The Committee met at One Liberty Center, Suite 1432, 875 North Randolph Street, Arlington, Virginia, at 8:45 a.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
THE HON. PAUL W. GRIMM
MR. A.J. KRAMER
MR. JAMES MARKEY
DR. JENIFER MARKOWITZ
CMSAF RODNEY J. MCKINLEY, USAF, Ret.
BRIG. GEN. JAMES SCHWENK, USMC, Ret. *
DR. CASSIA C. SPOHN
MS. MEGHAN TOKASH
WITNESSES:

DR. NATHAN GALBREATH, Deputy Director, Sexual Assault Prevention and Response Office, U.S. Department of Defense

STAFF:

CAPTAIN TAMMY P. TIDESWELL, JAGC, U.S. Navy - Staff Director
COLONEL STEVEN B. WEIR, U.S. Army, JAG Corps, Deputy Staff Director
MS. JULIE CARSON, Legislative Liaison/Attorney Advisor
DR. JANICE CHAYT, Investigator
MS. THERESA GALLAGHER, Attorney Advisor
MR. GLEN HINES, Attorney Advisor
MR. CHUCK MASON, Attorney Advisor
MS. STAYCE ROZELL, Senior Paralegal
MS. TERRI SAUNDERS, Attorney Advisor
MS. KATE TAGERT, Attorney Advisor
MAJOR ISRAEL KING, USAF, Alternate Designated Federal Official

* Present via telephone
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(8:50 a.m.)

CHAIR BASHFORD: Major King, would you call us to order?

MAJOR KING: Yes. At this point, the meeting of the DAC-IPAD is officially open.

CHAIR BASHFORD: Thank you. Thank you, Major King, and good morning. I'd like to welcome the members, participants, everybody in attendance to the fifth meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, or the DAC-IPAD.

The Secretary of Defense appointed 16 members to the Committee. All of the members are present, with the exception of Ms. Garvin, Dean Harrison, Ms. Long, and Judge Walton, and Brigadier General Schwenk is participating by telephone. Is he phoned in?

CAPT. TIDESWELL: Yes, ma'am, he is.

CHAIR BASHFORD: Okay. Thank you.

The DAC-IPAD was created by the Secretary of

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

Today's meeting is being transcribed, and the complete written transcript will be posted on the DAC-IPAD website.

The written materials provided to the Committee members in preparation for the meeting are also available on the DAC-IPAD website.

Before we get started, I would like to recognize and introduce our Military Service representatives who will assist the Committee with any policy questions that might arise today during our discussion.

Could you all each please stand and just identify yourselves for the Committee and for the public?
LT. COLONEL VERGONA: Hi. I'm Lieutenant Colonel Mary Catherine Vergona, and I represent the Army.

MR. McCLEARY: And I'm Steve McCleary. I'm here on behalf of the Coast Guard.

MR. MARTINSON: I'm Jim Martinson representing the Navy.

MAJOR SHEW: Good morning, everybody. Major Wayne Shew with the Marine Corps.

MAJOR AHLERS: And good morning. I'm Major Joe Ahlers with the Air Force.

CHAIR BASHFORD: Thank you very much. So this meeting will begin with a presentation on expedited transfer data by Dr. Nate Galbreath, the Deputy Director of the Department of Defense's Sexual Assault Prevention and Response Office.

Dr. Galbreath's presentation will be followed by three DAC-IPAD working group presentations and deliberations. The Policy Working Group will provide a presentation on the Department of Defense expedited transfer policy,
the Data Working Group will provide a presentation on fiscal years 2012 to 2016 sexual assault case adjudication data, and the Case Review Working Group will provide a presentation on their case review strategic plan and methodology.

Each public meeting of the DAC-IPAD includes a period of time for public comment, but we have received no requests for public comment at today's meeting.

If a member of the audience would like to comment on an issue before the Committee, you should direct your request to the DAC-IPAD Staff Director, Captain Tammy Tideswell. All public comments will be heard at the end of the meeting and at the discretion of the Chair. Written public comments may always be submitted for Committee consideration.

So thanks, everyone, for joining us today, and I'd like to welcome our first speaker, Dr. Nate Galbreath. Thank you. We look forward to hearing from you.
DR. GALBREATH: Thank you very much.

My goal is to -- the staff asked me to come back
and answer a few questions that we had from last
time we were here. My goal is to answer those
questions and get off the stage as soon as
possible, because I know you've heard from me
quite a bit. So that is my goal.

So I did take the opportunity to pass
out a paper to each of you before the meeting
started. And so I'm using this paper as the
basis for some of my comments. And in addition
to that, we have also done some analysis of the
Request for Information that the Committee made
that was delivered to you I believe back in
December. And so some of my comments are also
based on that analysis.

I will tell you that it's rather
complicated because of all the different cases
that are there, so I have agreed to work with the
staff to help them walk through the basis for our
analysis and just kind of hit the high points
this morning.
What we did is, the information that we looked at at SAPRO is a little bit different than the Request for Information that the Committee made, in that we looked at all expedited transfers compared to all unrestricted reports without expedited transfers since the time of the policy inception.

And so, on that first page here, on the table, that's the total count of cases that we looked at. Unrestricted cases was about 14,518. And there in that total number there were 2,307 cases with at least one expedited transfer request.

And so that's, as you see, that's about 16 percent of the sum total, and so that's kind of the universe of cases that we're looking at. And, again, this is an across-the-department look. So this is all four Services combined.

The next table that you see, Table Number 9, you can see the breakdown of the cases that we had. In the first column are the cases, the 2,300-some cases that had at least one
transfer request. The second column is 
unrestricted reports with no transfer requests, 
and then the total in the third column. 

And as you see, the cases with 
expedited transfer requests were weighted 
slightly heavier in the penetrating crimes. So 
this would be the allegations that you see here 
with rape, sexual assault, and then prior 
versions of the UCMJ with aggravated sexual 
assault, indecent assault, and non-consensual 
sodomy. 

These cases here -- and that's 
Article 125 of the UCMJ. So just to give you an 
idea, so cases with expedited transfer requests, 
about 54 percent of those involved a penetrating 
crime, and those are the crimes that the law 
considers to be more serious than the sexual 
contact crimes. 

So the first question I was asked to 
answer was the statistics on the effect of 
expedited transfer on victim participation. So, 
and I'm using the third table to talk through my
next few points here. And I realize that this is
not going to be an easy table to follow, because
I know you're going to want to do the math along
with me.

But this largely follows our waterfall
charts that we do every year, and so this
corresponds very heavily to the configuration of
cases that we use in order to -- in order to
report out the dispositions of cases to Congress.

But what I would offer to you is that
what this table essentially tells us is that we
found no appreciable difference in any of the
case disposition outcomes across the board for
expedited transfers or cases -- cases with an
expedited transfer or cases without those. And
in some, expedited transfers appear to have
little to no impact on case dispositions within
the military justice system.

Why I say that is if I take a look at
the share of cases across the board, I can see
that about 68 percent of cases with at least one
transfer request received command action at the
same rate of cases that didn't have an expedited transfer request.

Same thing, if you go down to the other bold type at the bottom with the command action precluded. These are cases that didn't go forward. About 32 percent or about a third of them also in both categories could not receive command action for the reasons listed below.

So if you want to argue that transfers somehow impede prosecution, we don't see any evidence of that in the numbers. In fact, sexual assault cases with transfers are preferred to court-martial at just about the same rate as sexual assault cases without a transfer.

So if you're going to argue that victims are somehow making up allegations just to get a move somewhere, then I would expect to see higher rates of cases not proceeding to court-martial in those cases involving a transfer request. And that just simply isn't the case of what you see here.

So cases that could be acted upon due
to insufficient evidence of a crime to prosecute
are about the same. You can see that down under
the command action precluded.

In addition, you're going to see that
victim declined to participate in cases. It's
just about four percentage points higher than
cases without a transfer request, so that's
really hardly convincing evidence that this is
somehow being abused.

And then, in addition to that, for
other reasons that -- the point that I would
really look for is the cases that are determined
unfounded. If you want to argue that a victim is
somehow making up an allegation just to get a
move, and there's no evidence that any crime
occurred, then I would expect to see a high rate
of unfounded cases, and we just simply did not
see that.

And so, in sum, what I would tell you
is is that so expedited transfer cases, if you
receive one or not, it just doesn't seem to have
any impact on how cases are disposed of in the
system, looking from all the years that we've been doing this, and as a DoD-wide look.

So the second question I was asked to answer is: what about statistics about the prevalence of abuse of the expedited transfer program? So when I got that question, I had to kind of scratch my head a little bit because I'm not exactly sure what an abuse is.

So, and why I say that is, we'd have to figure out what constitutes an abuse. So my understanding is that an allegation has been made that victims lie about a sexual assault to get a better assignment. So I would ask: what is a better assignment, and who is going to be the judge of that?

For example, I spent three years at beautiful Minot Air Force Base, North Dakota. Some people would argue that that is a really cold and awful place to be, especially this time of year.

However, I also know that a lot of people like homesteaded at Minot Air Force Base,
North Dakota, because of the low crime rate,
great for families, and it was just -- for some
people, they really like that part of the
country.

On the flip side, I can tell you that
working in clinical psychology and talking to my
clinical psychologist colleagues that were
stationed at Hickam Air Force Base, Hawaii, just
as many folks came in complaining about Hawaii as
the location to be stationed.

People that grow up in the continental
United States find that being assigned sometimes
to an island is very limiting, and so they get
the island fever and they don't want to be there.

So I think a good assignment is
largely in the eye of the beholder. And folks
that have experienced trauma are probably looking
for places that get them the support of family
members, that get them out of environment that
they consider to be a reminder of the trauma that
they may have experienced, and so it's hard to
argue that one base is better than another.
And I guess that the people that are making the allegation are going to be the arbiters of what they think the abuse might be. I just don't see it like that.

So, but nonetheless, we took a look at the data that the Services submitted to you, and like I said, we'd be happy to share our analysis with the DAC-IPAD staff, because it is really too detailed to jump into. But what I would say is is that what we find is that people largely transfer in between the Services' large population centers.

And this is very similar to the analysis that the Navy did that they told you about the previous meeting. And so if you take a look at the Marine Corps data, you will notice that most of the Marine Corps transfers between their bases in California and North Carolina, where most of their bases are, about 26 percent of Marine Corps cases transferred out of Japan, because that's, again, a large population center.

And then for the Army, we saw Georgia,
Kentucky, and Texas posts as being locations both receiving and losing personnel. About 12 percent of Army transfers in 2016 came out of South Korea.

With the Air Force, we didn't see any appreciable trend, in that we set a trend -- we just set it at about 10 percent of cases, if we saw 10 percent or more for the Air Force. We saw no real trend in places that people were leaving, and like I said is we'd be happy to share this and talk it over with the staff and then they can give you more information on that.

So if you want to argue that maybe perhaps soldiers made up allegations to move from South Korea or maybe that Marines made up allegations to get out of Japan, then the data should show substantive evidence that those cases don't go to trial or end up being unfounded. And, again, that simply isn't the case. We just don't see that in the data.

But, in sum, we see about equal numbers of cases moving forward in the justice
system as we do in those cases not moving forward. And, in fact, the difference in many of these situations is really only two or three cases. Even though we're talking about small numbers of cases, so the percentage share that we see as far as cases moving might look like a difference of five or six percent, but in reality those are only two or three cases, in reality.

So there is hardly convincing evidence, at least in my mind, of any kind of widespread abuse. So what I would offer to you is, as you go into your deliberations today, if you think that there are things that we could do to better publicize this information or to get after this allegation that the expedited transfer is in a policy that's being abused, we certainly would be happy to take that recommendation. We'd be happy to do that.

I would also offer to you that when I go out and I teach on this topic, one of the first things that people do is raise their hand and say, "What about that expedited transfer
policy?" Because they are not really sure about -- it has kind of taken a life of its own as far as people saying that they think it's being abused, but yet when we look at the evidence there isn't any there for that, at least in my view.

And certainly if there is -- in the Committee's review of the data, if there is other things that you'd like us to look into, we would be happy to do that.

So those are the two questions I was asked to answer, and we also are working with your staff to help kind of close the gap in some of the other data that you might still be waiting on the Services from. So we'll try to round that information up for you as well.

So I stand open for questions.

CHAIR BASHFORD: Thank you, Dr. Galbreath.

Questions from the panel? Well, I'm not going to let you go away.

DR. GALBREATH: Oh.
CHAIR BASHFORD: Since you said you would be happy to answer questions on a somewhat -- actually, not really related. But I'm looking at your fiscal year '16 completed cases. And on the penetrating cases, which you had said the law treats as more serious, 50 percent was listed as command action not possible.

