attachments that were provided, and there was one
21 instance of a denial that should have been
22 annotated within there and that had to deal with

1 an unrestricted report where the command was
2 reviewing an investigation regarding the victim's
3 own misconduct at the time that was not related
4 to the sexual assault.

5 The victim was being processed from,
6 separated from the Coast Guard and the alleged
7 perpetrator was a civilian who lived in Michigan
8 and the victim was receiving support services in
9 Florida, so that was --

10 DR. MARKOWITZ: Great, thank you. I
11 appreciate that and I apologize for missing it.

12 CHAIR BASHFORD: Major General
13 Anderson, you had your hand up, too.

14 MG ANDERSON: Yes. My question is
15 kind of personnel related. Most of you were
16 pretty helpful in describing your processes and
17 procedures for processing these transfers.

18 My question goes to, and I am assuming
19 everybody flags somebody if it's an accused who
20 is going to be transferred, my question relates
21 to how many people will have access to that
22 information, because all of you say is, the

1 commander is going to be notified that they are
2 getting someone who has been, as a result of an
3 expedited transfer and that they have been
4 accused of sexual assault?

5 My experience is there may be other
6 people who have access to that information in the
7 unit, so this kind of goes to how we maintain
8 confidentiality or kind of internal controls and
9 processes we have in place to assure that that
10 happens.

11 MR. ROSEN: So for Navy, to clarify,
12 we don't flag personnel records of subjects of
13 sexual assault investigations. However --

14 MG ANDERSON: Neither the victim or
15 the accuser, they are not flagged?

16 MR. ROSEN: Nobody's record is
17 flagged, we never flag records and victims.

18 MG ANDERSON: Okay.

19 MR. ROSEN: So if a sexual assault, if
20 a Servicemember is accused of a sexual assault
21 and an investigation is ongoing that command is
22 responsible for ensuring that our personnel

1 command is aware of it if that particular sailor
2 happens to be up for orders at that time, either
3 if they have orders in hand that they are going
4 to be transferring at some point in the future or
5 the personnel command is working on future orders
6 because it's their normal rotation date, it would
7 be that command that contacts personnel command
8 to say put that person on hold while we take care
9 of this issue and figure out what the outcome of
10 that is going to be.

11 So I just wanted to clarify at no time
12 in the personnel system is a record flagged for a
13 subject or a victim ever. And I don't know if
14 that answers you question about how our process
15 works.

16 MG ANDERSON: Okay.

17 PARTICIPANT: For you, I don't know
18 about the rest of them.

19 MG ANDERSON: The others, yes.

20 COLONEL PRINCE: So for the Air Force
21 I had said that I would get back to the
22 Committee, I wasn't sure exactly what the gaining

1 commander receives in terms of information about
2 the alleged offender.

3 But my office works very closely with
4 the Air Force Personnel Center and I can tell you
5 that the Director of the Air Force Personnel
6 Center and one other person has access to
7 information.

8 So they keep those very close hold and
9 very restricted to no more than two people.

10 MG ANDERSON: Okay.

11 LT. STYLES: For the Coast Guard the
12 files are not flagged for the victim or the
13 alleged perpetrator.

14 When you look in our personnel system,
15 which PSC has control over, it only shows up as a
16 PCS transfer within the system, there will be a
17 unit change and that will be it for it.

18 And as far as the confidentiality of
19 the case, that is being briefed with the SAPRO
20 SIT to the senior command officials, so you're
21 talking about your COs of the units have that
22 knowledge.

1 MS. MASSEY: Ma'am, for the Army the
2 victim also is not flagged. As far as what the
3 file looks like for the subject I would have to
4 get in touch with HRC and get more details for
5 you. I am not aware of that.

6 CHAIR BASHFORD: And Marines?

7 MS. REED: And for the Marines the
8 victims are never flagged and I will need to go
9 back and get into the details as far as who has
10 access to those records.

11 I believe there is, again, commander
12 review. In order to -- I will need to go back
13 and get clarification as to who has access to
14 those records.

15 DEAN HARRISON: If I could follow up
16 on that, does that mean for all of you that if,
17 for example, someone is the subject of a credible
18 sexual assault allegation there is nothing done,
19 for example, with the security clearance?

20 MR. ROSEN: That may be -- Sir, and
21 maybe that's a different issue altogether.

22 DEAN HARRISON: Okay. Wouldn't that

1 affect where they would be assigned or --

2 MR. ROSEN: Well, you're talking about
3 as they are a subject of an ongoing
4 investigation?

5 DEAN HARRISON: Yes.

6 MR. ROSEN: Okay. So maybe it would
7 be atypical for a subject to be moved anyway,
8 other than within the same chain of command,
9 maybe as I mentioned before from a squadron to a
10 wing level.

11 That doesn't mean that they wouldn't
12 have necessarily their clearance suspended or
13 they would be down-armored if they carry a
14 weapon. Those things are up to the command from
15 an operational perspective, kind of outside the
16 personnel realm.

17 DEAN HARRISON: But if their file is
18 not flagged how is all of this information
19 exchanged and how are these things accomplished?

20 MR. ROSEN: Well, the individual is in
21 the unit that they were in when the accusation
22 was made and the commanding officer of that unit

1 was aware of that.

2 DEAN HARRISON: Okay, so the
3 commander.

4 MR. ROSEN: Yes.

5 DR. GALBREATH: So just to clarify,
6 there is a process by which most of the MCIOs,
7 the Military Criminal Investigative
8 Organizations, formally notify a command that an
9 individual is under investigation.

10 That commander is then responsible for
11 making determinations as to special program
12 access, weapon -- Army, and anything else that is
13 going on, Personnel Reliability Program, all that
14 kind of stuff. So that's different from flagging
15 a record.

16 CHIEF MCKINLEY: For the alleged
17 victim do we have any knowledge or data on the
18 possible abuse of this transfer program where
19 they ask for an expedited transfer basically just
20 to get an assignment and we talked so much about
21 it's up to the commander to make these decisions
22 and for each branch of Service do you know what

1 type of training we provide to that commander to
2 assist them in making these decisions?

3 DR. GALBREATH: So the data with
4 regard to making a false allegation to get an
5 expedited transfer, I don't have any direct
6 information, but what I can tell you is the rates
7 of cases that are determined to be unfounded are
8 no different really, maybe a percentage point or
9 two, than between cases that receive an expedited
10 transfer than cases that don't receive an
11 expedited transfer, and that's some of the data
12 that I will be bringing with us back in January
13 so that you all can see that.

14 So cases going forward in the system,
15 what I do is, I don't know if you remember or if
16 you were awake last time when I was walking
17 through the different, the waterfall charts of
18 how cases go forward, I can do that for cases
19 that did not receive an expedited transfer versus
20 cases that do receive an expedited transfer and
21 you can see for yourself the percentage of cases
22 in each of those categories of where cases go

1 forward or don't and the rate, and they are
2 really largely identical almost, you know, within
3 a percentage point or two.

4 So I will bring that back to you and
5 you can make, you can look for yourself.

6 CHAIR BASHFORD: Ms. Garvin, I know
7 you've been trying to get in there for a bit.

8 MS. GARVIN: That's okay. Dr.
9 Galbreath, did I understand you correctly in
10 saying that if a victim has asked for a
11 particular type of transfer but a different
12 transfer is awarded that would be considered a
13 denial?

14 DR. GALBREATH: I think that they
15 would be able to appeal that and go forward. I
16 have one case -- I have I think a couple of cases
17 in here, just two, where a, there is two from the
18 Marine Corps where they offered a PCA instead of
19 a PCS, or, in other words, an across the base
20 move versus an installation move.

21 And then there is one from the Air
22 Force where it says the victim was placed in a

1 different organization and squadron with victim
2 approval.

3 And so I do believe though that if the
4 victim doesn't get -- There is nothing that --
5 Let me put it this way, there is nothing in our
6 policy that says if you didn't get the request
7 met that you could not go forward and ask for an
8 appeal on that.

9 MS. GARVIN: Okay. Do any other
10 branches know anything, operate differently than
11 that?

12 COLONEL PRINCE: That is consistent
13 for the Air Force.

14 MS. GARVIN: And then, Mr. Rosen, you
15 had mentioned, I believe, for the Navy that it's
16 not a request for an appeal it's an automatic
17 appeal when you were pointing out some
18 differences?

19 MR. ROSEN: Right. So if the initial
20 request to the commanding officer was denied the
21 OSD policy is the victim has the ability then to
22 submit a subsequent request to the first flag

1 officer.

2 That process is automatic in the Navy
3 and automatically gets transferred up to the
4 first flag officer.

5 MS. GARVIN: And are you aware of the
6 policy reason why the Navy chose to make that
7 automatic?

8 MR. ROSEN: When we were implementing
9 the guidance from OSD we just felt like that was
10 the right thing to do, you know, to ensure first
11 of all we had flag visibility on these decisions
12 that were being made and also to take the onus
13 off the victim of having to request it again.

14 CHAIR BASHFORD: I just want to follow
15 up on Chief McKinley's question about training
16 because, Ms. Reed, you said that you had, I
17 believe, recently included in pre-command
18 training for your officers, whether giving or
19 receiving, about the expedited transfers. Is the
20 Navy doing any kind of pre-command training,
21 including the expedited transfer issue?

22 MR. ROSEN: Yes, ma'am, that is

1 incorporated into our PCO/PXO course, pre-
2 commanding officer/pre-executive officer course.

3 When they assume command the triad,
4 that's the commanding officer, the executive
5 officer, and the senior enlisted, also get a
6 brief from their sexual assault response
7 coordinator that goes over their toolkit and some
8 of the local policies and processes. So that
9 training occurs at that point as well.

10 CHAIR BASHFORD: And is that also the
11 case then for the Air Force?

12 COLONEL PRINCE: Yes, ma'am, that's
13 also the case for the Air Force. Training
14 occurs, a pre-command training done at Air
15 University at Maxwell Air Force Base for our
16 commanders.

17 In addition, within 30 days the sexual
18 assault response coordinators must provide
19 additional training for commanders when they
20 report to their base upon assumption of command.

21 And in addition to that when any type
22 of a, when a CMG is convened there is additional

1 training that is provided to those commanders
2 that are part of the --

3 CHAIR BASHFORD: The training includes
4 --

5 COLONEL PRINCE: It includes expedited
6 transfer, yes, ma'am.

7 CHAIR BASHFORD: Same for Coast Guard?

8 LT. STYLES: Ma'am, I would have to
9 get back to you on that.

10 CHAIR BASHFORD: And the Army?

11 MS. MASSEY: Yes. They meet, yes,
12 with the SARCs within the 30 days taking the
13 command, and so they meet with their SARC and
14 receive training.

15 MS. RANGOUSSIS: Ma'am, I just wanted
16 to add that part of the DoD, in the DoD
17 instructions 6495.02, part of the pre-command
18 training standards is training on the expedited
19 transfer.

20 MS. GARVIN: And if I may follow up
21 both on the training part, but it's related to --
22 how do you say it, Rangoussis?

1 MS. RANGOUSSIS: Yes.

2 MS. GARVIN: Sorry, Ms. Rangoussis.

3 I wrote it down, I was hoping I would get it.

4 It's related to both training, and then you had

5 flagged in the materials that we had received

6 regarding the expedited victim transfers the

7 items that commanders shall directly counsel

8 Servicemembers about, and there were four things

9 in small letters there.

10 The first one is reasonably

11 foreseeable career impacts, and I am just curious

12 how commanders are trained on these pieces in

13 order to directly counsel Servicemembers,

14 particularly in light of the fact that we're not

15 sure we have data on career impact?

16 So I am just wondering -- so it's a

17 two-part question. Generally, how are commanders

18 trained on these four things, both in terms of

19 content for those subparts and then in method of

20 counseling, because that's the word that is used,

21 and then specifically with regards to Subpart A,

22 how that's done in light of we're not sure we

1 have data on career impact?

2 MS. RANGOUSSIS: Well, I can tell you
3 that I cannot speak specifically to how it's
4 done, because we only set the standards at the
5 DoD level.

