The Committee convened via teleconference at 11:00 a.m., Martha S. Bashford, Chair, presiding.

PRESENT
MS. MARTHA S. BASHFORD, Chair
THE HONORABLE LEO I. BRISBOIS
MS. KATHLEEN B. CANNON
MS. MARGARET A. GARVIN
THE HONORABLE PAUL W. GRIMM
MS. JENNIFER GENTILE LONG
MR. JAMES P. MARKEY
DR. JENIFER MARKOWITZ
CHIEF MASTER SERGEANT OF THE AIR FORCE RODNEY J. MCKINLEY, RETIRED
BRIGADIER GENERAL JAMES R. SCHWENK, U.S. MARINE CORPS, RETIRED
DR. CASSIA C. SPOHN
MS. MEGHAN A. TOKASH
THE HONORABLE REGGIE B. WALTON
ALSO PRESENT

CAPTAIN TAMMY TIDESWELL, JAGC, U.S. NAVY -
Staff Director

COLONEL STEVEN WEIR, JAGC, U.S. ARMY,
Deputy Staff Director

MAJOR ISRAEL KING, Alternate Designated
Federal Official

MS. JULIE K. CARSON, Legislative
Liaison/Attorney Advisor

MS. MEGHAN PETERS, Attorney Advisor
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MAJ KING: And with that, this public meeting of the DAC-IPAD is officially open.

MS. BASHFORD: Thank you, Major King.

Good morning to all, I'm Martha Bashford. I would like to welcome the members and everyone in attendance today to the sixth meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces, or DAC-IPAD.

The Secretary of Defense appointed 16 members to the Committee. All of the members are present, with the exception of Major General Anderson, Mr. Kramer, Dean Harrison, Dr. Spohn, and Mr. Markey. Some of them may join us in progress.

The DAC-IPAD was created by the Secretary of Defense in accordance with the National Defense Authorization Act for Fiscal Year 2015, as amended.

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.

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

At today's meeting, the Committee will
conduct final deliberations and vote on the
approval of the March 2018 report to the
Secretary of Defense and the Armed Services
Committee of the House and Senate.

Each public meeting of the DAC-IPAD
includes a period of time for public comment.
The Committee has 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,
please 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.

Thank you very much for joining us
today and before I turn it over to Captain
Tideswell, I really want to thank the staff, who
have done a heroic job in putting together 14
months of our work, deliberations, meetings, and
testimony into such a solid report.

Captain Tideswell, take it away.

CAPT TIDESWELL: Yes, ma'am. So, our
Committee members, if you don't mind, what I'd
like to do is walk us through the draft report.
We'll go comment by comment, identifying which
Committee member made the comment and determining
whether or not there's any objections and/or
discussion.

Since we are telephonic, if you
wouldn't mind identifying yourself before you
speak, that would help greatly with the
transcription.

So, to begin, I would like to start
with Comment 1, which starts off in the Table of Contents. That's a comment from Brigadier General Schwenk, who suggested, maybe it's just me, but I prefer not to pat myself on the back, but instead leave that to others.

So, I think this should read: "Overview of DAC-IPAD 2017 Objectives and Actions". If someone other than us thinks one or more of our actions are good enough to be considered accomplishments, well, that's up to them. For us, they're just actions that we took.

So, you will note the staff has changed the word "accomplishments" to the word "actions". Do any of the members have an objection to that? There being no objection, we'll move on to the next comment.

It's Comment 2. Brigadier General Schwenk edit, consider specifically saying that the Case Review Working Group is doing the case reviews required by statute and addressed on this page in the paragraph number two.

So, you will note there's been a
change to the verbiage, "statutorily mandated".
Are there any objections to that change?

Comment 3, Brigadier General Schwenk edit, clarify preferral by saying "preferral of charges". I think that is the first use of preferral.

You will note that it now states, "of charges". Any objections from the Committee on that change?

Comment 4, General Schwenk edit, clarify and use more legally precise lingo for "administrative or non-judicial action" by saying "administrative action or non-judicial punishment". That terminology appears on Page 24, IV, Line 7, and maybe elsewhere.

And you will notice, as we make our way through the report, the staff has changed it in all applicable places. Are there any objections to that recommended change?