Now, I know there's a wide variety. It can be an uncooperative witness, it can be unfounded, insufficient evidence. Do you have any further breakdown of that 50 percent number as to why the cases couldn't go forward?

DR. GALBREATH: Absolutely. So the vast majority of cases that don't go forward fall into two categories. The first category is insufficient evidence of a crime to prosecute. And so that essentially means that not only have they taken the sexual assault allegation, the criminal investigators have also gone through and looked for any other evidence of a crime.

Sometimes the sexual assault allegation can't be prosecuted, but other crimes
can, such as false statements or simple assault under Article 128, or other crimes like that that might turn up in the course of the sexual assault investigation.

But in this category, crimes that are insufficient evidence of any crime to prosecute, the legal review of the case disclosed there was just simply no evidence of anything to go -- of any crime to go forward. So that's the main category in cases that don't go forward.

The second category -- largest category of cases that don't go forward are subjects whose cases could not be prosecuted because the victim declined to participate. And that constitutes about nine percent of all of the cases that sit in front of a commander to determine whether or not they can take action based on the evidence in the case.

That has stayed remarkably the same over the past four or five years. We are watching very carefully to see how the addition of the Special Victims' Counsel and Victims'
Legal Counsel program has an impact or not on that percentage. But I don't have 2017 data ready yet to share with the Committee, but, again, that's a category that we are looking very closely.

Certainly, a goal of the SAPR program is to empower victims to participate in the justice system to their comfort level. The other two categories that we have for reasons why cases don't go forward is statute of limitations expired, and very, very, very small numbers of cases fit into that, especially now that the UCMJ has changed.

And then the last category of cases that only had maybe a total of two or three cases since my time in SAPRO where a victim died before the prosecution could take place. And only one or -- like I said, only a couple of those cases ever occurred. So those are the four categories for reasons why cases won't go forward as far as command action precluded.

And then the very last category is
command action wasn't possible because the case was unfounded, and that means that either the case was determined to be false or baseless.

And back in 2009, the Department adopted the FBI's category for false and baseless cases, which essentially means that -- a baseless case, which means that the case was improperly recorded as a sexual assault, and a false case means that evidence existed to determine that either the crime did not occur or the accused did not commit the crime.

And that percentage of cases every year is only about two or three cases, two or three percent of cases --

CHAIR BASHFORD: Two or three percent?

DR. GALBREATH: -- per year.

CHAIR BASHFORD: So you have about nine percent where the victim chooses not to go forward?

DR. GALBREATH: Yeah. It's -- because we track dispositions by subject, the way that we categorize those cases are -- the percentage of
subject cases that couldn't be prosecuted because
the victim declined. So I might have more than
one victim declining to participate in those
subject cases, but yes.

CHAIR BASHFORD: And you had said that
the people who choose not to go forward, it has
been pretty stable, about nine percent. How
about the insufficient evidence and the
unfounded, have they stayed stable, or have you
seen any changes over the years?

DR. GALBREATH: They have largely
stayed pretty stable over time. I have never
seen huge fluctuations in the numbers. What I
would tell you is is that proportionally the
largest number of cases that we can't prosecute
are due to insufficient evidence. And then the
second -- proportionally, the second largest
category of cases are victims declining to
participate, and then very, very small cases.

So those proportions stay relatively
similar, although of course, you know, numbers
fluctuate year to year.
CHAIR BASHFORD: Anything further for Dr. Galbreath? Well, thank you for coming.

DR. GALBREATH: Thank you.

CHAIR BASHFORD: We are far ahead of schedule. Is the Policy Working Group prepared for their presentation?

CHIEF McKINLEY: Yes, ma'am.

CHAIR BASHFORD: All right. Take a moment, if you need, to get organized. Okay.

CHIEF McKINLEY: Good morning.

Based on the strategic planning discussion of the DAC-IPAD at its July 21, 2017, public meeting, the Committee agreed to set up a Policy Working Group to look at the issues of the DoD, expedited transfer policy for active duty Service members, who have been sexually assaulted.

Article 140(a), UCMJ, regarding the military justice data collection and management, training for convening authorities, and training for defense counsel. I am the Chair of the Policy Working Group, which is composed of seven
members of the DAC-IPAD, Retired Marine Corps
Brigadier General James Schwenk, Retired Army
Major General Marcia Anderson, Dr. Jenifer Markowitz, Mr. A.J. Kramer, Dean Keith Harrison,
Ms. Meg Garvin, and myself.

The Policy Working Group held its first preparatory session on October 19, 2017,
where the members decided to first review the DoD Expedited Transfer Policy and commander legal and sexual assault prevention and response training.

The purpose of today's presentation is to provide an initial assessment of the Department of Defense expedited transfer policy and its implementation in the Services and for the full committee to deliberate and approve findings and recommendations on this topic.

The framework of the Policy Working Group has followed, and it has reviewed -- and its review is the summarized testimony and information it received from specific findings of fact that have, in turn, led to the proposed recommendations related to the expedited
transfers.

To conduct its review, the Policy Working Group first issued a formal Request for Information to DoD and the Services in September 2017 regarding all expedited transfer requests and transfers of accused Service members related to sexual assault allegations that were first made in fiscal year 2016, as well as information on commander legal and SAPR training.

At its October 19 and 20 public meeting, the DAC-IPAD heard testimony from DoD, SAPRO, and Service personnel, Special Victims' Counsel, and Victims' Legal Counsel about their experience with the expedited transfer program.

The Committee also heard from mid-level commanders and special court-martial convening authorities about their legal and sexual assault-related training, as well as their experiences handling expedited transfer requests from Service members under their command.

To gain additional perspectives on expedited transfers, the Policy Working Group
held a preparatory session on December 1, 2017, where the members heard from DoD and Service Family Advocacy Program personnel, Service senior prosecutors, Service members who have received expedited transfers, and Special Victims' Counsel and Victims' Legal Counsel from all Services.

The Policy Working Group also reviewed the expedited transfer data included in the Service enclosures to the fiscal year '16 DoD SAPRO Annual Report to Congress on sexual assault incidents, as well as a recommendation of the Judicial Proceedings Panel regarding expedited transfers.

The testimony of stakeholders from commanders to practitioners to victims themselves was overwhelmingly supportive of the expedited transfer policy as an effective mechanism to assist members who are victims of sexual assault in their recovery.

The Policy Working Group's overall assessment of the expedited transfer policy is that it is an important SAPR initiative offered
by the military, and we strongly recommend that it be continued, and that improvements continue to be made to the policy.

Specifically, our working group recommends improvements centered on two issues. And with that, I will hand the presentation off to my colleague, Dr. Markowitz.

DR. MARKOWITZ: Thank you, Chief. I will try to speak up as well as I can, getting over this cold, but let me know if you can't hear me.

The first issue of concern leading to a recommendation by the Policy Working Group is that many Service members have a mistaken perception that victims abuse the expedited transfer policy.

So our first proposed finding. A number of SVCs, VLCs, and prosecutors reported to the Policy Working Group that there is a widespread perception across the Services that victims are using the expedited transfer policy to transfer to more favorable locations.
This concern was also raised by the Judicial Proceedings Panel in its September 2017 report on concerns regarding the fair administration of military justice in sexual assault cases. The JPP's concerns stem from military counsel interviewed by members of the JPP subcommittee on a non-attribution basis during installation site visits conducted over the summer of 2016, who perceived that Service members were abusing the policy to transfer to more favorable locations.

Our second proposed finding. Several presenters also noted that the Service members' perception of abuse of expedited transfer policy may have an effect on court-martial -- on courts-martial, since defense counsel may attack the credibility of victim witnesses by offering an expedited transfer request as a motive for fabrication of sexual assault allegation.

Our third proposed finding.
Notwithstanding these apparently pervasive misperceptions about expedited transfers, the
presenters, the DAC-IPAD, and the Policy Working
Group heard from overwhelmingly testified that in
their experience with transfer requests they had
not encountered abuse of that policy.

Our fourth proposed finding. The
Policy Working Group also reviewed the
information on expedited transfer requests
reported by the Services in the FY16 DoD SAPRO
report to Congress on incidents of sexual
assault. According to this report, only 20
percent of Service members who made an
unrestricted report of sexual assault requested
an expedited transfer.

Further, although the Policy Working
Group is still reviewing the data it received
from the Services in response to its Request for
Information regarding the expedited transfer
request made in FY2016, there were no obvious
indications of abuse of the policy presented in
the data.

As a result of these findings, the
Policy Working Group makes two proposed
recommendations to the DAC-IPAD for the Committee's consideration and approval. The first recommendation is that the Secretary of Defense and the Services take action to dispel the misperception of widespread abuse of the expedited transfer policy, including addressing the issue in the training of all military personnel.

The second recommendation is that the Secretary of Defense identify and track appropriate metrics to monitor the operation of the expedited transfer policy and any indications of abuse.

The Policy Working Group will continue to evaluate the requested data on expedited transfer requests made in FY16 and associated training regarding the policy.

Are there any questions at this point, or discussion from the Committee on these findings and these recommendations?

CHAIR BASHFORD: Ms. Cannon?

MS. CANNON: I commend the policy-
making group. I think you did an outstanding job
of gathering all of this information. In
recounting the people that have testified and the
organizations that have come before you, I note
that there were no defense attorneys or
investigators presenting any information to you.
Do you think that that would be of assistance at
all in the input of information that you have
received?

CHAIR BASHFORD: Chief, do you want
to --

CHIEF McKINLEY: I think that it would
be beneficial. You know, overwhelmingly, the
evidence that was presented to us from all the
people we had before us indicated no abuse
whatsoever, and the program is overwhelmingly
successful. I think there is a big education
thing that needs to go out to all the military,
because I think on the most part people don't
know about -- enough about the program until
after they are sexually assaulted.

So, therefore, they are not trying to
abuse the program to go out, but to look into
those others and get their response would be a
positive thing.

MS. CANNON: Well, certainly the data
and all of that that has been gathered, which is
incredible support for what you're recommending.
I just mean in terms of total transparency and
the integrity of the report. Would that be
something you would want to do?

CHIEF McKinley: I think that we can
look at it. I think we can still gather that
information and put that in with the report also.

CHAIR BASHFORD: I want to second Ms.
Cannon's congratulations to the Policy Working
Group. They've done very hard work. And I think
what you have found is pretty much borne out by
what Dr. Galbreath said, and I think people would
be surprised to know that across all of the
Services, which includes the Navy where people
are stuck on a ship together, that it seems as
though only 16 percent of people even asked for
an expedited transfer.
I think the perception, which seems to be wrong, is that it's much higher.

CHIEF McKinley: Absolutely, ma'am.

We found that, and, you know, there's many out there in the active duty military that really feel there is an abuse of this, but there needs to be an education process across the board that this is a very good program, that it does not affect the outcome of -- you know, of getting a conviction or anything else like that, but also that if there are victims that they know about this program.

Not only do they know about it, but the commanders and the persons in the leadership chain are very well-educated about it on the losing end and also on the gaining end. So there is still a lot of work to do to make this program more viable and more successful for the victims.

Chair Bashford: And so with respect to the -- you're saying you're going to continue to evaluate requested data and associated training. As part of that, can you take Ms.
Cannon's friendly request to have some input from defense or investigators --

CHIEF McKinley: Absolutely.

Chair Bashford: -- going forward?

CHIEF McKinley: We've got notes on it right now.

Chair Bashford: Okay. Any other comments?

Dr. Markowitz: Then, at this point, I make a motion that the DAC-IPAD approve issue 1, findings 1 through 4, and recommendations 1 and 2 related to the mistaken perception of abuse of the expedited transfer policy as discussed.

MR. Kramer: Second it.

Chair Bashford: I'm going to go around, then, just for the record. Mr. Kramer, do you have any objection to approving the issue and findings?

MR. Kramer: No.

Chair Bashford: Ms. Anderson?

MG Anderson: No.

Chair Bashford: Judge Grimm?
JUDGE GRIMM: No objection.

CHAIR BASHFORD: Judge Brisbois?

JUDGE BRISBOIS: No.

CHAIR BASHFORD: Ms. Tokash?

MS. TOKASH: No objection.

CHAIR BASHFORD: Dr. Markowitz?

DR. MARKOWITZ: No objection.

CHAIR BASHFORD: The Chair has no objection. Chief McKinley?

CHIEF McKinley: No.

CHAIR BASHFORD: Dr. Spohn?

DR. SPOHN: No.

CHAIR BASHFORD: Ms. Cannon?

MS. CANNON: No.

CHAIR BASHFORD: And Mr. Markey?

MR. MARKEY: No.