6 I think the intent behind when we
7 wrote that part of the policy was if victims were
8 in a particular school how that would affect it.
9 As victims are going through a crisis moment and
10 they want to leave the area it's up to the
11 commander to explain to them that maybe a slot in
12 that particular school won't be available for
13 some time.

14 There is also victims in a very narrow
15 duty area, intelligence roles and things like
16 that, there are only so many positions and if you
17 are PCS'ing out of cycle those positions are more
18 difficult to get at.

19 Or, again, if you have a military
20 spouse, getting two spouses together in the same
21 location at their required duty area is
22 difficult.

1 So I think that was the intent behind
2 the policy, that when somebody is going through a
3 crisis moment, you know, they are talking to
4 their victim advocate, they're going through all
5 the things that they need, that somebody kind of
6 sits them down and says I know that you want an
7 expedited transfer, I know that you are going
8 through this, but these are the potential impacts
9 to your career.

10 Some victims also have, particularly
11 duty stations, where they get a bonus for
12 accepting that job, so any kind of impact on that
13 bonus if they now decide to leave. So that was
14 the intent behind that in terms of specific
15 training, I mean we only have the general
16 training requirement.

17 CHAIR BASHFORD: I think we have time
18 for one last question. Judge Brisbois, you
19 haven't had a chance to speak yet.

20 MEMBER BRISBOIS: I don't like the
21 sound of my own voice, so --

22 CHAIR BASHFORD: We do.

1 JUDGE BRISBOIS: Let me just wrap up
2 here with the question regarding the training.
3 You've all said that you get pre-command
4 training, you get assumption of command training,
5 but what no one has said is what is the extent,
6 the scope, the length of that training, you know,
7 what is the quantity and quality of that
8 training?

9 And the reason I am asking is, as a
10 former judge advocate myself, I would do a lot of
11 war training for new commanders and I was given
12 all of 30 minutes and then I never saw them
13 again, so you can see where the conundrum comes,
14 or the curiosity comes from.

15 (Off-microphone comment.)

16 MR. ROSEN: Okay, thanks. So, you're
17 right, there is an awful lot of training,
18 particularly pre-command. They pack it in pretty
19 tightly.

20 So there is a sexual assault
21 prevention and response module. Part of that
22 training in that module is the expedited transfer

1 policy, among the many other things related to
2 the program that we expect our commanding
3 officers and our executive officers and our
4 senior enlisted to have.

5 There is the in-brief when they assume
6 command, and I will tell you that a key component
7 of that in-brief is for the sexual assault
8 response coordinator to begin establishing that
9 personal relationship with the commanding officer
10 because they are the expert and resource.

11 A sexual assault event in a unit is
12 pretty unique. There will be commands that never
13 experience one in the tenure of an commanding
14 officer and larger commands may have several.

15 But we don't expect them to be off-
16 the-cuff experts, but we do expect them to know
17 what procedures to take immediately, obviously to
18 support the victim, and if it's an unrestricted
19 report to begin the notification to the MCIO and
20 investigation and to reach out to the resources,
21 the SARC, or the victim advocate, the staff judge
22 advocate, who are the experts that can come in

1 and advise them of what their responsibilities
2 are and how to best execute them.

3 So that's probably more than you
4 wanted, but the reality is you are right, there
5 is a lot of information and sometimes it needs to
6 be just in time.

7 If they know where to go to get it
8 that may be sufficient for their needs at that
9 point.

10 MEMBER BRISBOIS: So just to summarize
11 or paraphrase what you just said, the gist of the
12 training is these are issues you might face,
13 these are where you go to resource and staff that
14 issue it sounds like.

15 MR. ROSEN: That's part of it, but
16 part of it will be an immediate understanding of
17 what your responsibilities would be to a
18 reporting victim.

19 That is something that we expect them
20 to walk away with and have that knowledge.

21 MS. REED: I would concur with that.
22 We actually conducted our pre-command, our

1 commanders course, Cornerstone, for the Marine
2 Corps.

3 SAPRO is provided a 3-hour window in
4 which to provide training for them. It was
5 shunted down to an hour and a half just this most
6 recent event, but they were afforded another
7 opportunity to come back on Monday, so they will,
8 you know, they recognized that the hour and a
9 half wasn't covering the time needed.

10 I believe with respect to, you know,
11 a commander needing training on how to address a
12 Marine's career progression, that's outside of
13 SAPR.

14 That is a commander's role to be aware
15 of who his Marines are, or who his or her Marines
16 are, and then to facilitate and enable them to
17 progress forward in their career.

18 That is outside of SAPR's window and
19 it just is part of their being a commander and
20 it's just included, you know, in the policy as a
21 reminder that this is something you should also
22 take into consideration when you sit down with

1 your victim, with your Marine who has requested
2 an expedited transfer.

3 Our SARCs are well versed as well to
4 be able -- Again, it's building -- That resource
5 brief is there to build that rapport and to lock
6 on with that resource so that, you know, you have
7 your immediate response and then you know who
8 your circle of support are to make sure that the
9 services are continuous and relative.

10 COLONEL PRINCE: So for the Air Force,
11 yes, we are challenged with time as well. So we
12 have invested in hiring curriculum design experts
13 to help us figure out strategies that would take
14 adult learning and put it into a small window of
15 time to make sure that our commanders can walk
16 away with the knowledge and takeaways for them to
17 at least get started because they will always
18 have opportunities for that just in time training
19 from the SARCs.

20 So we do use application-based
21 scenarios for the pre-command training so that
22 they can have examples of what their roles and

1 responsibilities would be.

2 In addition to that we provide
3 information ahead of time, so they walk out with
4 packets and flow charts and reference materials
5 that they can refer to at a later time.

6 But we are using these curriculum
7 design experts to help us get the core
8 information and training that they need in a
9 small amount of time. So that's the continuous
10 improvement work that we are doing with our
11 training aspect for SAPRO in general but
12 especially for our commanders.

13 And then relative to commanders being
14 trained on career, I will say, and if I can just
15 be a little bit subjective, I am most proud of
16 the Air Force's ability with career development
17 and professional development. Commanders have
18 access to chief enlisted managers who are well
19 versed at making sure that our enlisted force
20 have professional development so that commander
21 can always reach out to the chief enlisted
22 manager for assistance there, whether it's PME or

1 special duty.

2 On the officer side, as well as the
3 enlisted side, we have functional managers. I
4 talked about vertical integration, we have
5 functional career managers at the unit level, at
6 the major command level, at the Headquarters
7 level.

8 So that commander has a lot of
9 resources to assist him or her in building that
10 career path and helping to communicate the
11 impacts on the career, so I think the Air Force
12 does a pretty good job with that.

13 LT. STYLES: I'll say with the Coast
14 Guard I can't specifically speak to the
15 individual training because I don't have
16 knowledge about that, but the Coast Guard has a
17 very active training regimen for all Coasties to
18 educate on this.

19 And as far as to the commanders, the
20 PSC provides a central point for commanders to go
21 to to ask questions. My role as a CAC is to
22 answer those questions, to field those questions.

1 If they are not sure how the policy is
2 working we have a very, a forward-leaning message
3 in going out to the fields and saying that we're
4 here to answer your questions, we want to be, you
5 know, your call center, so to speak, to call us
6 and try to work through these challenging issues.

7 MS. MASSEY: And I would say for the
8 Army I can't speak to the exact details of the
9 scope, the length of the training that they
10 receive on expedited transfers, but we do have a
11 dedicated SHARP Academy who is made of curriculum
12 developers, like the Air Force mentioned, and
13 they do work on all of the training and the adult
14 learning theories.

15 In addition, I know they have been
16 working on some initiatives that are commander-
17 specific.

18 I don't have the details on all the
19 different types of curriculums that they teach
20 for commanders, but they have been designing
21 commander-specific curriculums to help them with
22 how they handle this.

1 And I also want to echo the 30-day
2 meeting that the commander has with the SARC is
3 to go over different things and also in the Army
4 to build that rapport as well, so it's similar.

5 CHAIR BASHFORD: I want to thank
6 everybody for coming, Ms. Massey, Lieutenant
7 Styles, Colonel Prince, Ms. Reed, Mr. Rosen, Ms.
8 Rangoussis, and Dr. Galbreath, thank you so much
9 for your time, your expertise in answering our
10 questions, and we will be on a 10-minute recess.

11 (Whereupon, the above-entitled matter
12 went off the record at 3:28 p.m. and resumed at
13 3:42 p.m.)

14 CHAIR BASHFORD: So we're starting our
15 Special Victims' Counsel/Victims' Legal Counsel
16 Perspectives on Expedited Transfer Policy and the
17 Program itself. I want to welcome everybody. As
18 we did with the last panel, I'd like to hear what
19 you all have to say and then we'll open it up to
20 questions from the Committee members. You are in
21 control of your destinies as to how you choose in
22 what order to proceed.

1 MAJOR JACK: Good afternoon, ladies
2 and gentlemen. I am Major Simone Jack. I have
3 served as an active-duty judge advocate for the
4 U.S. Army for over eight years. Thank you for
5 the opportunity to speak today. The opinions I
6 express today are my own based on my experience
7 and are not those of the Army.

8 As a judge advocate, I have been a
9 legal assistance attorney; administrative law
10 attorney; trial counsel, which is an Army term
11 for prosecutor; and, most recently, a special
12 victims' counsel. As a trial counsel from June
13 2012 to May 2014, I prosecuted sexual assault
14 cases.

15 I served as a full-time special
16 victims' counsel from March 2015 to July 2017 at
17 Fort Hood, Texas. I'm currently in the process
18 of earning my LLM at the Army's Judge Advocate
19 Legal Center and School in Charlottesville,
20 Virginia.

21 The role of an SVC is to represent
22 victims of sexual assault. As attorney for a

1 sexual assault victim, special victims' counsel
2 ensure their client is feeling educated about
3 their rights and services available to them in
4 the justice process, whether it be in the
5 military realm or the civilian realm.

6 Special victims' counsel provide
7 effective and timely advice and support to
8 clients during this time. Victims are entitled
9 to special victims' counsel representation,
10 whether the client has chosen to make a
11 restricted or unrestricted report. Both
12 reporting options allow victims to receive the
13 necessary services to cope with the assault.
14 Only the unrestricted option requires an
15 investigation.

16 Victims are entitled to special
17 victims' counsel representation at any point in
18 the process, meaning an attorney-client
19 relationship can be formed soon after a report is
20 made or the day before trial. I typically became
21 involved soon after a report was filed.

22 Because special victims' counsel

1 zealously and appropriately advocate in the best
2 interests of their client, special victims'
3 counsel are independent of the investigative
4 prosecution and defense offices. Special
5 victims' counsels advocate for the best interests
6 of their clients. Therefore, there are times
7 when those interests were not aligned with those
8 of the prosecution, the defense and the client
9 may agree on an issue, or the victim may decline
10 to participate.

11 During my time as an SVC, I served as
12 a senior special victims' counsel, which meant
13 that, in addition to my own caseload, I
14 supervised other SVCs. At Fort Hood, we had
15 between three to four full-time special victims'
16 counsel that served, on average, for 18 months.

17 Over the course of my tenure, I
18 supervised eight full-time special victims'
19 counsel and represented 77 clients. I currently
20 have six clients whose cases are now post-trial.
21 At any one time, on average, I had 30 clients
22 whose cases were at different stages in the

1 investigative and disposition processes. The
2 cases ran the gamut from abusive sexual contact
3 to sexual assault.

4 I had adult clients, as well as minor
5 clients. I had dependents as clients. The
6 majority of my clients were current or former
7 Service members. The majority of my clients were
8 also female.

9 I had eight clients who requested
10 expedited transfers. Some came to Fort Hood,
11 left Fort Hood, or transferred units within the
12 installation. Those that hadn't received a
13 transfer prior to becoming my client came to me
14 seeking information and/or advice on the process.
15 In discussing the process with a client, I
16 explained the process, the pros and cons of a
17 transfer, and the roles of the parties involved.