CHAIR BASHFORD: Then --

CAPT. TIDESWELL: Chair Bashford, are you going to --

CHAIR BASHFORD: Oh, I'm sorry. Some of you have been so quiet. Do you have any objection to the proposed -- the issue and
findings and recommendations?

BGEN SCHWENK: Good morning, everybody. Thank you for waking me up, and I have no objection.

CHAIR BASHFORD: Great. Then the findings and recommendations are unanimously passed. And, again, I want to thank the working group -- Policy group for doing such good work.

DR. MARKOWITZ: Fantastic. Thank you. With that, I will hand over the presentation to my colleague, Major General Anderson.

MG ANDERSON: Good morning.

CHAIR BASHFORD: Good morning.

MG ANDERSON: The second issue of concern leading to a recommendation by the Policy Working Group regarding expedited transfers is that active duty Service member, spouses, and intimate partners covered by the Family Advocacy Program are excluded from the DoD-level expedite transfer policy.

And just briefly, for those who may not be familiar with FAP, it has been in
existence for 36 years, and it generally
addresses instances of child abuse, child
neglect, and domestic abuse across the Services.
However, as I have noted, victims who are
eligible for the Services can also be active duty
Service members, spouses, and intimate partners.

We have six prepared findings --
proposed findings, rather, for this issue.

Proposed finding number 1. The expedited
transfer statute, 10 USC Section 673, was enacted
It applies to all active duty Service members who
are victims of sexual assault and does not
differentiate between those whose reports are
handled by the SAPR Program and those handled by
the Family Advocacy Program.

Proposed finding 2. The DoD
instruction implementing this statute and
establishing the expedited transfer policy at the
DoD level applies only to the Sexual Assault
Prevention and Response program, and explicitly
states that it does not address victims covered
under the Family Advocacy Program.

Our next proposed finding, number 3.

No DoD-level policy establishes an expedited transfer option for FAP victims of sexual assault who are active duty Service members. DoD and Service FAP representatives testified to the Committee that they use other transfer options, such as humanitarian or compassionate transfers, as needed and if they are available.

Proposed finding number 4. Safety transfers and humanitarian or compassionate transfers, which are options utilized by the FAP program, have different standards for approval, and they also differ across the Services.

Our next finding, number 5. The expedited transfer statute requires that the expedited transfer option be available for all Service members who make unrestricted sexual assault reports regardless of the context of the relationship, whether they're an intimate partner, spouse, acquaintance, or stranger.

There are instances where the option
of an expedited transfer would be beneficial to Service members covered under the FAP program. Such as cases where a Service member wishes to be away from an alleged perpetrator, or to be closer to family or other support systems to assist in their recovery.

And our final proposed finding, number 6. The Department of Defense regulation regarding procedures for military personnel assignments, DoDI 1315.18, also called Procedures for Military Personnel Assignments, references the DoD expedited transfer policy but does not require assignments, personnel, or commanders to communicate or coordinate with SAPR or FAP personnel in the expedited transfer assignments process.

So as a result of these findings, the Policy Working Group makes two proposed recommendations to the DAC-IPAD for the Committee's consideration and approval. The first recommendation is that the DoD-level FAP policy include provisions for expedited transfer
of active duty Service members who are victims of sexual assault similar to the expedited provisions, transfer provisions in the DoD SAPR policy, and consistent with 10 USC Section 673.

The second recommendation is that the DoD-level military personnel assignments policy include a requirement that assignments personnel or commanders coordinate with and keep SAPR and FAP personnel informed throughout the expedited transfer, safety transfer, and humanitarian or compassionate transfer assignment process when the transfer involves an allegation of sexual assault.

So before I proceed any further, are there any questions or discussion from the Committee on these findings and recommendations?

CHAIR BASHFORD: Major Anderson, could you just explain in a little bit more detail how the current FAP policy is insufficient, I guess is the word, compared to the expedited transfer policy. What doesn't it cover, or how -- I know you said the standards are different across the
But in the Policy Working Group's opinion, is it being adequately addressed as is being excluded from the expedited transfer? Or would it be improved if they were included?

MG ANDERSON: We think at this point that there is a gap that and it needs to be more specifically expressed in policy, so that people across the Services who are responsible for administering the program, as well as victim advocates, commanders, personnelists, understand everybody's roles and responsibilities, and also what is going to be available to these particular class of victims, because right now there is a definite gap in the policy.

Anybody want to add anything from the Policy Working Group?

CHAIR BASHFORD: Anybody else have any questions or discussion? General Schwenk, anything? I keep forgetting you're behind me.

Okay. I think there is no more questions.
MG ANDERSON: Okay. All right.

Accordingly, I would like to make a motion that the DAC-IPAD approve issue 2, findings 1 through 6, and recommendations 3 and 4 related to the inclusion of expedited transfer provisions in the DoD-level FAP and military personnel assignments policies.

JUDGE GRIMM: Second.

CHAIR BASHFORD: Had you stopped before you got to the recommendations in your discussion, or did you go through them?

MG ANDERSON: I just went through.

CHAIR BASHFORD: Okay. So we have the motion and a second, so I'm going to go around. We'll start -- Mr. Markey, do you have any objection to us approving the findings and proposed recommendations?

MR. MARKEY: No, I do not.

CHAIR BASHFORD: Ms. Cannon?

MS. CANNON: No. Thank you.

CHAIR BASHFORD: Dr. Spohn?

DR. SPOHN: No objection.
CHAIR BASHFORD: Chief McKinley?

CHIEF MCKINLEY: No.

CHAIR BASHFORD: Brigadier Schwenk?

BGEN SCHWENK: No objection.

CHAIR BASHFORD: The Chair has no objection. Dr. Markowitz?

DR. MARKOWITZ: No objection.

CHAIR BASHFORD: Ms. Tokash?

MS. TOKASH: No objection.

CHAIR BASHFORD: Judge Brisbois?

JUDGE BRISBOIS: No objection.

CHAIR BASHFORD: Judge Grimm?

JUDGE GRIMM: No objection.

CHAIR BASHFORD: Major Anderson?

MG ANDERSON: No objection.

CHAIR BASHFORD: And Mr. Kramer?

MG ANDERSON: Thank you. And with that, I'd like to hand the presentation over to
my colleague, Mr. Kramer.

MR. KRAMER: Thank you very much.

There are six additional issues that the working group identified during its review that may merit policy changes. However, on these issues, the working group plans to gather additional information and testimony before making findings and recommendations.

The first issue for further review is that the expedited transfer option is not available to Service members who made restricted reports, sexual assault reports, as opposed to unrestricted. From the information the working group has reviewed to date, we believe the development of a workable option for allowing Service members who make restricted reports to request and receive expedited transfers, without triggering an investigation, would be beneficial for certain victims. The working group will continue to explore this issue.

The second issue the working group plans to further review is the DoD-level
expedited transfer policies approval standard and purpose are not sufficiently clear or comprehensive.

From the information the working group has reviewed to date, we believe the purpose, standards, and criteria outlined in the expedited transfer policy should be further evaluated and clarified. The working group will continue to explore this issue.

For instance, the standard that commanders must follow to approve expedited transfers is unclear. First, a commander must find that a credible report has been made. This term is not clearly defined and is coupled with a presumption in favor of the transfer. In addition, the commander must consider a list of up to 10 additional criteria.

Further, the stated purpose of the expedited transfer policy, to address situations where a victim feels safe but uncomfortable, does not cover the important purpose of recovery and seeking needed care before resuming military
duties.

And then the third issue which I will talk about that the working group plans to continue to explore is that some active duty Service members who are sexually assaulted are not able to successfully return to duty, even after an expedited transfer because of a need for transitional assistance.

From the information the working group has reviewed to date, particularly the extremely compelling testimony of Ms. Amanda Hagy, which we heard on December 1st, the mother of a medically retired Army private who was brutally sexually assaulted by two soldiers, as well as the other survivors who bravely told their stories to the working group.

We believe that some active duty Service members who are sexually assaulted are in need of transitional assistance before they are able to successfully return to duty. The working group will continue to explore this issue.

With that, my colleague, Brigadier
General Schwenk, if he is awake, will present --
will present telephonically the remaining three
expedited transfer issues for further review by
the working group.

BGEN SCHWENK: Good morning, and hello
from Key West. I'm having a great time.

(Laughter.)

BGEN SCHWENK: The fourth issue that
the working group will continue to explore is the
classification of both intra-installation moves
as well as moves to a new duty station as
expedited transfers. Though there are many
reasons for these transfers on the same
installation, these moves do not always
adequately separate sexual assault victims from
the accused or problematic situation, and,
therefore, sometimes necessitate subsequent
additional transfers to resolve the issue.

The Navy study that Nate Galbreath
mentioned earlier in his testimony actually had a
complete addendum on multiple expedited transfer
requests, and one of the reasons cited for the
concern about them was that when a person transfers on the same installation they are likely to end up seeing the alleged perpetrator over and over again at the PX, the commissary, you name it, which then causes the victim to have to put a second request in to go elsewhere. And that, according to the Navy study, stokes the perception, which the working group considers to be a misperception, of abuse of the system by multiple requests.

Consequently, service members who initially receive an intra-installation expedited transfer may be penalized if it does not resolve the situational issues, and they subsequently request a second expedited transfer to leave the installation entirely. The working group will continue to explore this issue.

The fifth issue that the working group plans to further review is that the expedited transfer policy is limited to sexual assault victims who are service members and may leave a gap by not including service members whose
civilian spouses or children are victims of sexual assault and face the same difficult situations that didn't improve with an expedited transfer.

For example, I'm married, I'm in base housing. My spouse is sexually assaulted by our next-door neighbor. I'm not eligible for the expedited transfer program, and yet I and my wife confront the exact same problem that a service member would have if the service member had been sexually assaulted.

So we believe that the expedited transfer policy should be a complete program, without gaps in eligibility within the military community, including family members. And the working group will continue to explore this issue.

The sixth and final issue identified by the working group during the expedited transfer review project is not directly related to expedited transfer, but it came to light during the testimony that the DAC-IPAD received
It came from commanders, and the concern is that inadvertent disclosures to command of sexual assaults and reports made by third parties deny the service members -- victims -- the opportunity to make a restricted report and protect their privacy, if desired.

Several of the commanders said if there was one thing they could change, or that the staff told them might be changed, was to allow somebody -- a victim to unring the bell and return to restricted report status, even though the initial report, either through a third party or because the victim was so upset they just went to their command, and the command was aware.

We believe the victims who lose the ability to make a restricted report, because of third party reports, or because they are unaware of the consequence when they report to a member of their chain of command, may benefit by having an ability to further -- to restrict further disclosure or investigation of the incident if
they wish to protect their privacy. The working
group will continue to explore this issue.

So that concludes the six issues that
the working group continues -- is going to
continue to look at, and I now turn it over to
Chief McKinley, who will summarize the commander
training review and the way ahead for the working
group.

CHAIR BASHFORD: Yes, Judge Grimm.

JUDGE GRIMM: General, this is Paul
Grimm. I have a question on the fifth issue,
sir. When the working group focused on the
circumstances and the potential problems
associated with the victim being the civilian
spouse or child of a service member, was there
data from the number of instances in which that
situation presented itself so that we have some
sense of the size of the population affected by
the lack of ability to have the expedited
transfer?

Because you're absolutely right. From
the perspective of the service member, if their
spouse or child is the victim, and the -- and the
perpetrator is in the same installation, all of
the same impacts that happen if it's -- the
victim is a service member or right there, and
the extra impact is is that the service member
who was not the victim, they're -- you know,
they're -- they have a tremendous issue that they
had to deal with and now it has to affect their
readiness and their ability to do their work as
well.

I'm curious as to whether or not we
have information regarding the frequency with
which that happens. And, if not, would that be
helpful information to have as the working group
goes forward to explore that issue?

BGEN SCHWENK: I think that that's an
excellent observation, that as we continue -- but
we do not have the data at the moment. We're
just aware that these people are not covered by
the existing policy.

And so we want to look at that gap,
and part of that look is exactly as you
recommend, to gather data on numbers, although, you know, personally I expect the numbers to be pretty small. At least I hope they're small. But we'll find out as we go into a more in-depth review of the issue.

JUDGE GRIMM: Thanks, General.

CHAIR BASHFORD: Any other questions about the future issues? First five of them at least? And I don't know if you need formal approval of us to continue exploring those, but it -- do we need formal approval from the -- to continue exploring those?

CAPT. TIDESWELL: I think the General was going to -- no, ma'am. I think if you could just ask if there is any objections.

CHAIR BASHFORD: Okay. Does anyone have any objections to these first five future issues that the Policy Working Group would like to continue exploring? Okay. Seeing none, have at it.