18 In the expedited transfer process, I
19 mostly advised my client and talked to commanders
20 and/or victim advocates, if necessary. In my
21 experience, all of my clients who requested a
22 transfer received it. For seven out of the eight

1 clients, the expedited transfer process went
2 smoothly and occurred in a timely fashion. One
3 client had an issue that was resolved after
4 speaking to the company commander.

5 Once my clients made their moves, I
6 didn't have any clients report that they
7 experienced any issues moving forward in their
8 new unit and/or their career. After transfer,
9 all of my clients continued to cooperate with
10 investigators and the prosecution.

11 I do believe the special victims'
12 counsel program is beneficial to victims of
13 sexual assault. I've had clients tell me that
14 they appreciated having someone who could explain
15 things to them about the limitations that a
16 prosecutor has, that someone was available to
17 them more often than not. Depending on the
18 particular case, having a buffer between them and
19 investigators, the prosecution, and defense, as
20 well as a filter for information and requests, as
21 well as a sounding board that minimized the
22 stress and confusion.

1 I enjoyed my time as a special
2 victims' counsel and believe it is an
3 interesting, educational, and important
4 assignment. I welcome your questions. Thank
5 you.

6 LT. COMMANDER HUFFSTETLER: Good
7 afternoon, ladies and gentlemen. My name is
8 Lieutenant Commander Clair Huffstetler, and I'm
9 currently the victims' legal counsel for Naval
10 District Washington.

11 I've been serving as the Naval
12 District Washington VLC since July 2016, so
13 approximately 15 months. Prior to this billet, I
14 served as the command judge advocate on three
15 separate aircraft carriers and also the command
16 judge advocate for Naval Station Guantanamo Bay,
17 Cuba.

18 Prior to those duties, I served as a
19 defense counsel from 2010 to 2013 and
20 concurrently served as the PEB department head
21 and also respondent's counsel in formal PEB
22 proceedings in front of the CORB.

1 I have served over the course of my 15
2 months 49 VLC clients. My average caseload is
3 approximately 34 clients, between 30 and 40
4 clients I would say, and I currently have 34
5 clients.

6 There's no typical case. That's
7 something that I want the Board to understand.
8 Every single case that we see is different. The
9 facts are different, the commands are different,
10 and the needs of the individual are different.
11 And as such, there's no typical point that I
12 receive a client in any case. It could be before
13 the case has even been reported to law
14 enforcement. It could be at the point where the
15 client has already made a statement. And I have
16 even had a case where the client was getting
17 ready to go on the stand and decided that they
18 needed legal representation.

19 I absolutely think that the VLC
20 program has been beneficial to victims of sexual
21 assault. I receive very positive feedback from
22 my clients. They tell me that they understand

1 the process and that they have someone to call
2 when they're overwhelmed and anxious about this
3 legal process and about their personal legal
4 liability.

5 A cornerstone of my relationship with
6 my clients involves expectation management. I
7 attempt to alleviate their anxiety revolving
8 around the legal process. They have extreme
9 anxiety about the future, about their
10 participation in the legal process, and about
11 their legal liability if they choose to go
12 forward.

13 The clients are worried about this
14 universe of unknowns, and I can give my client a
15 target set of issues to worry about: you should
16 worry about this, this, and this, and maybe not
17 that, the unknown specter. And it actually does
18 help them, and I receive positive feedback from
19 my clients.

20 The feedback I often receive is that
21 the client could not have gone forward through
22 the criminal justice process. In some cases,

1 they would not have executed their report to
2 NCIS, and they would have not endured the legal
3 process in their local commands but for having
4 their own legal advocate separate from the
5 prosecution staff.

6 In many ways, the VLC program is an
7 added benefit to retention and to readiness
8 within the commands. On one hand, by focusing my
9 client's attention on their jobs and away from
10 the anxiety about the process, I keep them ready.
11 I can empower my clients to do their jobs even in
12 times when they're going through legal
13 proceedings because I'm there to explain the
14 process to them, and I'm also there to interface
15 with all the other agencies that are trying to
16 take away from their time at their job.

17 On the other hand, when it's clear
18 that the client is not, in fact, suitable for
19 continued service or they're struggling
20 significantly in their jobs due to medical
21 conditions or psychological conditions, I can
22 also advise my client about the best resources

1 that are available. I'm not a doctor, so I tell
2 my clients very often, please, go see counseling
3 services, go see the chaplain, and I can give
4 them advice on the implications of that medical
5 treatment and care and how it will relate to
6 their case going forward and how it will affect
7 them if they end up on the stand. Taking away
8 that anxiety about that aspect of the case allows
9 them to get past the barriers to treatment.

10 I can also shepherd them through the
11 right processes for medical boards and
12 administrative separation boards in ways that
13 will be beneficial to that client. When the
14 client gets to the right process or resource
15 early in a timely fashion, that's best for them,
16 that's best for their commands, and that's best
17 for the Navy overall, and I get to assist the
18 client in that.

19 What is most beneficial to the clients
20 about having a victims' legal counsel is that
21 they get unbiased legal advice. They get to
22 evaluate and understand and make a voluntary and

1 knowledgeable decision about how they want to
2 handle their case, and that puts the control back
3 in the hands of the client. That's the most
4 important thing, I believe, about my practice in
5 the VLC program.

6 If my client wants to, after knowing
7 what is in store for them in the process, wants
8 to go forward, I will charge ahead and advocate
9 for their rights in the process. If they decide,
10 however, after hearing what's in store for them
11 in the legal process, that they do not want to go
12 to NCIS, that they do not want to go through the
13 law enforcement process, I will advocate for
14 their rights to not be approached by any of the
15 other stakeholders in the process, in the
16 criminal justice process.

17 I can prevent them from being unduly
18 influenced by either the prosecutor or the
19 defense or for being shamed for making a decision
20 about not going forward. And as you can imagine,
21 that's a very stressful decision for a victim of
22 a sexual assault to make, but it's a valid

1 decision and their rights need to be protected.

2 In the expedited transfer process, my
3 role is to advise my clients about the process,
4 to give them the pros and cons about an expedited
5 transfer that's tailored to the facts of their
6 case and to the life and the needs of that sailor
7 or officer. I can also evaluate the
8 personalities of the commanders involved in
9 making that decision, and I can also advise my
10 client on how to make their request in a way that
11 will more likely be accepted and that their
12 geographic location that they're requesting, that
13 they may actually receive that request.

14 So I'm a helper. I help them
15 communicate to the leadership on making their
16 decisions.

17 I also provide training to victim
18 advocates to SARCs, to commands, to the PCOs and
19 PXOs as they go through their schooling before
20 they take command on how the SAPR process and
21 expedited transfer requests work and what are the
22 criteria to approve or deny those requests.

1 Approximately one-third of my clients
2 have requested expedited transfer under my term
3 as a VLC, and most of those requests were
4 approved. I do believe that the expedited
5 transfer process is a vital part of the military
6 justice process. It is absolutely vital and
7 beneficial for the victims to have the ability to
8 exit the command when there is a stigma and when
9 there is a perceived stigma because the
10 perception of the victim is one of the most
11 important things that's going to determine
12 whether that person goes forward in the process:
13 their perception of whether they're supported.
14 And this expedited transfer gives them an
15 opportunity to be aligned in a location where
16 they perceive that they are supported.

17 Of the process in place in the Navy,
18 one aspect I would recommend a change is that the
19 expedited transfer orders that come from the
20 Bureau of Personnel, once the client has
21 submitted their request, it's been approved, and
22 it's at the Bureau of Personnel, they're detailed

1 orders, and there are obviously several criteria
2 that the Navy has to look at to determine what
3 orders they get. And I would recommend that the
4 process for expedited transfer orders be as
5 transparent as we have ventured to make our
6 regular detailing process, although there are
7 some limitations for our Bureau of Personnel just
8 due to the shortened time frame of these
9 expedited transfers. However, I think, in the
10 future, we could probably move towards a system
11 where the victim knows what billets are available
12 in which geographic locations. And, again, that
13 would provide some benefit to their expectation
14 management in this process. Thank you.

15 MAJOR MARTZ: I have a PowerPoint,
16 ladies and gentlemen, so if you could just give
17 me a moment while that's being loaded. I'd like
18 to introduce myself. My name is Major Jessica
19 Martz. I am the Deputy Officer in Charge for the
20 Victims' Legal Counsel Program within the Marine
21 Corps. I thank you so much for this opportunity,
22 and now that my slides are loaded I will move on.

1 Next slide, please. I'll go ahead and
2 press.

3 First of all, I'd like to talk about
4 our mission. Just like my colleagues in the Army
5 and the Navy have highlighted, the mission of the
6 Victims' Legal Counsel Program within the Marine
7 Corps is the same. Our goal is to educate and
8 advocate for victims of sexual assault. The
9 thing that makes us a little bit different, and I
10 know it's not within the purview of this panel,
11 we also represent victims of domestic violence,
12 as well, and occasionally we will take on, with
13 exceptional cases, victims of other violent
14 crimes.

15 I'm on slide 3, ma'am, thank you. We
16 do that to hold everybody accountable: the trial
17 counsel, the defense counsel, the military
18 judges, the commanders. We do that -- and MCIOs
19 -- throughout the investigative process and
20 throughout the military justice process. I've
21 highlighted some of the references that our
22 mission statement is made up of or made up from

1 there at the bottom of the slide.

2 Next slide, please, ma'am. First of
3 all, I'd like to start off by saying I've loved
4 my experience as a judge advocate, but I
5 particularly love this job. I've served four
6 years in military justice prior to becoming a
7 VLC, and I just left being the Regional Victims'
8 Legal Counsel for the National Capital Region
9 down in Quantico, which is similar to the billet
10 that Lieutenant Commander Huffstetler serves for
11 the National District of Washington. I did that
12 from May of 2016 until August. During that time,
13 I assisted over 70 victims. I had 47 detailed
14 clients, meaning I was actually their attorney.
15 Attorney-client privilege was established. In
16 those other cases, I had confidentiality with
17 those victims. My average caseload was about 25
18 cases, give or take a few more.

19 I supervised other victims' legal
20 counsel in that capacity. And in August, I moved
21 up to Henderson Hall here in lovely Arlington,
22 Virginia to serve as the Deputy Officer in Charge

1 for our whole program, like I said.

2 In that capacity, I assist my boss,
3 Lieutenant Colonel Lavato, the program manager,
4 in supervision of all the victims' legal counsel.
5 And I also still hold 12 clients from my prior
6 billet as the RVLC.

7 Next slide, please. First of all, I'd
8 like to say, just like everybody has said before,
9 when we take a case, it really depends on when
10 the victim comes to us. I like to kind of
11 jokingly say we don't ambulance chase. We don't
12 go after victims. They've already been
13 traumatized, so we don't want to chase after
14 them. We count on the DoD mandate that MCIOs and
15 SAPR and FAP and commanders notify the victim of
16 our services, and then we are usually provided a
17 referral through that process. Just like my
18 colleagues have said before, I've had victims
19 come way before they were actually reported,
20 immediately after the assault, all the way until
21 they're about to testify at trial.

22 The goal of our organization and

1 certainly a goal with respect to expedited
2 transfers is to educate the victims on this
3 process. They're going to hear about it usually
4 before they get to us because the SAPR program is
5 going to tell them about it. Their command,
6 their UVAs might tell them about it. But our
7 goal is to make sure that they truly understand
8 that, not just the policies in place, the process
9 and the other options available. I've heard
10 already discussed the transfer of the accused as
11 an option, safety transfers are other options,
12 going on temporary orders away from that location
13 or away from that offender have been discussed.
14 But also what is the impact on their career?
15 I've heard that also discussed here. We advise
16 them on that. We look at, you know, your MOS,
17 what's your MOS? Is that a small MOS, a low-
18 density MOS? Would you like to change MOS's if
19 you can't get to the location you'd like? In
20 some cases, we've been able to get MOS transfers
21 for victims. It's not a common thing, but, if
22 they're willing to do that because they want to

1 go to a particular location, that has been
2 something that we've been able to work out
3 through the SAPR program.