CHIEF McKINLEY: All right. Thank you, ma'am. While our working group received
preliminary information on command legal and
sexual assault response training from testimony
and responses to its Request for Information, our
working group plans to make further detailed
requests for information to better evaluate the
status, consistency, and content of commander
training on dealing with sexual assault incidents
in their commands.

Our working group will follow up on
the issues it has identified before concluding
its assessment of the expedited transfer policy
and commander training in the months to come.

Our working group will also begin to
explore another issue in the coming months that
is time sensitive. Identified as a topic for the
Policy Working Group to review at the July 21,
2017, DAC-IPAD public meeting, Article 140(a)
will be the priority for the Policy Working Group
for the April 19, 2018, DAC-IPAD public meeting.

This provision of the Military Justice
Act of 2016 requires the Secretary of Defense to
prescribe uniform standards and criteria for
collection and analysis of military justice data across the services by December of 2018.

Because of the expertise of this Committee, its experience and knowledge gained through the work of the JPP in collecting sexual assault case adjudication data, and its ability to seek input from stakeholders within and outside of government to make well-considered recommendations and identified best practices, the DAC-IPAD body is ideal to provide advice to the Secretary of Defense on this matter.

The Policy Working Group will coordinate with the Case Review and Data Working Groups, as well as maximize the inputs received from consideration by the full Committee.

Are there any other questions or discussion about the future issues and way ahead for the Policy Working Group?

CHAIR BASHFORD: Well, I think I misspoke when I said there was no objection to five proposed things going forward. There were six. And I just want to make sure that nobody on
the Committee has -- if you have -- let me know
if you have any objections to the Policy Working
Group continuing to work on 140A.

Seeing and hearing none, I want to
join everyone in thanking you for -- not only
just for all your presentations, but for the
terrific amount of work that you have done to
date. Thank you so much.

CHIEF MCKINLEY: Thank you, ma'am.

This concludes our presentation.

CHAIR BASHFORD: I think this would be
time, then, for a break?

CAPT. TIDESWELL: Yes.

CHAIR BASHFORD: So we could have a
15-minute break, so back at 10:00.

(Whereupon, the above-entitled matter went off
the record at 9:47 a.m. and resumed at 10:02
a.m.)

CHAIR BASHFORD: All right. Welcome
back, everyone.

We are changing up the order of the
presentations. So just pretend it's 1:30, and
we're going to hear a presentation from Mr. Chuck Mason on the work of the Data Working Group.

MR. MASON: If it's 1:30, it's good afternoon.

(Laughter.)

MR. MASON: I'll stick with good morning.

PARTICIPANT: This is improv. Go with it.

MR. MASON: Improv. Okay. We're rolling now.

I would like to present to you what the Data Working Group has accomplished so far. And at the end of this, we'll be looking for validation that you're okay with where we're heading and what our future plans will be.

After our last meeting, we took recommendations from the working group and made modifications to our SharePoint database. Now, the database that we have is the database that the JPP created and handed over to us. So we have made modifications to that.
One of the things, just as an example, is we're now going to be able to track whether offenses took place CONUS, OCONUS, or on a vessel. It's something that we haven't been able to pull out individually, so we've made modifications to the database to make this an easier process.

So that has happened, and what that means is we now have over 3,000 files that we have to go through and update, physically make the changes so that that database will reflect these new dropdowns that we have. But it will make the actual output file much more powerful in the end because you're going to have more ways that you can manipulate the data.

The second thing, and it was in your read-ahead materials, we did send out an RFI for fiscal year '17 case files. Again, because we were following the JPP's procedures and timeline, we would not actually be doing the fiscal year '17 data call until later this year.

And we realize that if we could get
closer to what the case review timeline that
they're working on, because they're already in
the FY17 data, it would be advantageous. So we
sent out the FY17 RFI on January 11th. Chair
Bashford signed off on the letter.

And we have received information back
that we are on a very aggressive timeline, and
that they may not be able to meet this deadline
due to the fact that SAPRO, which is the first
phase of our RFI, their numbers are not released
to Congress until May. And because of that, they
don't want to give us anything that they haven't
released to Congress at this point.

We're waiting for an official position
or official response back. There is some
question about, are you -- they're actually not
releasing anything to us. They're just giving us
raw data that is going back to the Services, so
the Services can do a data pull to provide the
cases to us. So we aren't releasing anything to
the public. And even if we were, we don't
release until March of 2019 for our next report.
So we aren't going to be putting them in a bad position. Nobody is going to see this information except for the DAC-IPAD, staff, and the Services, who were the ones that reported this information in the first place.

So we will try to work through and see if we can get them to stay on the schedule that we have set, so that we are actually producing a product that is beneficial to our users.

In the alternative, which is I think the direction that we would like to see how the Committee feels, is we will send out a new RFI that just goes directly to the Services and says, "Here is the criteria of the cases we're looking for. Go into your own internal database that you have more than likely for tracking courts-martial, and pull the cases that meet these standards. And you don't have to look at the SAPR report, you don't have to match up the numbers at this point; just give us the files."

And we could do that while this other RFI is still out there, and then we could try to
reconcile them at some point. But in theory, we might actually get a better universe because we're taking out one step and going directly to the source. So, at the end of our presentation, that's something for you to consider as a committee, if you would like us to go in that direction because we would be happy to do that.

Now, one of the things that we have found in the FY16 data, we had -- the original plan for the data group was that the report that the DAC-IPAD would be publishing in March was going to be just an FY12 through '15 overview. So all the data that the JPP gave us, we were going to try to break it down on a year-to-year basis, which had not been done at this point.

The JPP aggregated FY12 to FY14 as one block, and then FY15 separately. So our plan was to just do '12 to '15. As we were looking at our timeline, realizing that with a little extra work we could make it happen, we decided to close out the FY16 information.

So our revised plan and what we're
presenting to you today is actually data FY12 through FY16. And I have to thank the Services because they jumped through the hoops to get us the files that we needed. We set a hard deadline and they met it. But, more importantly, I have to thank Stayce on our staff because she is the one that actually enters all of these files into our database, and she worked and worked to get it done, and she met the deadline.

So without that, we would not be sitting here today being able to show you the data for '12 to '16.

So where that takes us now is I have deliverables for you today that you are going to see for the first time. These are the tables and charts that will make up the body of the Data Working Group's contribution to the report that is going to be published in March.

And I invite your attention to the two stacks of information that were included in your day-of folder. One set are black and white tables, and they all say Table 1A, 1B, 1C. And
then the other set of information are the colorful charts.

And I would like to start with the tables to give you an idea of what you're looking at. In order to make this happen, the end product that our SharePoint database puts out is an Excel spreadsheet. And Dr. Spohn can tell you it is a very tedious process to break it down and to pull the information out of it, because you're literally looking at 3,000 lines of data and having to filter it to find out the information you're looking for.

So I was able to reverse engineer the tables that Dr. Spohn provided to the JPP when they did their report, and what you will find in these tables are each fiscal year, each table broken down by fiscal year. So what was in the annex of the previous reports are now going to be these 55 tables.

And it is all the demographic data, the case characteristics, the case disposition and case outcome information, but broken down by
year. And then it breaks -- it goes into further
detail of different scenarios, outcomes of sexual
offenses by military service of the accused, and
different variations.

If you would like, we can go table by
table and discuss it. Or, if you would rather, I
can focus more of the attention on the colorful
charts, which are what everybody generally goes
to. It's up to what you would feel more
comfortable with hearing today.

CHAIR BASHFORD: Is there anyone that
would prefer to start out with a table-by-table
look? If you could just tell us a little bit
more about what the tables will show us. Like
when we look at them, what are we looking for?
What is --

MR. MASON: Absolutely.

CHAIR BASHFORD: -- the most

significant I think.

MR. MASON: And where this is going to
be in the report, when you see the complete
report, this will be an appendix. And there will
be a couple of pages as a cover to these tables, and the tables will explain the methodology, how -- first, how the DAC-IPAD came into formation and how they became the owners of this project, this database, and the recommendations that the JPP made to the DAC-IPAD, and how the DAC-IPAD embraced that, and how we're in the position that we're in now.

And then all of these tables will be there. And the thought behind including all the tables is that if somebody would like to look at our report and figure out how we got to a specific statistic, they have the data points, and they can then do it themselves, so that everything is out there in the open and they have the ability to figure out what they want to do with our numbers.

The first two tables are really the basic information. You know, how many individuals in our database in a particular fiscal year are from the Army? How many from the Marine Corps? How many from the Air Force? What
is the data count?

    It breaks it down by enlisted versus officer, and then it breaks it even further by individual pay grades, so that you can see the cases that we're looking at, the cases that we're analyzing, where do they come from.

    And because we're focused on penetrative offenses versus contact offenses, how many people are being tried -- or charged with a penetrative offense? How many with contact?

When they're charged with a penetrative offense, how many of those are found guilty, convicted?

    So those are the types of information that are in your first two tables. After that, it gets down -- we start breaking it down into charged with an offense and convicted of at least one count. What happened? Or if somebody contested, they pleaded not guilty to the charges, what is the likelihood of them being convicted? And likelihood in the sense of these are the raw numbers. This is just sorting it out and presenting it.
The one thing that we have not done with these numbers which you will find in the appendix that Dr. Spohn did was the multivariate analysis, which we have not contracted with a criminologist at this point to do that component of our data. We will be doing that. We had a meeting with our Service reps, and they stressed to us how important it is that they get that multivariate analysis, that they actually utilize it.

So we will be working with the case review group to utilize the same criminologist, so that we're getting double our bang for the buck. But they will take this information and get into the likelihood, the percentages of it's more likely than not, and the statistically significance of these factors.

You will see a chart in here that we did not have, which is the CONUS/OCONUS versus vessel. We didn't do that in the past. I was actually able to break it down by reading, if there were 700 cases going in and clicking every
case that was in the CONUS, and then every case that was OCONUS, and then every case that was on a ship, and sorting it that way and then physically counting them.

So you can tell it's labor-intensive, but you actually get great results when you do it.

JUDGE BRISBOIS: Were the Services tracked based on CONUS versus combat zone?

MR. MASON: I am not aware. I have not asked that question, so I can't tell you yes or no. We have looked at trying to figure out if we could get into combat zone versus not, and one of the things that you'll see in like groups that are deployed, they may send somebody back to actually do the trial. So then when they're back here, the convening authority is now CONUS. So you then get into the charge sheet and have to look at the charge sheet, where the offense took place, and it isn't easy for us to make that determination.

So, specifically, when we're talking
CONUS, OCONUS, and vessel, we are talking about

where the convening authority, the command, and

on the vessel the question that we had to

struggle with, is a vessel at sea? Is it at

pier? Are they underway, combat, not? And we

can't make that determination on every case. So

it's just vessel in this case came from the USS

Ronald Reagan, and those are the type of

determinations that we've made.

Now, in our methodology, in our

explanation, and something that I should say,

with all of these tables and these charts, there

is text that surrounds them, that informs them.

So you won't be seeing them just in a vacuum.

There will be some explanation of what these

things mean and how we got there.

CHAIR BASHFORD: And so this data

underlies the colorful chart data?

MR. MASON: Yes. If you take all of

these tables, you are able to recreate the

charts, the colorful charts, and the colorful

charts will be the chapter in the report from the
Data Working Group. And I would like to go through these with you.

There is a limited number, so it won't take long. But it's something that we can go chart by chart, and if you have a question or a concern I can take it down and we can modify between now and the time that we actually publish.

First and foremost, when you look at -- there are color schemes that are happening here. The first chart, you'll see that there's five colors, and the question has been raised, why is FY12 a gray, drab color, and the others are more vibrant? And there is a reason behind that. It's because it was the first year that data was collected.

So if you look at the number, it's a considerable drop compared to the others. So there is less overall confidence in that this is the complete universe for that year. So by using an off-color, a gray, it actually diminishes how -- the importance of that set of information when
you're looking at the others, because we have
more confidence in the other years than we do in
what we received in FY12. So there was a
reasoning behind that.

One thing to note, if you look at the
first chart, FY14 and FY16, we had the exact same
number of cases, 738, which is kind of strange
that you would think in this big picture of what
we're doing that you would hit an exact number.
And it happens throughout the report. You'll see
exact percentages. It just doesn't seem like it
should happen, but it does.

When you look at the next chart, the
military Service of the accused, on this one it's
a different color scheme because we tried to go
with colors that were more representative of the
Services, except we ran into two colors of blue.
So the Coast Guard had to go purple, which
everybody knows is joint, and that's not what
you're supposed to do, but we had to make a
decision. So we did acknowledge what we're doing
here.
But what I was drawing your attention to on that slide, or that chart, is the Army has usually been in the 47, 48 range, and for FY16 they're 35 percent of our database, which might be troubling to some.

But if you flip the page, to page 2, and look at the very bottom table, it breaks down the number of cases that we have based on each Service, and based on their population. The Army's total percentage of population of the Armed Forces is 35.5. Their percentage of cases is 35.2.

So this year they have actually fallen right in line with what their percentage of the total population -- their cases represent that in our database.

The Coast Guard is an example. They are three percent of the active duty population. They are three percent of the cases that we're reviewing in our database.

So these type of charts -- and the second page I consider an eye chart because there
is so much data on one page -- again, will be
broken up with some text, so that it will make it
easier for you to read and for the readers that
get our finished product to utilize.

But we were then able also -- we now
have it broken out '12 through '16 each year,
which we were not able to do in the past.

Yes, sir.

CHIEF McKINLEY: Mr. Mason, for the
numbers that you have here, for instance, this
past year, 738, what is your confidence level
that that's a good number? I mean, is there a
possibility that there are cases unaccounted for?

MR. MASON: Absolutely. We are very
confident in the 738 cases that are in our
database deserve to be in our database. And the
reason that I say that is that we have a
document-based system, and you've heard these --
these talking points in the past, but it's a
document-based system in that we see every
document, we scan that document, and then we make
the determination, we fill in our data -- our
spreadsheet with the information directly from that sheet. We're not interpreting it. If it's there, it goes into the database.

What happens is because we're relying on self-reporting, the Services are going and telling us these are the cases. We don't know if we're getting all the cases. And I can tell you with respect to the overall project when we sent out the FY16 RFI, we received from the Services that we would have 960 cases that would meet your criteria.

If you look at that first chart, the number 738. So what happened between the 960 cases they told us we were going to get and the 738 that meet our criteria? There were duplicates. There were cases where they interpret it to meet our criteria, but it was actually a non-sex offense that was preferred, so it doesn't meet our criteria.

It might have been that they were a child case, which we're not tracking. So they're overreporting in that sense, that we're getting
960. I can also tell you in FY16 there was a case reported to SAPR that went into the SAPR report that was actually adjudicated in fiscal year 2007, but it was reported for the first time on their report in FY16.

So that's a number that is in that 960. Well, we're only doing fiscal year '16 right now. But if it was fiscal year '12 to '15, we would add it to the database at the correct place. But a case that is reported to SAPR in '16 that actually took place in fiscal year '07 doesn't help us.

The other component that we have run into, of the 960 cases that were reported to us, and the 730 that we -- 738 that are in our database, we actually found while we were out, because we physically go to locations and scan files that are in the National Capital Region. At one location, they provide us a banker's box, and in that banker's box it has the record of trial that we need. But it also has other records of trial.
Stayce, as she is doing this and
scanning, she was looking at the other records
that were in that box as well to see if we were
missing anything. We found 25 cases that were
never reported to SAPR, that never made it to the
RFI, that were never reported to us, but there
were 25 cases from fiscal year '16 that should
have been in the database.

Now, we scanned them. We're looking
at them. They meet our criteria. We scanned
them. They’ve been added to the database. So I
have confidence that the 738 cases, the universe
that we're dealing with, is a valid universe.
However, it is not the full universe. And as
long as we are relying on self-reporting, we'll
never be able to say that we're getting 100
percent of the cases.

Does that answer your question?

CHIEF McKINLEY: Absolutely.

MR. MARKEY: Mr. Mason, also a
question -- so as part of the -- part of the task
is to ensure that we're getting accurate and
timely information. Is there a mechanism or is there something we can look at that would help improve that system, help identify accurately what cases that are out there that we may be missing?

And you repeatedly say voluntarily submit this information to you and to us. Is there something, based on your experience, something that would be of assistance to ensuring that this is accurate, timely, and complete information we are receiving?

MR. MASON: Well, I think -- and we interact with many different constituencies, but I think one thing that you could be looking at that -- that has some weight behind it is if there were a centralized location, our office being that for what we're doing, if every case were opened, as soon as that charge sheet was created -- there is a distribution list attached to it -- that it gets sent then to this office as well. And the office at that point would enter into the database.
If it meets our requirements, we would keep tracking it at that point, and we would know that it's out there. And if we would know in maybe fiscal year '17 or '18 or '19, this case is actually going to be finalized, and it's going to be in a database.

But as each step is happening, if that information were pushed forward, you could have a centralized location of professionals that are taking a document, looking at it, entering it into a database that gives you a solid result when you ask the question.

But as long as you are -- as long as the individuals that are tracking don't have hands-on with all of the originals, there is no way to say that you're getting 100 percent.

And I can say the JPP created this database based on two people with a part-time contractor who was the SharePoint architect. So you had two full-time staff and one individual doing the IT. They created the database, and now we're tracking 3,000 cases since FY12.
So it's a heavy lift for two people, but it's not out of the realm of possibility that it could be done for all the Services in one location with a minimal professional staff.

Okay. If you want to go to page 3 of the -- yes, ma'am.

CHAIR BASHFORD: Before we leave that, Mr. Mason, because I'm discounting to some extent 2012, because you had had such a small number of cases. The -- a lot of the Services seem to track fairly well. Army had a big improvement in 2016, but the Marines certainly jumped up from 2013.

And the other one, you see the Air Force sort of goes up and down. What do you -- how do you account for that?

MR. MASON: I think it's an improvement. Each of the Services is dedicating time in tracking their files and having a better grasp of the files that are in their care and being able to know what's happening with them.

CHAIR BASHFORD: So you think it's
more of a data collection as opposed to an
increase or decrease in intakes?

MR. MASON: I think what I -- based on
what I see, I look at it more as awareness of
what they're tracking and the ability to pull
that data when they need to.

CHAIR BASHFORD: Thank you.

MR. MASON: Yes, ma'am.

For those of you that don't know,
that's Stayce. She is the guru when it comes to
the database. And the one thing she wanted me to
stress was that, as I'm talking about this
database and what we have created, it is focused
solely on sexual assault because that was what
our task is.

One thing, though, when a case comes
in, charges that are not sexual offenses we still
track. So when we get into the chart, if there
were 10 charges, and there might have been a
missing movement, or dereliction of duty and a
sexual assault, we put all of those into our
database.
So we do have the ability to track
bigger than just the sexual offenses, but you
have to have the sexual offense to get into the
database.

The part that Stayce wants to stress
is our database is scalable. So as we're talking
about 140 Alpha and these other programs that
might be out there as a model or a proof of
concept, you could scale that we do to pull in
everything, since the framework is there.

So on page 3, then, the first slide is
gender of the accused, male and female, and you
can see that those numbers are fairly static.
They are tracking in the general category. At
the bottom of page 3, and then 4 and 5, this
breaks out the rank of the accused in each fiscal
year, and you can see there is a general
distribution that holds true.

Now, a question was raised yesterday,
what does this mean? You know, E4s are the peak
on each of these. Does that mean that there are
184 E4s and they're all getting hit? What is the
percentage? How do you inform this larger discussion?

I was able to pull some information, and this is what's going to be included in the text that will inform it. But for the overall Armed Forces, paygrades E3, 4, and 5, which are the three peaks, they make up 51 percent of the Armed Forces.

So if half of your Armed Forces are represented in those three paygrades, and then you look at these charts and you see there's a peak in there, it makes logical sense that there should be a peak in that area.

However, if you then go to the tables that are in the appendix and look, while they make up 51 percent roughly of the population, if you look at our numbers, they actually make up 60, 65 percent of the cases that we have. So they are a higher representation compared to their overall population.

So based on comments that we received yesterday, that will be incorporated into the
language, so that there is more context of what you're looking at, which then takes us to page 6, the gender of the victims.

You can generally see that as would be expected based on what we have all seen there are more female victims than male victims. However, in FY16, male victims fell -- they dropped considerably compared to FY15.

We don't know why. I can't tell you, looking at our numbers, why that is. But this will be something that we can look when FY17 numbers come in to see now if we have a trend. Do they continue to fall, or does it jump up again? It will be something that the data might direct -- the DAC-IPAD might want to look at a future issue as to how did this happen or why did it happen.

Number of victims per case is fairly straightforward and fairly steady with respect to the percentages over the five years that we're looking at.

Yes, ma'am.
DR. SPOHN: So I noticed that you didn't break the data down by whether the victim was a spouse or intimate partner. Is that because that was only available from 2015 and 2016?

MR. MASON: In some -- Stayce, do you want to -- how we're tracking the intimate partner component?

MS. ROZELL: We can do a search by that. We give each case its unique number based off of the Service and the fiscal year that it falls in. And then for those cases that have an intimate partner or spouse, we do add an F to that title, to that name. So we can search those.

We are also -- I also noticed a trend in that. I've seen several instances where there are companion cases. There are two or more accused on one victim. So we can capture that information as well.

MR. MASON: And we will once -- I think once we have another year where we --
because we talk about the '15, once we have '17
and we start looking at that, we may break out
just an analysis of '15, '16, and '17, since we
have that data point. But we didn't have it,
like you said, from the beginning.

So I tried to keep this a 1,000-foot
overview without getting into some of these
details that we have been able to track
individually.

MS. ROZELL: Because we weren't
receiving family advocacy cases in the past, and
we only started receiving them in fiscal year '15
and '16, so we can't go back and capture that
before -- before those years.

MR. MASON: And, again, we -- there
will be throughout the text the information that
informs that as well, that explains what the --
the limitations that do exist in our database,
acknowledge that it exists.

On page 7, it gets to the type of sex
offense charged, and you can see penetrative
versus contact. And then with case disposition,
the number that -- the court-martial type and the
trend that you might see, a general decrease in
the number of summary courts-martial, which would
be expected based on the status of the law.

Page 8 is also another eye chart for
you. It's just breaking down the Services and
how each Service handles whether they are doing
percentage to general, special, or summary court-
martial, and you can look to see if it -- one
Service might be utilizing it or not utilizing,
and see if there is something there.

These are, again, things that when you
do the multivariate analysis will come into play,
that you can break down to see if there is --
statistically if there is something that is going
on there.

So then pages 9, 10, and 11, this is
where the numbers really get fascinating. And I
have to say I talked to Dr. Spohn yesterday. I
gEEKed out. I was doing this on Monday. I came
in because I wanted to get these numbers for you
guys. And at the end of the day on Monday, the
holiday, so nobody is here, I started populating charts.

And I was so excited I was dancing around my office because I could see things, and up to this point I just looked at numbers. And now there's colors, so I -- I'm a visual learner, so I told Dr. Spohn I can understand her line of work where these days you have this excitement because you start seeing trends. And now, in 9, 10, 11, you're going to start seeing that.

If you look on the first chart on page 9, the case disposition, penetrative offenses referred to trial, you can see general distribution. General court-martial is where the majority of the cases are going, special, and summary.

With respect to contact offenses, though, you are seeing a wider spread, a more even distribution between general and special, with a smaller number then going to the special -- or to summary. So you can see how overall, depending on what type of offense you're looking
at, which court-martial they are going into.

Now, when you go to page 10, this is contested penetrative offense trials. So these are not summary courts-martial because we're talking about a military judge versus members, which at the summary court-martial you just have a summary court-martial officer. So we excluded those, and these are cases where they pled not guilty. So we're going for a full-blown trial.

When you look at this, the top one being the judge, military judge, you can see how often someone is convicted of a penetrative offense, a contact offense, might have been a lesser included, a non-sex offense, some other offense that they were charged with that has nothing to do with the sex offense, or they were acquitted.

Well, then compare that same set of facts to the chart below it where you're talking about with military members, and you see, if I were a defense counsel, I would want to go with members and contest the trial because there is a
more likely chance I'm going to be acquitted.

    Now, the question that was raised
yesterday, what does this mean about punishment?
Because maybe the members would punish harder,
more severe than what the military judge does for
a punishment. And that is something that we have
taken under advisement.

    As we modify our database, those
changes that I talked about in the beginning, one
of the things that we have done is we're cleaning
up the database so that we can track punishments
better.

    Yes, sir.

JUDGE GRIMM: I have a question
relating to that. And this is fantastic work,
and I'd like to thank you for your dedication of
coming in on a day when you weren't required to
do it and --

MR. MASON: I was -- honestly, I was
excited to do it because I wanted to see the
results. So --

JUDGE GRIMM: Notwithstanding that, it
still deserves note that you did.

One of the data points, if you look at the tables alone, and you try and look at overall conviction rates, they tend to blend somewhere in the neighborhood of 25 to 30 percent across all of the years. If you would look at it from the lens of the civilian criminal justice system, a 25 percent conviction outcome would be shockingly low.