4 We also advise them on the impact that
5 it's going to have on their case. If the victim
6 is going to move away from where that case is
7 going to be tried, we talk about the pros and
8 cons of that. Maybe it's better for them. Maybe
9 they're more likely to participate if they go
10 away from where that is and their VLC works on
11 worrying about the case.

12 We talk about the transfer of the VLC
13 services when we're advising our clients. If you
14 transfer, if I'm in Quantico and you transfer to
15 Camp Pendleton, are you going to want a Camp
16 Pendleton VLC, somebody right there that you can
17 walk into and talk? Or do you want the VLC
18 that's located where the case is going to be
19 tried, somebody who knows the players, who knows
20 the trial counsel, who knows the defense counsel?
21 It's up to the victim. They make the call and we
22 honor that request.

1 Finally, with respect to helping
2 victims in expedited transfers, we also sometimes
3 help them with the actual submission of those
4 requests. It's typically the SAPR program in my
5 experience, but sometimes we have assisted them.
6 I've assisted two victims directly in their
7 submission because their SARC was not necessarily
8 somebody that they knew that well, and I was
9 somebody that they knew better.

10 We also will assist them with those
11 appeals that came up with the last panel. So if
12 they're denied their request and they want to
13 appeal that, we will assist them with that and we
14 will advise them of what the process and
15 procedure is for that.

16 Next slide, please. My personal
17 experience with expedited transfers as a victims'
18 legal counsel, I've inherited seven cases where
19 one was granted, so the victim was at a different
20 location. They asked for a transfer, it was
21 granted. They come to Quantico or the National
22 Capital Region within my district, and now I'm

1 their victims' legal counsel.

2 I've also assisted with six transfer
3 requests. Five were approved. I will caveat
4 that. I didn't put it on the slide, but I will
5 caveat that, in one of those approvals, it did
6 take a discussion between the staff judge
7 advocate advising the commander and myself
8 because there was a perception that there was a
9 potential for misuse of that process. But with
10 my client's permission, I was able to explain
11 that she wanted to be closer to a support person
12 where she was requesting to go, and it was
13 granted once that was explained.

14 I did have one denied, and that was
15 based on the credible claim standard. I would
16 rather not get into the details of that out of
17 respect for my client, but, ultimately, she got
18 her goal. She was sent on temporary orders to
19 the location that she requested, so we were able
20 to accomplish her goal via another means outside
21 the expedited transfer process. She was offered
22 the ability to appeal that, but, because she was

1 sent to where she wanted, we did not end up
2 appealing that.

3 Next slide, please. For my personal
4 perception of my clients' experience with the
5 expedited transfer, it has been a very, very
6 positive thing. I will admit that, prior to
7 becoming a VLC, I wasn't totally sure about the
8 program. But now that I've worked with victims,
9 I definitely see how beneficial it is to them.
10 It removes them from where this has all happened
11 potentially, if the assault has happened in that
12 location. It also gets them away from the rumor
13 mill that could happen, even if the offender is
14 not co-located with them.

15 It's not to be used for safety
16 reasons, as I think it's already been stated.
17 That's a safety transfer. That's a different
18 transfer. Expedited transfers, unfortunately, I
19 think, are still sometimes used to move the
20 victim away where it's unsafe. That's a
21 misconception, and that's a misuse of the
22 expedited transfer. It's really to get the

1 victim away from that experience, not because of
2 safety reasons.

3 The other thing that benefits victims,
4 they may experience retaliation in the form of
5 ostracism at the command level. That's usually
6 that peer to peer, maybe one level up. They
7 don't want to report that, and you can all
8 imagine probably why. When you've already
9 reported a crime, you don't want to report
10 another crime. It's already an experience that
11 you haven't enjoyed, and you don't want to have
12 to go through that again. So one way they're
13 able to get away from that retaliation is to ask
14 for an expedited transfer. Then they don't have
15 to report it, they can just get away from it.

16 Finally, it gives victims a sense of
17 empowerment. And that may seem kind of cliché,
18 but it really does. When somebody has taken away
19 the control from you in assaulting you, it gives
20 you a chance to take control of your life a
21 little bit and get away from that situation.

22 And then, finally, like I've discussed

1 before with that one particular example I gave
2 previously, sometimes victims want to move closer
3 to support persons, and that expedited transfer
4 allows them to do that.

5 Next slide, please. Some areas for
6 improvement. The policy can be viewed as
7 contradictory, and I'll give an example. The
8 policy in the Marine Corps, and I think it's
9 consistent with the DoD policy as it stands, is
10 that the victim should provide non-confidential
11 information in their request. However, the
12 commander is required to consider, I believe, ten
13 factors. One of those goes back to your
14 question, I believe, Ms. Bashford. You asked
15 about the nature and circumstances of the charge
16 that considered. The commander is required to
17 consider that, at least in the Marine Corps.

18 Yet, when the victim is only providing
19 non-confidential information, that can be kind of
20 hard to tell. Yes, they're required to pull, you
21 know, if there's, obviously, an unrestricted
22 case, they're required to pull the unrestricted

1 file, if they can, from NCIS and they can gain
2 details from that. But if the burden is a little
3 bit on the victim, I think that that can be
4 contradictory, not just for the victim but for
5 the commander as well. I think that's a
6 difficult position to put the commander in to ask
7 him or her to analyze all these factors when the
8 victim is only going to tell you so much, and
9 that's where that one case that I described, the
10 caveat case out of the five approvals, the one
11 commander just needed more information, and the
12 staff judge advocate and I were able to discuss
13 that and then the commander was able to reach a
14 decision in her favor.

15 There is also an issue still with
16 perceptions. I'm sure that's probably why we're
17 all here. There is a perception still out there,
18 I don't think it's the majority of Marines, but I
19 think there's still a perception out there that
20 transfers are being used outside its intended
21 purpose. So, you know, one example would be,
22 well, the victim just wants to get out of that

1 duty station. They want to go from, let's say,
2 Camp Lejeune, North Carolina in lovely
3 Jacksonville, North Carolina, to the sunny
4 beaches of Miramar or Camp Pendleton, California.

5 The other thing, which was, I think,
6 highlighted by you, Ms. Tokash, I think it could
7 hinder the prosecution of the case, so the
8 defense might want to use that as a motive to
9 fabricate. The victim will come forward and say
10 that they're sexually assaulted so that they can
11 get to a better duty station. I think that that
12 perception is still out there. I think anybody
13 that works with a victim knows how untrue that
14 would be that somebody would put themselves
15 through telling their story so many times just to
16 get transferred to a different duty station
17 instead of just waiting out where they're at.

18 I've been to Camp Lejeune for five
19 years. It's not that bad if you go to the Outer
20 Banks. So, you know, everybody finds a way to
21 make it all work.

22 I really do think, overall, in

1 closing, that the Victims' Legal Counsel Program
2 is extremely beneficial. I just want to close
3 with one quick story. I was actually just
4 telling somebody who taught me how to be a UVA
5 back in 2006 this story, but I think this is a
6 very illustrative story.

7 The first time I went to a trial with
8 a client, we went to help her rehearse for her
9 testimony inside the courtroom. And long story
10 very short, she didn't like the idea of getting
11 on that stand. So we were able to come up with a
12 way where she could still hold her offender
13 accountable outside the court-martial process
14 through an administrative proceeding.

15 They were able to get a deal from the
16 defense. The defense came with a deal. The
17 trial counsel presented it to my client, and they
18 said here you go. And I thought to myself in
19 that moment before there was a VLC or an SVC
20 sitting next to this victim, that victim was
21 going to have to figure out what was in that
22 document by themselves or the trial counsel would

1 hopefully explain it to them. But that's our
2 job. Our job and what I did is I took that
3 document, we excused ourselves, and I explained
4 exactly what that document meant.

5 So I hope there's never any doubt that
6 victims' legal counsel and SVCs do provide a very
7 valuable service to these victims who are very
8 young and who don't know the legal process and
9 might never have heard any of these terms. So I
10 really thank you for your time. I think that
11 it's a program that should never go away, and I
12 look forward to your questions. Thank you. And
13 that's our handsome faces at CAAF a few weeks
14 ago.

15 CAPT. TEDFORD: Good afternoon. My
16 name is Captain Brittany Tedford. I'm the
17 special victims' counsel at Shaw Air Force Base
18 in South Carolina, and I have been in that
19 position since July of 2016.

20 Overall, we in the Air Force SVC
21 program have found expedited transfers to be a
22 lifesaving positive benefit for our clients, and

1 we endorse the ET program. My goal today is to
2 share my perspective on the program, how my
3 clients have benefitted from it, and the impact
4 that it has had, speaking from the benefit of my
5 own experience, as well as the input that I've
6 received from my fellow Air Force SVCs.

7 I would first like to talk about the
8 SVC's role in the ET process. The SARCs and
9 commanders own the process, but the SVCs play an
10 important role. We advocate for our clients'
11 interests, which often means educating and
12 informing commanders throughout the process in
13 order to get them to support our clients' goals.
14 We will help explain to commanders why our client
15 wants an ET in the first place, what the ET will
16 be expected to do for the client, and how the ET
17 will benefit the unit and the Air Force as a
18 whole.

19 Victims ask for transfers for a
20 variety of reasons, including to get physically
21 closer to their families or other support system;
22 to get away from the subject, especially in cases

1 where the subject may be a supervisor or in the
2 chain of command; to separate themselves from
3 other airmen who may gossip or discuss the case,
4 especially in cases where many members of the
5 same unit are involved; and to have the
6 opportunity for a fresh start away from the
7 physical location where the assault occurred.

8 I'd like to give an overview of what
9 I would consider the typical case where an active
10 duty airman requests a transfer. Normally, they
11 make the unrestricted report with the SARC
12 office, which is where they learn about the
13 option to request an ET, as well as SVC services.
14 After I get detailed and establish an attorney-
15 client relationship with the client, I coordinate
16 with OSI to schedule the initial victim interview
17 and attend that interview with the client.

18 Following the interview, the client
19 considers the pros and cons of requesting the ET,
20 both for their life and for the case. These may
21 include starting over in a new location but
22 having to leave a base that they may like,

1 possible cross-examination questions at trial by
2 defense counsel, and potential career
3 implications of that decision.

4 If the clients decides to request it,
5 they put in the official request in our online
6 personnel system where they list up to three
7 bases and provide justification as to why they
8 want to go to those locations. All of my clients
9 have requested bases that are close to their
10 families or to other support systems. Their
11 justifications focus on their well-being and
12 starting over away from the subject and other
13 airmen who may know about the sexual assault.

14 I have not found that my clients are
15 trying to get to what are generally considered
16 highly-desirable locations, such as Hawaii or
17 Italy. For example, I have had clients transfer
18 from Shaw to Dyess Air Force Base in Abilene,
19 Texas, McConnell Air Force Base in Kansas, and
20 Moody Air Force Base in Augusta, Georgia, not
21 that those aren't great locations.

22 Once it is officially requested, ETs

1 get involved by having meetings and telephone
2 calls with commanders to advocate for approval of
3 the ET. In my discussions with commanders, they
4 want to know that the client has fully thought
5 through the implications of their decision and
6 they rely on the SVCs to really educate them
7 about the ET process and the military justice
8 process from the victims' perspectives
9 specifically. This indicates to me that the
10 commanders are trying to balance my clients'
11 well-being and career, trying to understand the
12 process, and trying to do what they believe is
13 the right thing for the client and for the Air
14 Force.

15 We acknowledge that commanders have a
16 difficult task in balancing the mission and the
17 victims' needs and, thus, we emphasize the
18 critical importance of the ET for a victim's
19 recovery and often retention in the Air Force.
20 An airman forced to remain in a hostile or
21 threatening environment will not remain a
22 productive airman, and commanders are often

1 receptive to such an appropriately-framed ET.

2 If it is approved, it goes to the Air
3 Force personnel center and it usually takes a
4 month to two months, sometimes less, for them to
5 actually leave the base and move to their new
6 duty station. For unusual or unique cases, the
7 SVC takes the lead role in coordinating with AFPC
8 and crafting solutions.