When you look at this table on page 10, and you see, for example, convicted of penetrative offense but convicted of non-sex offense, and you start to add in the circumstances where you have not a conviction of a penetrative offense or a contact offense, but convicted of something else, my question is, does this suggest that there are instances in which, if you could then compare that with a number of cases going to members, whether or not there is some trend where trials with members, for example, they are splitting the difference.

They are not convicting on the
penetrative or contact offenses, but they are convicted on something else. And whether there is a trend in there that is information, because those numbers, from the point of view -- A.J., I mean, you would agree on that, and I think that, Leo, you would as well, is he's talking about conviction rates of 25 percent. It is shockingly low in terms of the number of cases that go to trial.

But this suggests that there may be something else lurking there, and I don't -- I don't know whether the data can help us get our arms around that, but that's something I'm interested in.

MR. KRAMER: And can I just tag on to that for one second? It also has been going up significantly.

JUDGE GRIMM: Yeah.

MR. KRAMER: Culminating in 2016.

JUDGE GRIMM: That's exactly right.

If you look at that --

MR. KRAMER: And I don't know if there
is an explanation for that either.

MR. MASON: These are the things that we have talked about as we're -- as we're entering it and we're seeing different trends maybe.

JUDGE GRIMM: Right.

MR. MASON: We're looking forward to getting an FY17 data, since that gives us a solid '15, solid '16, solid '17, and then having a criminologist or statistician that can help us manipulate the numbers and actually try to find that relationship, because we've said the same thing. Are we getting jury nullification? Are the members just tired of the push for convictions and they're saying, "No, we're just -- we're not going to do this."

Is it a situation of a -- members are looking at the victim and the accused were both drinking, and the members are saying, "Hey, that happens and we're not going to convict." But a judge is looking at the victim, and the member and the accused are both drinking and saying,
"Hey, well, the victim didn't consent, so I'm going to find you guilty."

There is a lot of issues there that we would love to know, and we're hoping our data will be able to tell us that.

CHAIR BASHFORD: But, Mr. Mason, it seems as though whether it's member or judge, the convicted of the penetrative offense is pretty close --

MR. MASON: Yes.

CHAIR BASHFORD: -- where you -- where it really falls up as the outright acquittals. But the conviction of the top count, although it's -- it's a low number, it doesn't seem to make that much difference whether you went judge or member.

MR. MASON: And that is -- that first delta is there. They're on the same -- they're at 28.1 and 28.2. You can't get much closer. But then if you look at convicted of non-sex, the military judge is at 37 percent; the members are at 13.
So that might be that concept of the judge is looking, I'm going to -- I'm getting you on something, you know, dereliction of duty or failure to obey, where the members are looking at that saying, now, we've all disobeyed something at some point, and maybe we're not going to -- I mean, I'm just saying these are things that are out there. I don't know, but we're hoping that when we start looking at it we can figure out if there is a trend in there.

CHAIR BASHFORD: And I've been trying to do the math, and I think I -- I understand. So a case would only -- you will only put into place once. So if it was convicted of a penetrative offense and non-sex offense --

MR. MASON: They got penetrative -- it's the most serious offense, and that's the term that we used in the past was most serious. It's a step down.

CHAIR BASHFORD: Okay.

MR. MASON: And then, if you look at page 11, it is the same charts but now dealing
with contact offenses. And interestingly enough, as we were just talking, there's a higher conviction rate on that first one for members on a contact versus the judge, but then non-sex, a considerable jump with the judges versus military members. And then again your full-out acquittal is very high when compared -- for members when compared to the judge.

So these are, again, 1,000-foot overview. I think it's fascinating that there is some information out here, and we're looking forward to, as we get another year, that we can then start comparing them against each other and see if we can find some trends.

MS. ROZELL: When we created -- when we were initially going through the creation of the database, we wanted to capture all of the different changes within the laws that have occurred over these years. So we can identify the three different statutes of these crimes. We can also identify those cases in which there is -- the new Article 32 hearing is in effect, as
well as those charges that now require the minimum sentence required, as well as other types of changes that have occurred over time.

So that might be something that -- that we can look at, pull those cases that are now waiving the 32, and we've got some figures on those, and how those changes are now affecting, you know, these types of cases.

MR. MASON: And that brings us, actually, to our last page, which is the Article 32. And I'll tell you how this came about. The JPP had received testimony. You have heard that the change in the Article 32 process, it has resulted in a paper exercise, and that there isn't a lot of value for defense counsel to have that discovery that they used to get under a 32.

CHIEF McKINLEY: Mr. Mason, I'm sorry, can you back up --

MR. MASON: Absolutely.

CHIEF McKINLEY: -- on the previous chart, for the sake of members -- members on the
Committee, plus in the room, could you tell us how we make up the members for the Court? When we're not going by judge but just by the members, how are the members made up for the Court?

MR. MASON: Well, you are looking at peers, individuals from the command, that if you are an officer, you have officers that are on your members. If you are enlisted, it's officers, or you can ask for enlisted representation. And much like in a civilian court, you have voir dire, you go in and you question whether you feel those members are going to be to your benefit. But they are your -- truest sense, your peers.

So you are looking for, you know, the government, the defense are going to have differing views on who they would want on their panel, but they are looking for Service members that are going to be of the same mind-set of the accused.

CHIEF McKINLEY: If you had a staff sergeant as the accused, what would you expect
the members to -- on the Court to look like?

MR. MASON: You're looking at officers
and possibly, you know, it has been so long since
I practiced on the military side, but you're
going to have senior enlisted as well. And when
you think of it from that standpoint, you're
going to -- you're going to have the feeling --
yes, sir.

JUDGE GRIMM: Well, go ahead and
please finish Chief McKinley's question --
answer. But then there's another -- there's
another slice of how that -- the members are
selected that needs to be recognized as well.

MR. MASON: Well, and one thing that
-- people will argue that you're not getting your
highest performing individuals to be your members
because you're looking at who has time available
in their schedule that can be away from the
command for maybe some extended period of time.
That argument could be made that you're not
getting --
authority identifies them, right?

MR. MASON: Yes.

JUDGE GRIMM: This is not like in --
where you go through the voter registration rolls
and --

MR. MASON: No, absolutely.

JUDGE GRIMM: -- bringing them in, and
you get a larger selection process through the
entire population of the -- of the area where
you're drawing your members, your jury.

The convening authority identifies
those folks, and the convening authority
presumably is not identifying sub-performing
individuals to serve this job.

COLONEL WEIR: And, Chief, if I could
help out on that -- this is Colonel Weir -- if
you were talking about an E4, the panel members --
- and I am speaking from my Army experience, they
are going to be sergeant majors and first
sergeant.

It's not going to be a -- if the
enlisted Soldier requests one-third the panel be
enlisted, it's not going to be a senior E4 and an E5. It's going to be those old crusty sergeant majors and first sergeants. And if you are an officer, you only get an officer panel.

So if you're a second lieutenant or a first lieutenant who is going to be sitting on your panel, it's brigade and O6, O5 level commanders. And there's criteria that the convening authority is required to consider in order to make up the panel members. So, you know, the SJA goes in with a list of officers and enlisted of -- in the command that makes up that convening authority's command, and that convening authority selects based upon that Article -- I believe it's 25 criteria, experience, demeanor, all those things that go in.

So for the Army you would have a very senior panel of officers, and if the enlisted soldier requested one-third of enlisted members in the panel, it would be very senior enlisted members.

CHIEF McKinley: Thank you, Colonel
Weir. I'm one of those old crusty --

(Laughter.)

COLONEL WEIR: That's what I thought, Chief. I meant it in the nicest way.

CHIEF McKINLEY: Yeah. I think it's very important for everybody to understand, when we talk about the acquittal rate and everything, that the makeup of the military members on the -- in a court is quality people. You know, so I think it's important to know that.

COLONEL WEIR: And one of the Article 25 criteria is experience. And so you're going to have those enlisted panel members sitting on there who have been in the military who have gone through each rank, so they have been, you know, specialists and sergeant first classes and master sergeants, and now they've seen it all.

So, and then there is this belief that an enlisted Soldier would love to have enlisted members on the panel. In my experience as a defense counsel for many years is you didn't want
that old crusty chief sitting on your panel if you're an E4 and you've committed misconduct, because you have put a stain on the -- on the enlisted corps. So --

MR. KRAMER: While we took a step back, can I ask a question about pages 10 and 11?

MR. MASON: Absolutely.

MR. KRAMER: So the -- you talked about how the acquitted of all charges is about double across all the years, or as for the military judges as opposed to the members, on page 10, and it has gone up dramatically from 29.3 to 55, and from 9.1 to 26.

But there's a huge difference on page 11. The acquitted for the contact offenses -- the acquitted of all charges by the judge is pretty steady with the exception of 2013 which may be an aberration, but it's 8 to 10 percent, which is way lower than acquitted of all charges on the penetrative offenses, and yet the acquitted of all charges on the military members is still very high, but it's now four to five
times as opposed to twice as high on the penetrative. Do you have any idea why that -- it's a huge variation there. Do you have any idea why that is?

MR. MASON: I do not. And I hope that when we have our criminologist -- that we can see if we're able to tell -- from the straight data that we have, if we can find some sort of a correlation there.

MR. KRAMER: Because the acquitted of all on the contact offenses is actually not probably far from civilian courts with a military judge, but for the military members, it's, like I said, orders of magnitude higher than for the other -- for the penetrative offenses.

MR. MASON: And something that we'll be looking with the database to see if we can break out, when we see these, if there are specific offenses that are being charged and getting a particular result versus other types of charges and having a different result.

I don't know that we'll be able to,
but it's something that, as we keep developing
the information that we have, how we can figure
out if there are correlations or not.

    MS. ROZELL: Also, with the military
judge versus members, you're going to have a
military judge if there's a pretrial agreement
involved as well. So there might be a raise in
that number.

    MR. MASON: Which takes us to the last
page, which is page 12. And to give some
context, Chair Bashford had contacted us and said
that, because you have been hearing about the
Article 32s, and whether it was with the change
in the law, whether it was becoming something, if
it was of value anymore or not, people were
waiving it or not, she asked, is this something
that we could do an RFI, go to the Services, and
find out what the waiver rate is.

    And we took a step back and said we
don't need an RFI. Our database already tells
us, because it's something that we were tracking.
So something that normally would have taken a
couple months, put the RFI out, wait for the request to come in. Fifteen minutes later we had some numbers. So the power of that database is -- is pretty impressive.

If you look at FY16, you can see that the number of Article 32s in blue that were held has dropped compared to FY15, but the number of Article 32 hearings that were waived has increased as compared to FY15, and essentially doubled from FY15, which FY15 doubled from FY14. So you're seeing there is some step up there.

Now, the law changed in between fiscal year '14 and '15. December of 2015 is when the law was modified. So you're seeing this new preliminary hearing framework. So we took those -- those numbers, and the final chart that you have breaks it down into specific issues, so the percentage waived without a pretrial agreement.

So one thing that happens is, in the military court, if you have a pretrial agreement that says I'm going to plead guilty to X, you may have agreed to waive your 32. Why put the
government through all of the steps if we're just
going to waive that and go to trial?

    So waiver without a pretrial agreement

before the change was hovering in the 28 to 24
range. Then the law changed and it went up; 50
percent of the time they were waiving without a
pretrial agreement.

    In this most recent year, almost 71
percent of the time they waived without a
pretrial agreement, so that's a big jump. Does
that -- is that directly responsive -- a result
of the change in law? We won't know until we
have more data to look at. But you can make an
inference possibly.

    But then when you go to the very
bottom, the conviction rate when the Article 32
was waived, it goes close -- it follows with that
pretrial agreement that you have people who are
waiving because they have a pretrial agreement.
You have a higher percentage of conviction when
you look at '13 and '14. In '15, it started to
drop, and then in '16 you have them waiving, and
yet they're not getting convicted.

So does this mean that -- is it a paper exercise? The defense doesn't feel that it's necessary, so their complaint is that we don't get the discovery that we used to have, but are we now going to see a situation where maybe cases are going forward that would have fallen out when there was a 32? Or the trial counsel, the government, is not getting a chance to have that mini-trial and try their theory in an Article 32 and find out that there might be some flaws in their case instead of just going to trial.

So these are the kind of things that we'd like to see, and when we get '17 we'll be able to look at that again.

Yes, ma'am.

DR. SPOHN: So conviction rate, does that include -- is that based on referrals or preferrals?

MR. MASON: That is with referral.

DR. SPOHN: And does it include guilty
pleas as well as conviction for any charge? So this is just the overall conviction rate.

MR. MASON: I think it's just overall conviction rate. I'd have to look at how my numbers were created.

DR. SPOHN: But it includes guilty pleas.

MR. MASON: Yes. It should.

DR. SPOHN: Okay.

MR. MASON: Yes, ma'am.

MS. TOKASH: I have a question with regard to, I mean, obviously, these are all referred cases. Were the Staff Judge Advocates' recommendations to the convening authority, the commander who refers the case to court-martial, part of the files that you looked at?

And, if so, is there a way to add the SJARs to this data project to see what the lawyer's recommendation was versus the command decision ultimately to refer the case? That may or may not have some play on the shockingly low conviction rates.
MR. MASON: We do track. We have the SJARs. They are something that we scan. That the opinion, the advice of the Staff Judge Advocate is tracked in our database. So it's just another data point that we could look at and see how it plays.

These are the types of things that will be written down, so it will now be something that we'll look at and see if we can find something there.

MS. TOKASH: Great.

MS. ROZELL: We can compare what the investigating officer's recommendation for each offense versus what the SJA's advice is for each of the offenses, and then what actually goes forward or doesn't go forward.

MS. TOKASH: Thank you.

CHAIR BASHFORD: And, Mr. Mason, just we all went to law school because we weren't good at math.

(Laughter.)

CHAIR BASHFORD: For fiscal year 2016,
if the conviction rate was 52 percent when
Article 32 was waived, would it then be 48
percent when it wasn't waived? Or are the
numbers going to add up to 100 percent? Or is
there a different chart?

MR. MASON: I am not -- because I'm a
lawyer, I -- I will have to play with the
numbers. I will have to ask that in the database
and see what the result comes out to see if the
way it's filtered, if it does work out to 100
percent or not.

CHAIR BASHFORD: It just would be
interesting to see if waiving or not waiving had
a measurable impact on the conviction rate.

MR. MASON: I cannot give you a 100
percent answer, so I would prefer not to.

MS. ROZELL: I might be able to answer
that question.

MR. MASON: Sure.

MS. ROZELL: Because of the records of
trial and acquittals are abbreviated, or they're
summarized, in some cases not all the
documentation is contained within the record of trial. So, therefore, if it's a full acquittal, there may not be the advice with -- contained within the record of trial. The 32 may not be within the record of trial because it's so abbreviated.

So in those cases where we don't have the document to make that selection, then we just left that information blank or not applicable.

Maybe that might be --

CHAIR BASHFORD: Well, this is wonderful and such a lot of work.

JUDGE GRIMM: So I would recommend that the record reflect our -- our appreciation for the amount of effort that went into this, because it is unbelievably helpful when you start to dial into the data from various points to see what's going on.

CHAIR BASHFORD: And it's presented in a very approachable manner, which I certainly appreciate.

If I made a note correctly, is the
Data Working Group recommending a new RFI directly to the services for the case information?

MR. MASON: We would like to go that route, if the Committee supports going that route.

JUDGE GRIMM: I'd make a motion for that.

CHAIR BASHFORD: I'd second that. Is there any opposition to that? Seeing and hearing none, have at it.

MR. MASON: We will make it happen.

MR. MARKEY: I just want to emphasize how -- obviously, how important these numbers are and to identify what this Committee may be able to recommend and look for opportunities for the Armed Forces to improve the response.

And so given that timely -- you mentioned early on about the 2017 statistics, and I think that's what the motion was, to try to expedite that through, going directly to the Services. I just can't emphasize enough how
having that information is going to be so
critical to see if there's patterns and trends
that we can identify and assist the Services with
the recommendations we made. So I just want to
emphasize the importance of that.

CHAIR BASHFORD: And since we know the
plural of anecdotes is not data, it's great
having the actual data to look at. So I commend
the work of the Data Working Group, and continue
heading forward. Thank you so much for the
presentation.

MR. MASON: Thank you very much.

CHAIR BASHFORD: Since we are way
ahead of schedule, I would suggest that we start
with the presentation of the Policy Working
Group. And if it's still going on at lunch,
which is scheduled for 12:30, we'll break then
from that. Case review, I'm sorry.

CAPT. TIDESWELL: The slide show
presentation.

MS. TAGERT: Okay. Good morning. I
think we are going to get started. We are the
members of the Case Review Working Group. And if you're wondering why there are so many of us, it's because the tasking that we have chosen to undertake is a very large one. And I would just like to say that the colleagues of yours that are on the Case Review Working Group have already done a lot of work to come in and coordinate it with us to do case reviews.

So they have -- you know, they are putting in the work for this project that we're chosen to do. So we want to tell you what the purposes are for the initial case review.

And the first one is we are going to start capturing data within investigative case files in order to see whether or not we can predict the outcome. And what we are proposing to do is to review investigation -- investigative files which resulted in no action and compare them to investigations where preferral did result. And we have created a checklist which we are hoping to capture those different facts which may predict outcome.
Some of these data points may be self-explanatory as to why a case was not preferred, a victim doesn't want to go forward, and has made those wishes known. But there may be other factors which are not as clear, and those are the ones that we're really trying to zero in on.

So to some extent -- so to some extent we're hoping to -- the data that was presented to you previously, some of you have asked questions like, why is that happening? And we're here to potentially tell you why certain things happen in the military justice process.

The second purpose is to capture demographic information, to look at, you know, characteristics of people involved in the cases to determine whether or not there is some outcome-related demographic information.

Recently, Protect Our Defenders put out a report which will be on our website that shows that there are some racial disparities when action is taken. I encourage you all to read that. I thought it was interesting.
And to refresh your memory, you heard some testimony about 140 Alpha, and I think that the policy group addressed it again. But we are looking at the case disposition categories that are in the case file versus the DIBRS classification versus what the command action taken was concluded as.

And we have seen some discrepancies in those three different categories, so we really kind of want to narrow in why these cases are getting closed and what the action taken is being reported as.

And, finally, we are literally going to review 1,317 cases, which no action was taken. And we are going to be making a determination based on the investigative file only whether or not that decision was reasonable based on the evidence or some other factor that is obvious in the case files.

JUDGE GRIMM: Excuse me. On that -- that's a fascinating issue and a lot of work, too. Will you have -- you investigative file
only. Is there a way to correlate those -- well, if there is no action taken, does that mean that there was no review by an SJA on that?

MS. TAGERT: No, sir. We can't -- I mean, we can't tell that from the investigative file.

JUDGE GRIMM: Exactly. Right. And that alone.

MS. TAGERT: The command is required to make a decision on those case files with the assistance of their Judge Advocate. So this is not -- you know, this is not a study in whether or not the investigators are taking action on their own. That is not our understanding of the case files that we're looking at.

JUDGE GRIMM: Okay.

MS. TAGERT: We just asked for the investigators to give us their disposition classifications to make sure they are accurate with potentially the JAG's information and then ultimately the --

JUDGE GRIMM: So does the
investigation file make a recommendation, or does it just present the outcome of what that investigation was?

MS. TAGERT: It -- it does both. In some cases, the reporting can say just no action taken without any additional information, or otherwise we receive, you know, a little write-up that I assume is produced potentially by the JAG Office, but approved by the command. But we just don't know yet. In March, we're having a Case Review Working Group session, where we'll have people from the different JAG offices as well as commanders and law enforcement to talk about it.

JUDGE GRIMM: Thank you.

DR. CHAYT: May I address that for a moment? If your question is, does the investigator make a recommendation on what appropriate action in a case would be, the investigators are prohibited from making any kind of recommendation.

They are to discover the facts and present those facts to the commanders and the
JAGs, so that a determination may be made at that level.

MS. TAGERT: Does that answer your question, Judge?

JUDGE GRIMM: Well essentially because -- yes, because it would be interesting that obviously you're starting at the right place. But based upon what you find, it might be interesting then to do a sampling of cases where you look at cases where the investigative file led you to a certain conclusion about whether it was right or wrong and then get other related documents to go in the chain, the lifespan of this as it goes beyond the investigation itself to try and figure out what happened there. That might be informative.

MS. TAGERT: Yes.

JUDGE GRIMM: But that's not where you start.

MS. TAGERT: Yes, in a couple of slides, we're going to show you the time line because we are going to do that.
JUDGE GRIMM: Great.

MS. TAGERT: So at our last meeting we discussed what the initial case review was going to be and that was based on the testimony of the investigators regarding their total amount of sexual assault investigations that were closed in Fiscal Year 2016. And that's when the DAC-IPAD said why is there only a 20 percent preferral rate across the Services for sexual assault cases. But it wasn't broken down into contact or penetrative.

And if you remember at the last meeting, you also felt that we should only look at penetrative cases for our first initial review because we thought potentially that 20 percent preferral rate was related to the fact that contact cases were not necessarily getting preferred to a general court-martial.

So we asked the investigators for the Fiscal Year 2017 information and we had to kind of get a world view. So in your read ahead materials, you can see the RFI. If you want to
fall asleep and read that, go ahead later, but we asked for all the sexual assault investigation data that the different Services had investigated that year, including cases that were open for informational purposes only.

And then we asked them to break it down further, based on only penetrative sexual assaults. And we asked them to give us a little more detail about those cases, which they provided to us in an Excel sheet.

So we have every single case that was closed in that Fiscal Year, what the disposition was according to the Services database, and what the case clearance category is according to DIBRS. And the reason that we wanted that information, again, is to look at these disposition consistencies because, as you have heard from speakers throughout your public meetings, this data is something that needs to be looked at potentially.

So again, Mr. Mason was talking about cases and data previously and he's only talking
about cases that are preferred. So our universe
right now is only cases where there was no
preferral action at all. And based on the
numbers that we received, we believe that we're
only going to look at no action cases to start,
where absolutely no action was taken -- no
general officer's reprimand.

So that is where we are as far as the
RFI is concerned. And Stacey, if you could --
oh, sorry. Can you go back to case disposition?

Terry?

MS. GALLAGHER: Yes, just to point out
with regards to the case dispositions and kind of
the pattern we are following through is Rules for
Courts-Marital 306, which is precedentially
prescribed, sets forth what a command can do with
an offense when it comes to them. And there are
really four things they can do. They can do no
action, administrative action, non-judicial
punishment, or they can do charges.

And with regards to no action, it of
course does not mean that somebody made a
complaint and absolutely nothing happened with
the complaint. It means that a complaint came in
and it was investigated fully that a final report
of investigation was prepared and that the final
report of investigation was served on the
command.

And you know the command, in
conjunction with the legal adviser, presumably,
is making the decision on what is going to happen
with the case.

And they have not only -- you know the
baseline standard of whether an offense occurred
and whether the suspect committed it, but they
also have different disposition factors that they
look at as well, one of which would be is there
admissible evidence and such like that.

So the first phase of what we're going
to be looking at are the cases that do fall into
the no action category. It is the largest
category of dispositions being recorded. And so
we're trying to unravel really what they consist
of and record the factors involved.
MS. TAGERT: So, the moment you've all been waiting for, the consolidated data that we came up with.

I just want to -- a little caveat about these numbers, the 2,069. The Services gave us more case numbers than that and more dispositions. However, cases that we didn't find responses to the original request we took out; i.e., the person was retired, or a civilian. So I mean there are reasons that investigators open cases that aren't necessarily able to be prosecuted in the first place. And we just don't want to muddy the waters. We're only talking about cases where we have jurisdiction.

And as you can see -- another thing I want to say about these numbers. These are self-reported, unlike what Mr. Mason was talking about. We don't have documentary evidence as to whether or not this is correct. We will after we go through our 1,300 cases but as of now, the numbers are what they are. We don't really make any judgment on them. And as you'll see, we
don't really know what they mean based on the dispositions that we were given by the investigators.

It is interesting to go through the numbers by Service. So the Naval Criminal Investigative Service, they obviously cover both the Marine Corps and the Navy. And as you'll see here, the column on the left indicates what the investigative agency has classified this case as. So preferral action, admin, civilian authority, which we believe means that the civilian chose to prosecute that particular case, non-judicial.

It gets a little bit more complicated in the no action reported cases. No action reported is not necessarily what NCIS classified those cases. They used insufficient evidence, no action taken, and unfounded.

For the asterisk, prosecution declined, victim uncooperative, or arrest, those were the DIBRS classifications based on the fact that the Navy classified those cases as unknown. So rather than give you what unknown was, we
decided to just go with the reason that was given to DIBRS as to why that particular case was closed.

You know I know that Dr. Galbreath said earlier that insufficient evidence was the largest body of cases that were closed with no action, according to SAPRO, but only the Naval Service uses that terminology insufficient evidence. So, potentially, in March when we have our Working Group, we'll discuss what insufficient evidence is defined by DoD SAPRO and whether or not that covers prosecution declination cases or not.

The Navy and Marine Corps, for whatever reason, had very similar numbers. But again, NCIS -- I mean the Naval cases were also unknown and then we relied on the DIBRS classification.