9 The transfers and the OSI
10 investigations run concurrently, which minimizes
11 any potential investigative impact. The local
12 OSI detachment will continue to run the
13 investigation after the client moves bases. I
14 have had cases where there are minor follow-up
15 questions needed, and we set that up via
16 teleconference with the investigators.

17 I have not seen a negative impact to
18 the case processing through the military justice
19 system caused by the client being at a different
20 base. And all of my clients who have transferred
21 from Shaw have traveled back to Shaw for the
22 Article 32 hearing and for trial.

1 Although ETs have many benefits to the
2 victims who request them, I want you to know that
3 ETs are rarely a complete panacea for all of the
4 challenges facing a sexual assault victim. In
5 some cases, the ET can actually introduce new
6 problems for the victims, and the victims, with
7 the help of their SVCs, carefully consider where
8 the benefits of the ET are outweighed by the
9 costs.

10 Additionally, the client must weigh
11 the potential career implications, as we've
12 discussed today. Many of our airmen have been
13 trained on a specific airframe or have a job that
14 is available at a limited number of bases. This
15 creates a challenge because, in smaller career
16 fields, many of the people within that career
17 field could also be involved in the case, or the
18 client may fear that if they stay within that
19 career field they may be later reassigned back
20 with the subject.

21 Because of these concerns, the client,
22 with the SVC's help, can request to cross-train.

1 This may be a difficult decision for a client to
2 leave a career field that they may have spent
3 years training in and feel a connection to.

4 In my view and experience echoed by
5 the input that I got from my fellow Air Force
6 SVCs, abuse of the ET program is not prevalent.
7 I have not had the experience where I have felt
8 like a client is gaming the system in order to
9 obtain an ET. In fact, the majority of my
10 clients did not know that the expedited transfer
11 system exists until the SARC briefed them on it
12 when they were actually making the unrestricted
13 report.

14 My perception is that my clients that
15 have requested the transfer have done so to be
16 close to their family or other support system,
17 and I believe that these motivations are genuine.
18 Before they put the request in, we discuss the
19 pros and cons, the career impacts, and how the
20 transition may be more difficult than they think.
21 A great deal of thought and discussion goes into
22 the client's decision to put in the request.

1 Finally, as attorneys, we are ethically bound to
2 act in good faith, and we cannot facilitate a
3 request if we know it's being made fraudulently.

4 SVCs have been integral in advocating
5 to and working with SARCs, OSI, commanders, our
6 base legal offices, and the Air Force Personnel
7 Center to best serve our clients in order to
8 support and assist with their healing, recovery,
9 and rehabilitation. We have found the expedited
10 transfer program to be a positive, valuable
11 program for our clients. Thank you.

12 MR. MARKLAND: Good afternoon. I'm
13 Commander Paul Markland, and I'm a Coast Guard
14 special victims' counsel stationed in Cleveland,
15 Ohio. I was commissioned a little over 21 years
16 ago, and, since then, I've also served as trial
17 counsel, defense counsel, and staff judge
18 advocate.

19 I received my initial SVC training and
20 certification in 2014, and I've represented 33
21 victim clients, 13 of whom have ongoing cases.

22 Regarding my perspective on the

1 victims' counsel program generally, I can tell
2 you that it's the most personally satisfying work
3 I've done as a judge advocate. Back when I was
4 litigating regularly, I remember watching sexual
5 assault victims on the stand and thinking that
6 the government has its lawyers, the accused has
7 lawyers, but if anyone really needs one now it's
8 the victim.

9 To me, the program's most beneficial
10 aspect has been that it curbs that unintentional
11 and intentional victim bullying that,
12 unfortunately, has become customary in a military
13 justice proceeding. The most problematic aspect
14 of the program that I see is our current need to
15 fill SVC positions with new judge advocates
16 because they're expected to be the victim's
17 expert on the system before they've experienced
18 any of the system's competing interests. I'm
19 confident that, as our program evolves, we'll be
20 able to improve it with SVCs who know what it's
21 like to prosecute and defend in courts-martial.

22 I always mention the expedited

1 transfer program to new clients, but usually they
2 already heard about it when they first made their
3 sexual assault report. So far, I've had five
4 clients who wanted expedited transfers. I put in
5 a request for all five. Their commands
6 recommended approval for all of them, and they
7 were all granted to the client's satisfaction and
8 within policy guidelines.

9 From my perspective, the request
10 process in the Coast Guard is simple. If clients
11 are interested, I talk to them about whether the
12 reason for requesting a transfer fits the policy.
13 If they express a fear of retaliation or desire
14 to be closer to family support or some other
15 distant support network or any other pertinent
16 reason, then we collaborate on a request.

17 After confirming the reason for
18 transferring, I ask clients to write a short
19 email intended for their command that says, in
20 their own words, why they want an expedited
21 transfer and where they prefer to go. I have
22 them send it to me first so I can forward it with

1 more of a legal justification that connects the
2 client's narrative to the policy. Then I attach
3 a copy of the policy and send it to the command,
4 and I copy the command's servicing legal office
5 and the SARC.

6 After that, the command runs with it.
7 They have to produce a formal recommendation memo
8 that's significantly more comprehensive than the
9 email I sent them.

10 While preparing that over the next few
11 days, they call me with questions and often with
12 specific transfer proposals, wondering if the
13 client would be okay with a certain job at a
14 certain unit. Those calls indicate to me that
15 the command is already talking with the client's
16 assignment officer at our personnel service
17 center in Washington, D.C., which is where all
18 our transfer orders come from and it's where the
19 command's recommendation memo is headed.

20 A couple of times at that stage, I've
21 called assignment officers directly to advocate
22 for my client's interests, and they've been open

1 to that discussion.

2 Within two weeks of requesting an
3 expedited transfer, my clients have gotten their
4 new orders. After the first time, I've had to
5 warn new clients that it could happen that fast,
6 and they've all remarked that two weeks is not a
7 lot of time to prepare for a permanent change of
8 station. But the orders always give them at
9 least another 30 days to execute, and I'm
10 confident we can get even more time if we needed
11 it.

12 We have frequent transfers off the
13 cutter fleet. I've had three cases in which
14 clients were assigned to a cutter when they made
15 their sexual assault report and potentially could
16 have just transferred ashore to the base where
17 the ship ties up. But I don't think that was
18 ever seriously considered. I suspect that's
19 probably because our bases are really small
20 compared to the other Services, so the odds are
21 high that the victim and the accused would
22 encounter each other at the gym, at the exchange,

1 at the health clinic, in the galley, in the
2 parking lot, etcetera.

3 The most populated Coast Guard base is
4 Base Alameda, California. And when all the
5 cutters are in, it's around 2400 people on a
6 tenth of a square mile of space. I have been
7 there several times, and I don't like my chances
8 of successfully avoiding anyone either stationed
9 there or home-ported there. And any two people
10 working there are likely to discover they have
11 overlapping functions.

12 There is only one other base that
13 comes close to that size, and the rest of our
14 populations are much smaller. At any of our
15 installations, a military protective order might
16 prevent interaction, but it doesn't stop an
17 accidental encounter from happening in the first
18 place, which can be very traumatic. And just
19 imagining the likelihood could cause a victim to
20 become hypervigilant instead of focused on
21 duties.

22 In the Coast Guard, victims of any

1 crime are usually not co-located with the
2 prosecutor. So having a complaining witness who
3 needs a plane ticket to show up was typical
4 before there were expedited transfers. None of
5 my expedited transfer clients have resisted
6 cooperation with the prosecution.

7 I haven't had an increase in these
8 requests in the past year. I helped with two
9 requests in the past 12 months and two in the 12-
10 month period before that. After their transfer,
11 one of my client's enlistment expired. The rest
12 are still serving in the Coast Guard.

13 I see the fact that they want to
14 continue serving as one of the benefits of
15 expedited transfers, but, before their transfer,
16 all these clients were feeling tormented where
17 they were. I see the ability to quickly rescue
18 them from that as the biggest benefit of the
19 program, and I wholeheartedly recommend its
20 continuation.

21 Everything I just described is my own
22 experience, but I also have some common

1 observations from the other Coast Guard SVCs.
2 Most clients decide not to seek an expedited
3 transfer, and they tend to want to bring as
4 little attention as possible to their situation.
5 The ones who do transfer tend to express sadness
6 about leaving their units, their shipmates, and
7 their homes. The most common reason for
8 requesting the transfer is relief from the
9 distracting and relentless rumor mill that
10 pervades cutters and small boat stations.

11 Clients who don't want to cooperate
12 with the prosecution tend to make that aversion
13 clear, regardless of whether they are interested
14 in an expedited transfer. The most common reason
15 for becoming uninterested in the prosecution is
16 because it takes too long. The combined
17 investigation and legal analysis take about six
18 months, and that's just getting to a charge
19 sheet.

20 Clients who are already participating
21 in the prosecution tend to continue participating
22 after their expedited transfer. And there are a

1 couple of cases in which clients initially
2 decline prosecution but are re-engaged after
3 their expedited transfer because they felt safer
4 without the accused around and even saw the move
5 as an opportunity to get their careers back on
6 track.

7 Lastly, all of the Coast Guard's SVCs
8 I've heard from favor continuation of the
9 expedited transfer program. Thank you.

10 CHAIR BASHFORD: Thank you all. Judge
11 Grimm.

12 JUDGE GRIMM: Can each of you take
13 just a minute or two and give us some more detail
14 about your goal during the actual court
15 proceedings prior to the beginning of the trial
16 and during the court process? For example, if
17 you believe that an improper line in cross-
18 examination, do you have the ability during the
19 . . .

20 MAJOR JACK: I'd say, pretrial, It
21 really just depends on the complexity of the case
22 and at what point do I get involved in a case.

1 If I've been involved since the beginning of the
2 case, I'm there for every interview between the
3 investigators' criminal investigative division,
4 or CID, with the prosecutors themselves, and, if
5 my client has agreed to meet with defense
6 counsel, I'm also there when they meet with
7 defense counsel.

8 I'm there for any pre-trial hearings,
9 so any motions, requests for continuance,
10 whatever. As far as the actual trial, I'm there
11 in the courtroom the entire time, and I, on
12 breaks, go out and explain to my client what is
13 going on. I'm there if there's any meetings
14 between a prosecution and a client in preparation
15 for their testimony, if there's issues that come
16 up during trial.

17 If there's any issues during trial, in
18 my particular jurisdiction at Fort Hood, we had
19 to object through the prosecutors so that we
20 would pass notes to the prosecutor and let them
21 know that, hey, you should be objecting at this
22 point. I maybe had to do that one time because

1 our judges and our prosecutors were pretty good
2 at making sure that the defense counsel or
3 prosecution were, well, defense counsel were
4 following through on whatever issues had been set
5 at pre-trial as far as psychiatric records, rape
6 shield laws, or anything else pertaining to our
7 client that we have decided ahead of time, that
8 had been decided ahead of time. And also the
9 judge, we're very good at making sure defense
10 counsel were not badgering or harassing the
11 witness. And I will say that happened very
12 rarely with defense counsel. If it did come up,
13 it was mostly with civilian counsel.

14 JUDGE GRIMM: So in that process, the
15 pre-trial procedure, would that be the most
16 typical time that the special victims' counsel
17 and the prosecutor would raise issues about the
18 ability of the defense to raise issues that would
19 be covered under the auspices of Military Rule of
20 Evidence 412, the rape shield rule?

21 MAJOR JACK: Yes, sir.

22 JUDGE GRIMM: Those would be typically

1 litigated at pre-trial, right?

2 MAJOR JACK: Yes, sir.

3 LT. COMMANDER HUFFSTETLER: Yes, sir.

4 That's the intent. However, obviously, sometimes
5 new issues come up at trial for 412 and 513. In
6 the Navy court system, we will stand, actually
7 VLCs will sit behind the bar. If we have an
8 objection that applies to the standing of the
9 client, we will stand quietly and wait to be
10 acknowledged by the judge and we'll usually make
11 our objection outside of the audience of the
12 members.

13 In the Army courtroom, however, you
14 have to make your objection through the
15 prosecutor, which, at some points, is problematic
16 because the interest of the prosecutor and the
17 interest of the victim may be divergent.

18 As far as the Navy VLC is concerned,
19 we do answer all the motions prior to trial
20 separately from the trial counsel, although I
21 have joined with the government in my answers.

22 JUDGE GRIMM: And when they're argued

1 pre-trial before the military judge, will the
2 military judge direct questions or give an
3 opportunity to hear from the special victims'
4 counsel separately from the prosecutor?

5 LT. COMMANDER HUFFSTETLER: Yes, sir.
6 We file our motions, and we ask for oral argument
7 in our motion as a party.

8 JUDGE GRIMM: Thank you.

9 MAJOR MARTZ: So our system, your
10 Honor, our system here at the Marine Corps, we
11 would stand quietly if there was an objection in
12 mid trial. If a defense counsel were asking my
13 client an improper question, I would stand, I
14 would wait for the judge to acknowledge me, and
15 then I would object on the basis of Article 6B.
16 Our clients have a right to be treated with
17 fairness and dignity, and I would cite that rule.
18 It's stronger than the case law that supports us
19 on that regard because, typically, you know, the
20 case law says we can only object on 412, 513, but
21 Article 6B came after LRM vs. Kastenberg, so we
22 would object on Article 6B.

1 But I would agree with everything
2 they've said about our interaction before trial
3 with respect to motions. We would argue
4 separately from the government typically and
5 during trial. Thank you.

6 JUDGE GRIMM: Thank you.

7 CAPT. TEDFORD: Yes, your Honor, same
8 in the Air Force. The majority of our issues are
9 handled in pre-trial motions, and we are given a
10 separate opportunity to argue and we file written
11 responses, as well.

12 Our rules are actually in our Uniform
13 Rules of Practice, but they mirror the Navy and
14 the Marines in that, while our client is
15 testifying, if we need to object, we sit in the
16 gallery, we are to stand and wait to be
17 acknowledged by the military judge, and we
18 usually ask for an Article 39A session, which is
19 a session outside the hearing with the members.

20 JUDGE GRIMM: Thank you.

21 MR. MARKLAND: I have yet had trouble
22 being recognized either pre-trial or during the

1 trial. You know, pre-trial, we're typically
2 there to argue the motion we filed. It's usually
3 either a 412 or a 513 under the Military Rules of
4 Evidence.

5 And then during trial, actually in our
6 Norfolk courtroom, the last couple of cases
7 there, they had set up a third table. So there
8 was a trial counsel table, a defense counsel
9 table, and a third table for SVC, and we were in
10 the well. There was another courtroom where I
11 had a lot of cases in Alameda, and we're still in
12 the gallery in that courtroom. And the gallery,
13 it's such a small courtroom, and the gallery is
14 up close. I've never had trouble just standing
15 up and everything stops, and they ask what you
16 want.

17 JUDGE GRIMM: Collectively, could you
18 just give me one trial thing, and that will be my
19 last question. We're focusing on who we should
20 be hearing from for this committee, and obviously
21 commanders and investigators and special victims'
22 counsel, it is a pleasure to hear such articulate

1 lawyers who can attest to how meaningful they
2 believe this rule is.

3 Should we be hearing from military
4 judges? They're independent. They're trained.
5 They're not in the same chain of command as the
6 convening authority. That has been established
7 from when I was in the military as a JAG, and
8 that was before any of you were born. So that
9 independence has been around for a long time.
10 But should we be hearing from military judges?
11 Do you believe that the military judges take
12 seriously, because you are a relatively new role
13 in the courtroom, take seriously the ability to
14 allow you meaningful involvement, or is this not
15 a problem so we can best spend our time looking
16 elsewhere?

17 MAJOR JACK: I think it's going to
18 depend on a judge. We've had some judges that
19 are supportive of the program. We've had some
20 judges that don't know how to feel about it. And
21 we've had some judges that have outright told us
22 they don't like us. So I think it would be

1 beneficial just to get those different
2 perspectives and see what way you can get those
3 judges that may not like us to have a little more
4 respect for the program.

5 JUDGE GRIMM: Thank you, Major.

6 MEMBER BRISBOIS: Madam Chair, I've
7 got a question that dovetails right on this. So
8 Judge Grimm is the trial judge. I'm a United
9 States magistrate judge, so I'm the discovery
10 judge. And something you said, you know, during
11 the discovery phase in federal cases that I
12 preside over, you know, the discoverability of
13 something doesn't necessarily translate to the
14 admissibility of something.

15 So when you fill out on behalf of your
16 clients your requests for expedited transfer and
17 you have to describe the event, that's
18 potentially impeaching type materials. Are you
19 getting requests for those materials?

20 MAJOR MARTZ: So the Marine Corps
21 policy, sir, is that they're not to provide
22 confidential information.

1 MEMBER BRISBOIS: Well, with the
2 description of the event, if it differs from the
3 report to CID or NCIS, you know, that discrepancy
4 in description of events could lead to potential
5 impeachment lines of questioning. So are you
6 still, are you getting requests for those
7 materials?

8 MAJOR MARTZ: I haven't seen that
9 request, sir.

10 CAPT. TEDFORD: Sir, I have. But
11 they're not -- in the justification, they're
12 justifying why they want to go to these
13 particular locations. I have never seen a client
14 where they have, you know, described all of the
15 facts of the sexual assault in those. And I
16 usually help them write the justifications
17 because I know they're probably going to be
18 discoverable.

19 LT. COMMANDER HUFFSTETLER: In the
20 Navy requests, I think the most time spent on the
21 actual allegation and the facts of the case are
22 my name is so and so, I made an unrestricted

1 report of sexual assault on X date, and that date
2 could pertain to the report to the SARC or to law
3 enforcement. And that's really the last time we
4 talk about the case. The rest of the letter is
5 spent talking about the personal needs of the
6 sailor or the officer. And, yes, those issues in
7 that letter have come up in 412 motions and have
8 been the source of cross-examination and
9 credibility questions later. That's one reason
10 that we scrutinize those letters so closely
11 before we submit them to the command.

12 MAJOR JACK: I have not had requests.

13 MR. MARKLAND: In my position,
14 discovery has always been neither my client or I
15 have any discovery obligations in the system.

16 Now, after you talk to the client, if
17 they're onboard, anything is negotiable. I mean,
18 what's in it for us kind of thing. But, you
19 know, typically, I point back to the trial
20 counsel and say talk to him because we don't have
21 any discovery obligations in the system.

22 CHAIR BASHFORD: Ms. Long and then Ms.

1 Cannon and then Judge Walton.

2 MEMBER LONG: So thank you very much
3 for your testimony. This entire day has been
4 very, very instructive. This question is a
5 little bit outside the scope of what you talked
6 about because I'm not sure when we're going to
7 get to ever hear from you all again. But based
8 on your representation of victims, could you
9 each, and knowing that every case is different,
10 could you each tell us what maybe your number one
11 thing your clients have said that they would want
12 out of an investigation or prosecution of a case
13 that would make them feel like they received
14 justice? I know you see a lot of things, but if
15 you could give us that top thing, the top one or
16 two things.

17 MAJOR MARTZ: I'd say in the pre-
18 sentencing, so in a case where you get a
19 conviction or a case where the offender is
20 pleading guilty, the thing that I've heard more
21 than once, so I'd say at least two or three
22 times, is something to the effect of that really

1 felt sanitized, that victim impact statement
2 really felt sanitized. And I think that the
3 rules right now do tend to kind of tighten what
4 the victim can say about their impact.

5 And then there's also the concerns
6 that we're advising them that they don't want to
7 open potentially a door that's never been opened
8 that isn't relevant to consent or not. For
9 example, mental health. That might not have been
10 something that's ever come up, and we don't want
11 to ruin the case. We want the case to withstand
12 appellate scrutiny so that the victim doesn't
13 have to do this again.

14 So there's lots of considerations that
15 go into that, and then that might be why the
16 victim feels sanitized. But there's also case
17 law that kind of restricts what the victim can
18 say in pre-sentencing. So that's the thing that
19 I felt the worst about in representing victims is
20 that a few of them have said that at the end of
21 the case.

22 LT. COMMANDER HUFFSTETLER: And as far

1 as justice and what my clients communicate, well,
2 I preface this by saying I spend a great deal of
3 time discussing with my client how the outcome of
4 the case should not determine their sense of
5 justice in that a victory or a loss does not
6 translate to their life. So I spend a lot of
7 time on that.

8 But what my clients are generally
9 seeking is they want to know what the accused,
10 when is the accused going to give his side of the
11 story. So I handle that early on that he or she
12 is probably not going to give his or her side of
13 the story.

14 So they want to know their side of the
15 story. Second, I think they want an apology.
16 And, third, I hear from my clients that they want
17 the offender to no longer be wearing a uniform,
18 regardless of what happens in the case. And, you
19 know, I can't give all those things to my
20 clients, but that's what they ask for.

21 MAJOR JACK: I would piggyback on what
22 my colleague from the Navy said as far as what

1 the, what my clients are seeking as far as
2 justice. I always tell them that every step in
3 the process is a victory, the fact that you
4 report it, the fact that you got the charge, the
5 fact there's a 32 and so on and so on, so that
6 the actual guilty verdict, if there is one, is
7 just kind of like the cherry on the top because
8 getting spun up and wound up and so focused on
9 the outcome, you're going to be disappointed,
10 even if there's a guilty verdict. Most of the
11 time, sometimes you're disappointed because the
12 accused did not get on the stand because, just to
13 piggyback on what she said, they want to hear
14 his, and the majority it's him, his side of the
15 story. They want to hear that apology, and, if
16 there's an apology during sentencing, it's never
17 good enough. So it's expectation management from
18 the beginning, focus on day by day, take these
19 little victories as they come.

20 And the other thing I would say a lot,
21 things that they want that they're not
22 necessarily getting is consideration of their

1 time and the fact that this takes so much time
2 and they've moved on. In a sense, they've moved
3 on. Whether they're still in the Service or not,
4 they've moved on maybe personally. I've had
5 clients get married, have babies. And it takes
6 so long and it can be extended periods of time
7 between one action to the next that every time
8 they get that phone call from me asking for this
9 or that it's a disruption in their life. It's we
10 need you to come in or spend these next four
11 hours on the phone with us, we need you to come
12 in for this trial, and then the trial gets
13 postponed but they've already made all the
14 arrangements for this particular week in time and
15 now have to push off another month to six months.

16 So I would say those are the big
17 things that are issues for my clients.

18 CAPT. TEDFORD: I would echo the
19 frustration with the amount of time that it
20 takes. I hear that a lot from my clients.

21 As far as just what do they want in
22 addition to justice, I feel like a lot of my

1 clients, they just want to be heard. They want
2 the opportunity to be heard. And even in cases
3 that don't have the outcome that they want, and
4 that is certainly frustrating, I have found that
5 they are happy that they went through the process
6 and they had the opportunity to be heard.

7 MR. MARKLAND: I always ask my clients
8 that question in the beginning, and probably the
9 most common response is I want him out, meaning
10 that they just want that accused to be out of the
11 Coast Guard, they don't want to -- you know, so,
12 typically, it's a male accused, so they don't
13 want to run into him again, they don't want him
14 to be in any other Service or anything like that
15 or any circumstance where they can cross paths
16 again.

17 And it's funny, the last three written
18 victims' views that I submitted, I specifically
19 asked for what's called a Code RE-4, which is a
20 Re-enlistment Code 04, which is a code that you
21 give someone in their discharge papers that says
22 they can't re-enlist in any Service again. And

1 when I tell my clients that that is something we
2 can ask for, they tend to jump on that.

3 CHAIR BASHFORD: Ms. Cannon and then
4 Judge Walton and then Mr. Kramer.

5 MEMBER CANNON: Thank you all. It's
6 been very informative. We have something in
7 California that passed a few years back called
8 Marsy's Law which provides for something similar
9 but not appointed, and you are provided an
10 attorney for the complaining witness in a sexual
11 assault case. And I think that's somewhat
12 leveling of the playing field.