The Army numbers, obviously, are the highest because they have the highest population. And their internal system, the reasons that were given as to why a case was closed was no action
taken or unfounded. That was for their internal database.

The other classification that have an asterisk are, obviously, the ones that we had to rely on the DIBRS classification to figure out potentially the reason as to why that case was closed.

The Air Force, I want to give them some -- their database is very good, as compared to the other Services. When we reviewed the reasons given as to why a case was preferred or another action took place, it was very clear from the investigators' data what happened in that case. And that may be why their preferral rate is tracking as higher because we actually were able to figure out what the disposition was. I don't know that for sure but never in their internal database was a case classified as unknown or no action taken. There was always what the action was.

Yes?

MS. TOKASH: Can you tell us what
arrest means? Does that mean arrest by civilian authorities or -- if you know?

MS. TAGERT: So I'm actually going to let Jan answer that. It's a DIBRS classification.

DR. CHAYT: The DIBRS classification, as I'm sure many of you do know, is how the case was closed, solved or unsolved. And arrest means, and for the Military it's or equivalent, and that means that after that person was identified, their fingerprints were taken, that a probable cause determination was made by the SJA that there was sufficient information to send those fingerprint cards forward for NCIC entry.

He was arrested; however, in this case, still no action was taken. Of course, we're looking forward to reading the case files to determine why.

MS. TAGERT: But yes, to go back to the Air Force's database, if a case was unfounded, the reason for the unfounding was very clear and they used the FBI's definition
describing it as baseless or false.

If there was a prosecution declined, adjudication it said evidence threshold. It was very specific and we found it very helpful in going through the data to have that specific information known.

Again, so the conclusion of this story, based on the data, is that even when you sort the cases into penetrative cases only, we're still seeing a similar preferral rate, which is in the 20 percent range, other than the Coast Guard, which -- sorry, I didn't mean to forget them. The Coast Guard had a preferral rate of 41 percent. We don't know why that is but it's much higher than the other Agencies.

So again, we were correct in deciding to look at the no action cases because the percentage are the same. There is no difference between contact and penetrative when we're looking at them.

And the last slide just shows the percentage of no action taken across the Services
on one page, so you can see the different rates.

MS. GALLAGHER: And then now, just to kind of let you know where we're going, the goal here is by the end of 2018, really by the end of the summer, we anticipate we will have reviewed all investigation files that meet our criteria, which are penetrative offenses with a military subject, an adult victim closed by the investigative agency in Fiscal Year 2017.

And you know I talked earlier about the phases. The first phase is these no action cases, which are the 1,317 cases. After that, we're going to roll into the preferred cases, which is it looks like 408 cases.

And then after that, we're going to be tackling the administrative action cases, 201 civilian authority, and non-judicial 129 cases.

So we think that we should be able to review and record the data from the 2,069 investigative files.

And then once we have extracted all the data and put it into the database, we are
going to have a criminologist take a look at the
data, do the analysis and then we'll be
presenting results to you all.

MS. TAGERT: This time line is subject
to the Government shutdown, just so you all know.

MS. GALLAGHER: That will delay
things. We'll be looking for volunteers to come
in and review these cases.

DR. CHAYT: Can I add a slight caveat
for explanation for everyone? In your read ahead
we had the question we originally asked. And you
might notice that the number of cases reported by
the MCIOs is a lower number than the number of
cases we addressed by the individual. And that's
because when they recorded investigative cases,
they were actually reporting the number of files
and investigations which they conducted, which
might contain multiple subjects.

And when we refer to cases that we're
going to be looking at to track what happened,
we're actually going to be tracking by offender
identified. So the numbers are different and I
just wanted you to be aware of that.

MS. GALLAGHER: Okay and now the strategic plan. This is to give you just kind of an idea of where the Case Review Working Group has looked at going after really calendar year 2018, which is kind of encompassed by these investigations, with a goal towards the write-up being in the March 2019 report.

After that, really we have all of calendar years '19 and calendar year '20 to continue to do additional case reviews. And we've looked at the attrition of the cases between preferral and referral. So of like the 408 preferred cases we're looking at, can we track down why it is that they were -- you know, were they referred or were they not referred and why, if we can tell from the data in the document.

Also, they've contemplated looking at the cases that resulted in acquittals. That's clearly of concern to say you know why is this happening. And we hope to be able to get into
the whys of that by looking at cases. And then, of course, the comparison being the cases that have resulted in convictions, so that we have a comparative sample that Dr. Spohn will be happy with.

And then of course, any of the data points that come up and raise issues in trends might raise other issues that we want to take another look at.

And then -- oh, yes. Sorry, Dr. Spohn.

DR. SPOHN: I just had one thing. I noticed that although the staff is going to be analyzing all 1,317 of these cases, the Members of the Case Review Committee are each going to do, what, 24 I think cases and then we will be comparing our evaluations of the cases to ensure consistency and intercoder reliability.

DR. CHAYT: Just Dr. Spohn didn't mention it, but she mentioned they'll be looking at 171, and that is the statistically significant number required so that they can do a comparison
of mean.

MS. GALLAGHER: And that's the number for the no action cases. Of course there's additional when you move into the other categories.

So the view is that the staff will review 100 percent of all the investigations. The Working Group Members, themselves, will review a statistically significant random sampling and then we have different avenues in place to ensure the reliability and consistency between the reviews of both the staff and the Working Group Members, trying to ensure we have the best possible data that we can.

The checklist is still being compiled. We've had you know our Case Review Working Group Members have all reviewed. We've got five cases that we're having all of staff, all of the working group work through to make sure that we've got consistency to the greatest extent possible but also to capture everybody's insight and expertise in what they believe should go into
the checklist, what kind of data points are meaningful for everyone.

So the checklist right now is about 12 pages. You know there will be some narrative but we're trying, to the greatest extent possible, to ensure dropdowns and non-narrative input.

We've got things on the checklist like the timing of reports versus the timing of the incident, the timing of investigation and action by the command, different locations, suspect information, and victim information, the race, ethnicity, age, relationship between suspects and victims, the different statements being made by both parties, alcohol/drug use, digital evidence, pretext communications, mental health issues to some extent, just recording whether or not there is anything reflected in the file.

And that's really about it. Are there any questions?

JUDGE GRIMM: Did you mention whether there was either a relationship or knowledge between the victim and the accused?
MS. GALLAGHER: Absolutely, we've got a significant number of dropdowns to try and capture that. And if it's not one of these you know 14 different dropdowns, then there is a narrative to write it in.

And as we go through the cases, if you know we normally have like another factor, if we're seeing another that is repetitive, like we seem to have a lot of roommates. So if we see something that's repetitive, we'll add it in as a dropdown and go back in and reenter those in the appropriate dropdown for ease of data analysis.

CHAIR BASHFORD: The staff has done and is continuing to do yeomen's work in terms of this. Clearly, when you look at the statistics, there's a huge number of cases that never make it to the referral/preferral stage. And I believe we're the first group to really look at those cases in-depth.

So I think we're trying to do two things: one, see does this seem, in some sense of the word, reasonable on each case but also, I
think and as importantly, by capturing these data points now and then comparing to the cases where charges were, in fact, made, can we see anything that accounts -- is there anything there that accounts for the differences.

JUDGE GRIMM: And I just wanted to make an observation. It's an enormous undertaking but it's extremely important. And so the work you're doing is absolutely -- we're trying to answer questions about what's going on here. It can't be done without that work. So it's really vital and I'm very grateful to your group.

MS. TOKASH: Is there any way that the staff can get us, as a committee, any standards from the Services that are used to arrive at a no action required?

MS. TAGERT: So yes, in our March Case Review Working Group meeting, we're going to have -- we haven't put the request out yet. So, it will come to you all later.

We want to have Judge Advocates, the
Provost Marshal, the different investigators so that they can tell us, flush out a lot of what the terminology means to them and to make sure that there's an understanding as to what we're looking at.

MS. TOKASH: And if there's anything in writing, like by way of like anything so that we have a better understanding of how these decisions are being made, I think that would be helpful.

MS. TAGERT: Yes, and we'll share that with the DAC-IPAD.

MS. TOKASH: Thank you so much.

MS. CANNON: One of the things that I think we, as the committee, have found is that there is kind of inconsistency across the different branches of Service as to what their reasoning is, what means unfounded. Are they using the same definition? What is insufficient?

So we're hoping that at this next meeting, we'll get a sense of each branch's definitions, as well as the problems of the
inconsistencies so that working toward everybody using kind of a uniform standard. That seems to be lacking but that's just a guess.

MR. HINES: Ms. Tokash, one of the things that we talked about yesterday on this issue was first of all, our SOP that we have in place for reviewing the cases is there are going to be multiple people looking at each one of these files. And the decision was made that if, collectively, there is an opinion that there is some other questions that need to be asked about one of these cases -- and again, this is just the investigative file. It almost never has a legal memorandum or a prosecutor. So you've just got -- but you can still look at it and sort of tell, based on your experience, you know there are some issues in this case.

So what we're planning on doing in the Working Group is if we see a file and there is a consensus there are further questions, you know we can't really figure out maybe why this case wasn't charged, we're going to pull those cases
1 out. And then there's going to be more review by
2 the Working Group Members and the Staff.
3 
4 And if it gets to the point where
5 there is then a more common consensus that we
6 need more information, that the committee needs
7 more information, then we're going to approach
8 the question do we need to go back to the Service
9 branch in this case and ask for more information.
10 And there is obviously, if you get to that point,
11 various ways that you could do that. You could
12 go back and formally -- you know do you want the
13 prosecution memo? Do you want the Staff Judge
14 Advocate's input? Is that information there and
15 do you need to look at it?
16 
17 So, we've got a pretty good plan in
18 place about how we're going to address that
19 issue.
20 
21 MR. KRAMER: Can I ask, in the files
22 that you're reviewing right now, is there any
23 indication about social media of either the
24 victim or the accused being looked into?
25 
26 MS. GALLAGHER: Yes, we're recording
all of the digital evidence as well, recording
what type it was, you know whether -- and we're
looking at was the corroborative evidence, so
corroborative of the victim, corroborative of the
suspect, or there was neither. So, yes.

MR. KRAMER: Because it can make a big
difference in the civilian forum for either a
victim or accused social media.

MS. GALLAGHER: Yes, I mean, these
days it is more or less in every file, either
before, during, or after.

JUDGE GRIMM: Particularly the age
group of the people you're looking at that cannot
imagine life without it.

MS. GALLAGHER: Right.

CHAIR BASHFORD: Any further questions
of the Staff on this?

MR. MARKEY: I just wanted to thank
the Staff for -- I echo your thoughts about the
support that you've given us and the guidance.
And hopefully, we've been helpful as well.

I think one of the things that we
talked about and I think there was a concern, I'd heard from outside that we are looking to determine whether these investigations were within the policy of each one of the branches.

So we're not really focusing on whether there is a policy violation within that, because that's already been done by some of the MCIOs over the course of the years whether they're following policy, but if something does show up within our review, it may be a policy issue that we can see when we finally look at the numbers as maybe that's a causal effect of why this particular case went in one direction or didn't go in a direction.

But that's really not the focus. We're trying to see, I guess look at the meat and potatoes of the case and was that information that was provided sufficient to make a determination by the commander whether that was going to be preferred or actioned or not.

MS. TAGERT: Yes, I think Mr. Markey is right. Obviously, you're not DoD IG. We're
not looking at specific cases. We want to look
at trends and we want to see whether or not
outcomes can be predicted. And we don't know if
it can but it's not a review of cases in that
sense, exactly.

Yes, thank you for bringing that up.

CHAIR BASHFORD: Anything further for
the Staff for the Case Review Working Group?

Well, thank you very much. Thank you
for your work and thank you for the presentation.

We have zoomed through our agenda very
efficiently.

Before we draw to a close, though, I
want to add my own appreciation to Captain
Tideswell. This is her last public meeting of
the DAC-IPAD before sheretires after 30 years'
service. She gave a tremendous work to the JPP
before us but, in the past year that we've been
working with her, she's just been an invaluable
asset. We look forward to continuing to work
with you until you leave. We wish you wouldn't
but life moves on and we just really, as a
committee, really wanted to thank you for your service to the country, for your service to us. So thank you so much.

CAPT. TIDESWELL: It's been my honor.

CHAIR BASHFORD: And with that, Major King?

MAJOR KING: Yes, the public meeting of the DAC-IPAD is officially closed.

(Whereupon, the above-entitled matter went off the record at 11:31 a.m.)
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In the matter of: DAC-IPAD Public Meeting

Before: US DoD

Date: 01-19-18

Place: Arlington, VA

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]
Court Reporter

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