13 Now, Captain Tedford, you indicated
14 that abuse is not prevalent and that attorneys,
15 like yourselves, act in good faith. So I'm going
16 to ask a hypothetical and assume that in most
17 cases this does not happen.

18 If a complaining witness or victim
19 tells you that it was a fabrication after she's
20 made a report, assuming it's a woman, and she
21 still wants the transfer and she wants to get out
22 because now she's kind of created a bubble of

1 problems or it's not about the transfer, it's
2 just about the case, under those circumstances,
3 what do you do? What is your role as victim's
4 counsel and your role with the court? And if I
5 could hear from whoever.

6 CAPT. TEDFORD: Yes, ma'am, I'll go
7 first. So I think, first, it's important to note
8 that I haven't had this experience. In preparing
9 for today, I talked with all of the other Air
10 Force SVCs, and I have not heard of anyone having
11 this experience. So I think that's very
12 important to note up-front.

13 And then, secondarily, we're all bound
14 by our state bar rules, as well as in the Air
15 Force by the Air Force Rules of Professional
16 Conduct. And so if we know, under your
17 hypothetical, we absolutely know because the
18 client has told us that this was a fabrication,
19 we cannot help the victim facilitate a fraud. I
20 don't believe we have a duty to report to anyone
21 because we're within the bounds of attorney-
22 client privilege, but I would have to

1 unfortunately tell the client that I could not
2 continue to help them facilitate that fraud.

3 MAJOR MARTZ: I would echo that,
4 ma'am. I would look, you know, depending on the
5 facts. The facts that you described, I would
6 first look to my JAG Instruction 5803.1E, which
7 is our rules of professional responsibility, as
8 well as my state rules, and those rules would
9 point me to not being able to sponsor that lie,
10 if that's a lie.

11 So if that victim were going to take
12 the stand and continue to lie, I would seek my
13 supervisory attorney's permission to withdraw
14 from that case, and that would be it.

15 LT. COMMANDER HUFFSTETLER: In my
16 experience, ma'am, I've never had a client
17 outright say this was a fabrication. What I have
18 seen is areas of gray and a lot of different
19 perceptions about what the truth is. So when it
20 doesn't hit those bar rules, from an officer's
21 standpoint, from a JAG standpoint, in my duties
22 to uphold our regulations, I advise the client on

1 ways to limit their liability, which usually
2 includes no longer participating in the process.

3 So I do offer that advice to my
4 clients if I believe that they're exposing
5 themselves to further legal liability, either
6 through a fraud or through some other misconduct
7 that's out there or some omission to law
8 enforcement. I will provide advice, either we
9 need to take this to law enforcement, and the
10 client makes the decision.

11 But my goal is to limit their legal
12 liability. Whether they decide to continue to
13 participate or not and get to those bar rules is
14 another matter.

15 MAJOR JACK: I would piggyback on what
16 my colleagues said as far as what they would do.
17 I would say I have had three clients that it
18 turned out their reports were false, but we never
19 even got to the point where the accused was
20 charged because it became very clear during the
21 investigation that they had made a false report.
22 And in these particular cases, they were all

1 civilians, so there was nothing that the military
2 could do to them.

3 So my firm belief is, if someone is
4 making a false report, it will be clear by the
5 end of the investigation that it is a false
6 report. Therefore, this particular individual is
7 not going to be making a fraud upon the court, as
8 it were.

9 In a case if they had been military
10 and they had requested expedited transfer, that's
11 kind of the risk you take with this program.
12 But, again, I don't think it would have gotten
13 past the investigative stage. And I don't think,
14 any of my clients who have requested expedited
15 transfer, those reports were false at all. I
16 don't think the expedited transfer program is
17 being abused in that way.

18 MEMBER WALTON: I guess a little bit
19 of a different wrinkle in the hypothetical that
20 was just asked. You say that sometimes you're
21 present during the interviews that the prosecutor
22 has with the alleged victim. If the alleged

1 victim says something during that discussion that
2 you perceive to be exculpatory, the prosecutor
3 does not, and so the prosecutor feels there's no
4 obligation to disclose that. But you think it
5 is. Do you have an obligation under those
6 circumstances to disclose it?

7 LT. COMMANDER HUFFSTETLER: No, sir.

8 MEMBER WALTON: Because it seems to me
9 one of the problems you have is that if your role
10 is a counselor, why do you need the prosecutor
11 present? So if the prosecutor is present when
12 that statement is made, does that alleviate the
13 confidentiality of the statement?

14 LT. COMMANDER HUFFSTETLER: Yes, sir.
15 So as far as confidentiality, there is none.
16 However, I don't have a duty under Giglio or
17 Brady to turn over that.

18 Now, what I will tell you in this
19 situation is I would have two conversations. I
20 would have one conversation with the prosecutor
21 about why they need to turn this over, and we
22 would have a stern heart-to-heart about following

1 the rules. And then I would have a second
2 conversation with my client about why it's in the
3 benefit of her participation in going forward in
4 this case to have that piece of information
5 turned over to the defense.

6 And so in the absence of good faith on
7 the part of the prosecutor, I would probably urge
8 my client to give me permission to turn that
9 information over to the defense myself.

10 MEMBER WALTON: One other question.
11 If there is a determination on a request for an
12 expedited transfer denied and it's denied on the
13 basis of there not being credible evidence of the
14 allegation, is that determination admissible at a
15 subsequent trial?

16 MAJOR JACK: I don't know if it would
17 be admissible. But I treat that kind of thing
18 like I would anything that the defense may take
19 as innocuous, I believe, and turn it into
20 something that it's not in order to make my
21 client feel bad.

22 And I think it would depend on exactly

1 when that request was made and at what point in
2 the investigation because if the report was
3 already made two days ago, there's going to be
4 credible information, but it may be more credible
5 once there's been more of an investigation. So I
6 think it really depends on the circumstances, but
7 I don't think the fact that an expedited transfer
8 was denied would have any bearing on the case
9 because, again, the defense takes a lot of things
10 that are pretty innocuous and try to make them
11 seem worse than they are, in my experience.

12 LT. COMMANDER HUFFSTETLER: Your
13 Honor, sir, the case law in this particular
14 subject is evidence of prior sexual assaults is
15 not admissible. However, evidence of prior false
16 reports is going to be coming up on cross-
17 examination for credibility purposes.

18 However, this is going to get meted
19 out during the pre-trial motions, and the judge
20 is going to make a determination beforehand
21 whether or not the specific instances of that
22 prior report actually rise to the level of a

1 false report. And in some cases, the victim will
2 be cross examined on the stand about the prior
3 knowledge of the expedited transfer process, why
4 they requested the expedited transfer, and if
5 they've had an expedited transfer before this
6 case. Those things can come on cross-
7 examination, but there are limitations in the
8 case law that talk specifically about that.

9 MR. KRAMER: Thank you very much for
10 the presentation. It was very interesting. I
11 have a two-part question, and I completely
12 understand Commander Markland's problem with
13 running into the person all the time, which must
14 be just terrible. So one thing I wonder is,
15 since it's only for unrestricted reports, have
16 you seen people change a restricted report to an
17 unrestricted report just to take advantage of the
18 expedited transfer process? I guess you probably
19 don't have statistics but, anecdotally, how often
20 that happens.

21 And the second question is bigger in
22 the sense we were given statistics. And as I

1 said, I understand Commander Markland, and it
2 would seem to me to be terrible. But the numbers
3 are actually pretty low of the percentage. I
4 view it as low. Maybe you view it as high
5 because it obviously causes a huge disruption in
6 people's lives. But it varies from 10 percent in
7 the Air Force, 13 in the Army, and Marine Corp
8 18. But then 29 percent for the Navy, much, much
9 higher. And I wonder why. To me, it seems very
10 low, given the problems as described with having
11 to run into the person all the time, and I'm just
12 wondering why. Am I misreading it as low? Does
13 it seem high to you?

14 CAPT. TEDFORD: Sir, can I just ask a
15 clarification? That number, is that the number
16 of expedited transfer requests?

17 MR. KRAMER: Unrestricted reports
18 requesting expedited transfer, and the Air Force
19 was the lowest of all, 10 percent.

20 CHAIR BASHFORD: Maybe it's the
21 percentage of unrestricted reports from people
22 who have then asked for an expedited transfer.

1 MAJOR MARTZ: I think there are so
2 many factors that go into a victim's choice to
3 submit an expedited transfer that it's too hard
4 to capture why one Service is higher than another
5 because there could be so much going on in each
6 particular victim's life that it might just be,
7 you know, the way it is.

8 But I think that those numbers are
9 actually low in comparison out of our clients, at
10 least for me. About 25 to, excuse me, about 20
11 to 30 percent of my clients ask for an expedited
12 transfer, so it's pretty close to what you said
13 about the Marine Corp's number, so that's pretty
14 accurate, I think.

15 But going back to your first question,
16 sir, restricted to unrestricted, I have not seen
17 a victim, at least anecdotally, that went
18 restricted to unrestricted just to get an
19 expedited transfer. I've actually seen a
20 restricted case that got an unwritten expedited
21 transfer, so there's creative ways to, you know,
22 if the victim does not want to report, that's on,

1 you know, the VLC or SVC to kind of figure that
2 out. But I have not seen that yet. I think it
3 goes back to there's probably a perception out
4 there that's, frankly, unwarranted because the
5 exceptional case tends to pollute people's minds
6 that people are unrestricting so that they can go
7 somewhere better. I hope that answers your
8 question, sir.

9 CHAIR BASHFORD: Would you all concur
10 anecdotally that you have not seen that move?

11 LT. COMMANDER HUFFSTETLER: I have.

12 CHAIR BASHFORD: You have seen the --

13 LT. COMMANDER HUFFSTETLER: I have,
14 and I've advised clients to make that choice for
15 their best interest. A client can unrestrict
16 their case, submit their expedited transfer
17 request, and simultaneously sign a document
18 declining to participate with law enforcement.
19 It's for all number of reasons but for their
20 privacy. And I've seen it in our regular active
21 duty Services and also in our academy.

22 MR. KRAMER: Do you have a feel for

1 why the Navy's percentage is so much higher?

2 LT. COMMANDER HUFFSTETLER: Sir, I
3 would be speculating.

4 MAJOR JACK: I would say, in my
5 experience, most of the clients that made
6 restricted reports are unrestricted, they're
7 unrestricting their report not for expedited
8 transfer but for some other reason. And I would
9 say why their percentage is low as far as people
10 who ask for expedited transfer is because some
11 clients are married to other Service members or
12 they're married to civilians who have jobs in the
13 area. Maybe their support system is in the area,
14 or maybe they just don't want another major event
15 in their life, so they're choosing to stay. It
16 could be that they do have a supportive unit. It
17 could be in their unit they're not experiencing
18 retaliation, they're not experiencing any rumors,
19 or the good with the unit outweighs the bad. So
20 I would think those could be some reasons why the
21 percentage are so low.

22 CAPT. TEDFORD: Sir, I would concur

1 with both. I have seen where a case is
2 restricted and then goes unrestricted and asks
3 for the expedited transfer program but then also
4 does not participate in the military justice
5 process and that, frankly, was a case that that
6 was the right decision that that client made for
7 herself.

8 The 10-percent number, my numbers are
9 a little bit higher. I've had 37 clients and 9
10 have taken advantage of the expedited transfer
11 program, which is about 24.3 percent. And I
12 would echo my colleagues that these are complex
13 decisions that complex humans are making in every
14 case.

15 MR. MARKLAND: I would say, for my
16 clients, I haven't had any who went unrestricted
17 to take advantage of expedited transfers. But
18 what happens is what they want is justice, and so
19 they take advantage of going unrestricted for
20 that purpose. And then when the MCIOs start
21 investigating, that's when kind of everything
22 breaks loose at the command, then they want the

1 expedited transfer because it's a little bit too
2 much of what's going on at the command because
3 everyone knows at that point. So one kind of
4 begets the other.

5 And then I think a lot of the reasons,
6 because, like you said, in the Coast Guard,
7 everywhere is small and you'll run into them all
8 the time. But I think the commands are moving
9 the accused. A lot of times they've already
10 moved the accused before I've gotten involved.
11 So that's why those folks aren't asking because
12 they're still not going to run into them so they
13 don't need the expedited transfer to accomplish
14 that.

15 DEAN HARRISON: First, I'd like to
16 thank all of you for what you're doing. It
17 sounds like it's really a tremendous step forward
18 for all of the Services.

19 But I've got two questions. As I read
20 the DoD regs, it sounds like there is a
21 presumption for granting a request for an
22 expedited transfer. But as I listen to each of

1 you, and this might be just because you're really
2 good lawyers, you approach these cases as if you
3 have to prove that your client's case should be
4 granted. Should I assume that the commands do
5 not always approach this as something where the
6 victim should be presumed to be given an
7 expedited transfer? I know you're just basing
8 this on your own experiences and not --

9 LT. COMMANDER HUFFSTETLER: Exactly.
10 This is my opinion and not the opinion of the
11 Navy. But, yes, my perception and my experience
12 is that commanders, there is a higher bar, and we
13 do have to provide a certain amount of
14 information for that commander to believe that
15 they are making a decision that meets the
16 regulation.

17 MAJOR MARTZ: I think it depends on
18 the commander, and it depends on the victim. The
19 case that I ran into a couple of roadblocks with,
20 there were some other things going on in the
21 victim's life, and the commander was not co-
22 located with that victim because that victim, the

1 06 level commander was located way far away.
2 It's a reserve unit, so way far away from where
3 the -- so he doesn't personally know the victim.

4 So I think, again, it depends on the
5 commander, it depends on the victim. That's on
6 us, that's on the SAPR program to advocate on
7 behalf of that victim so that commander who
8 doesn't know the victim very well knows that
9 story.

10 But I've had very good luck for the
11 most part, sir. Commanders are very receptive,
12 at least the commanders I've interacted with, to
13 granting that request, and it happens fast.
14 Like, I think, Commander Markland, you mentioned,
15 I mean, I've seen a victim submit a request and
16 the same day get orders and she's got to be gone
17 within the week. She was very excited, though,
18 so it worked out.

19 CAPT. TEDFORD: Sir, I would echo
20 that. I've found commanders to be very
21 receptive. I've found them that they're
22 concerned about our clients. They want to make

1 sure the clients have fully thought through the
2 decision and there is handoff to the next
3 commander. But I've found, generally, that they
4 have followed the presumption.

5 I think the SVCs and the SARCs have to
6 walk them through, especially if they haven't,
7 even though they've had the training, if they
8 haven't done an expedited transfer before, it's
9 sometimes a foreign concept. And so we have to
10 walk them through. But I have found that they
11 follow the presumption.

12 MR. MARKLAND: My perspective of the
13 Coast Guard commanders has been that they don't
14 have a presumption one way or the other. They
15 just want to do the right thing, whatever that
16 is. So when I send my requests, I do two things:
17 I send them a copy of the policy, which is pretty
18 short and easy to understand, and then I also, at
19 the bottom, call your servicing legal office
20 because I know, as a former HHA, they'll forget
21 to do that sometimes. Then the legal office will
22 guide them through the process.

1 But, otherwise, I'm not sure they have
2 a bias one way or another. They just want to
3 know what they should do.

4 LT. COMMANDER HUFFSTETLER: And some
5 commanders call us.

6 MAJOR JACK: I would agree that most
7 commanders want to do the right thing. And most
8 of the time, I'm not getting the calls. They are
9 calling their trial counsel and asking those
10 questions, and I may hear about it through the
11 trial counsel. But I think it's really going to
12 depend on the commander how much effort you're
13 putting in on the front end because, if you have
14 a new commander, you may have to put in more
15 effort on the front end because this is perhaps
16 their first one. And if you have a commander
17 who's in their second year, then you already know
18 what you have to do for that particular
19 commander.

20 But I think most commanders are
21 wanting to do the right thing and take care of
22 the soldier and make sure they're following the

1 rules.

2 DEAN HARRISON: My last question, it
3 sounds like, for some of you, this is a major
4 part of your assignment. For some of you, it's a
5 collateral duty maybe. As lawyers in your
6 Services, is an assignment like this looked upon
7 beneficially for your career advancement or
8 neutrally or . . .

9 MAJOR JACK: I would say, in the Army,
10 it depends on the installation whether or not
11 it's going to be a full-time or a part-time duty.
12 I personally think it should be a full-time, no
13 matter where you are. And I personally think,
14 just like a lot of things in the Army, we may not
15 have enough bodies for the new mission that you
16 have to do. So I think some installations don't
17 have enough SVCs, so bigger installations end up
18 taking a lot more clients.

19 So at Fort Hood, like it was said
20 earlier, we get a lot of clients in for expedited
21 transfers. And some of them want an SVC that's
22 on the ground, so we end up taking a lot more

1 cases than another installation because we just
2 have three full-time, four full-time SVCs.

3 I think with any new job in any of the
4 Services, people are going to have a question of
5 whether or not this is going to be good for your
6 career. I never had any of those questions. My
7 philosophy is the Army tells me I have to do
8 this, I'm going to do it. So I don't worry about
9 whether it's going to have a bad impact on my
10 career or not. And in my experience, without
11 even being asked, having asked someone about
12 that, I've been told don't worry about it, even
13 though I never had those worries, but I've been
14 told don't worry about it. And I think that has
15 borne out in my experience thus far.

16 LT. COMMANDER HUFFSTETLER: In the
17 Navy, sir, the Victims' Legal Counsel Program, in
18 my opinion, is looked on highly. Anecdotally,
19 we've had good promotion rates. However, that
20 could be because we're also personally screened
21 by our judge advocate before we're placed in this
22 position.

1 I have direct reach back to my deputy
2 chief of staff and my chief of staff of the
3 program, and they check on me pretty often on my
4 personal well-being, as well, because this job
5 has some stresses that are unusual for trial
6 positions. So I do think that the program and
7 the position is looked on highly by my Service.
8 And while it's a newer job in the JAG Corps,
9 there are metrics and also reach-back in place to
10 make sure that we're all doing well.

11 MAJOR MARTZ: Sir, I just want to
12 start by saying it is a sole duty in the Marine
13 Corps to be a VLC. We are screened, like the
14 Navy, not only by the OIC of the victims' legal
15 counsel. Those individuals identified and
16 nominated to that person are then screened by
17 that person through an interview process, and
18 then they're certified by the SJA to the
19 Commandant.

20 So there is a screening process even
21 to become a VLC, and I would say it's still a
22 mixed bag in the Marine Corps. I think that

1 there's probably a good number of people,
2 especially amongst the younger judge advocates
3 that really want to do it, but I think that
4 there's still folks who think that it's this
5 three-headed beast that's now entered the
6 courtroom. But I think we're getting past that
7 and we're doing well anecdotally on promotion
8 boards and school boards.

9 And so I think that more and more, as
10 the younger folks see that, you know, the old
11 geezers like me are moving up and we're hanging
12 in there, I think as they see that, then I think
13 that it will continue to produce -- we're very
14 lucky. We have very good people across the
15 board, and I think that, as the practice has
16 grown over the last four years, we continue to
17 get better and better counsel coming in and
18 people are volunteering more and more. But we're
19 not quite where the total stigma that VLC could
20 be damaging to your career is gone yet. So thank
21 you, sir.

22 CAPT. TEDFORD: Yes. So I've found in

1 the Air Force that -- well, first, let me say it
2 is a full-time position, so these are my sole
3 duties. And I've found that it is looked at as
4 beneficial. You have to be nominated. So for
5 me, I was in the legal office at my base before.
6 I was nominated by my SJA for this job, and then
7 there is a formal bidding process, as well.

8 I think it's looked at beneficially
9 for a couple of reasons. But for junior JAGs,
10 like myself, I was in the legal office for two
11 years before I moved over to this job. And in
12 this job, I have been given the opportunity to
13 run my own office. I have my own paralegal, and
14 you have a certain degree of, you're given a
15 certain degree of leadership and autonomy that
16 captains don't normally get.

17 MR. MARKLAND: All I have for you is
18 my personal observation, which is just that the
19 folks that are doing this work are getting
20 promoted.

21 CHAIR BASHFORD: All right. Ms. Garvin,
22 and then I think we're pretty much out of time.

1 MS. GARVIN: So jumping off of what
2 Jennifer Long had asked, kind of a broader
3 question since I'm not sure when we're going to
4 have you back, Major Martz, you brought up that
5 Article 6B is broader than 412 and 513, but so
6 much of your practice has been seemingly
7 constrained to 412 and 513. So I'm just curious
8 how much you guys are arguing general 6B practice
9 and then what you feel about your capacity to
10 challenge losses of your motion practice on 6B.

11 MAJOR MARTZ: So, actually, with the
12 help of probably you, Ms. Garvin, and Lisa
13 Krieger Norman and all of us get together and we
14 talk out these issues, I think the next charge
15 for us is, and I'm stealing the Air Force's
16 thunder here, I'm totally stealing this from
17 them, the next charge is Article 6B right to be
18 free from a reasonable delay, going back to the
19 complaint that's been highlighted about the
20 victims. It drives us and them crazy that it
21 takes so long. So any time a defense counsel
22 files a continuance motion, then there's a good

1 chance we might be fighting it because they don't
2 want to have that phone call where we're saying,
3 all right, this was supposed to happen in
4 January, now it's happening in April. They want
5 to get this over with. So that's one area that I
6 think we're seeing similar motions practice.

7 The other area that we're seeing, at
8 least within the Marine Corps, is seeking those
9 protective orders over certain types of evidence,
10 going back to what's discoverable versus what's
11 produced. We talked about discover admissibility,
12 but discovery versus production. You know, a kit
13 and photos and mental health records and medical
14 records and cell phone data, you know, that all
15 could be an area that we are seeking protective
16 orders over from either the convening authority
17 if it's early on or the military judge under
18 Article 6B out of our client, again, going back
19 to the right to be treated with fairness and
20 dignity and respect of their privacy.

21 CAPT. TEDFORD: Yes, ma'am, we are
22 arguing Article 6B. I will echo everything that

1 Major Martz said, to include the issue or the
2 motions that are not foretold for 513. The
3 judges are wanting to hear us make a statement
4 argument first, and so we're having to fight to
5 even get a foot in the door, but we are making
6 those motions.

7 MR. MARKLAND: I am so ready to stand
8 up and make an Article 6B argument. And that was
9 the one thing, when Article 6B came out, I said
10 this is it, this is what has been concerning me,
11 you know, because even I have had opportunity to
12 disrespect a sexual assault victim when I was
13 defending and things like that. And what I'm
14 learning now, which I didn't expect, was that
15 defense counsel are now figuring out how to
16 deconstruct a complaining witness's credibility
17 without taking away their dignity. And so I
18 haven't had to stand up on that yet.

19 MAJOR JACK: I'd say, in my practice,
20 the majority of the motions we've had were around
21 412 and 513. So I haven't had an opportunity to
22 really argue 6B, but the program, the SVC

1 program, since its inception, has been very
2 supportive of SVCs pushing the limits of what
3 they can do. So I'm sure other SVCs may have had
4 to argue with 6B and, you know, would have called
5 their colleagues and other Services for advice.

6 CHAIR BASHFORD: Well, thank you very
7 much, Commander Markland, Captain Tedford, Major
8 Martz, Lieutenant Commander Huffstetler, and
9 Major Jack. We really appreciate you coming.
10 Keep up the good work.

11 Captain Tideswell, have there been any
12 last-minute requests for public comment?

13 CAPT. TIDESWELL: No, ma'am, there
14 have not.

15 CHAIR BASHFORD: Then Mr. Sullivan?

16 MR. SULLIVAN: This public meeting is
17 officially closed.

18 (Whereupon, the above-entitled matter
19 went off the record at 5:08 p.m.)
20
21
22

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This is to certify that the foregoing transcript


In the matter of: DAC-IPAD Full Committee Meeting

Before: US DOD

Date: 10-19-17

Place: Arlington, VA

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