Comment 5, General Schwenk suggested edit. Consider being more specific by ending the sentence, "identify factors that may affect
commander's disposition decision and assess
whether those decisions were reasonable based
solely on the information in the relevant
investigative files".

And you will note that that language
now appears in that sentence. Are there any
comments or objections to that recommended
change?

Moving on to Comment 6. Brigadier
General Schwenk edit, since lots of folks will
only skim the first seven pages of the report,
use the opportunity in the executive summary to
answer the, what will the CRWG do next, by
saying, the CRWG intends to turn in 2019 to
conducting case reviews of preferred cases.

And you will note that sentence now
addresses that. Are there any objections to that
recommended change?

Comment 7, Brigadier General Schwenk
edit, footnote clarifying what is meant by sexual
assault.

You will note Footnote 3 on the bottom
now outlines the offenses under the UCMJ that are considered to fall under the rubric of sexual assault. Are there any objections to that change?

Brigadier General Schwenk Suggested Edit 8. Commander training versus training for commander and senior enlisted leaders. The latter is the correct scope and they should read the same.

The recommended changes were made. Are there any objections to those?

Comment 9, Brigadier General Schwenk suggested edit. Leave "O-5" to precede "commanders", so it reads: "O-5 commanders and senior enlisted advisors".

I think we heard from present and former Servicemembers. If so, we may want to say that.

And since we did, that language was added in. Are there any objections to that change?

Comment G10, Chair Bashford suggested
edit. If all we are saying is, this is what they testified to, is that a finding? Or do we say, at least preliminarily, that this is an overwhelming, beneficial, et cetera, based on the testimony of these groups?

So, I think the issue Chair Bashford is raising is sort of a philosophical one, as to what constitutes a finding of fact. As the report was written, typically we tried to use the findings of fact to support the recommendations made. Chair Bashford, do you want to address that?

MS. BASHFORD: If that's fine as a finding, I have no problem. I think it's just really a philosophical difference. And I think later down in the document, it's really addressed.

CAPT TIDESWELL: Are there any other comments from the Committee?

HON. GRIMM: Let me just say -- this is Paul Grimm. My sense is, is that what our Chair has raised is an important distinction here in
the report.

People testify all the time in proceedings, whether they're regulatory or they're judicial. And it's not unusual to find they're testifying to inconsistent things.

So, they can -- the fact that they said it simply means that it was heard by the body. The body then has to decide what to accept, and that's the finding.

I don't disagree that what the report referred to as a finding is supported by what we heard.

But generally, the distinction is an important distinction because it shows that there was not just information presented, but it was credited by the Committee as a basis for recommendations to be made.

CAPT TIDESWELL: So, Judge, with that said, are you comfortable, and are the other Committee members comfortable, with the way it's been represented here, or are there --

HON. GRIMM: Yes. I -- yes. I feel
like he hasn't -- so I don't have any quarrel
with that being described as a finding, but I
think it's important, since we'll be doing these
reports on an annual basis going forward, that
the -- for example, some of our working groups
have identified areas of inquiry that need to be
pursued from the hard work that they have been
doing, in order to get information to make
determinations that would be findings that you
would justify our making recommendations to the
Secretary.

And it's important as we go forward to
keep in mind that a finding implies that there's
some consensus by the Committee that this
information that we have received is credited and
for that reason, it warrants specific
recommendations that we are making.

I don't have a quarrel with what has
been represented as a finding.

CAPT TIDESWELL: Yes, sir. So, it
sounds like the Committee is comfortable with the
way it's been represented. Unless I hear an
objection, I'll go ahead and move on, then, to Comment 11.

Which is Brigadier General Schwenk's suggested edit to insert the word "some" before "Servicemember victim", which, quote, I think was the testimony, not that all victims do so. Are there any objections to that recommended change?

Comment G12, I believe is similar to the one we discussed in G10, with Chair Bashford's philosophical question. So, unless there's any objections or further discussion, I'll move on to the next comment.

Which is Comment 13. It's a Brigadier General Schwenk suggested edit. I think this is fine, but the issue is broader. It's that this misperception can put justice at risk.

We were told that defense counsel make the bare assertion of expedited transfer abuse in a specific case, even with nothing to corroborate or support such an assertion, in the hopes that doing so will be enough, with whatever other fairy dust the DC can spread during the case, for
members who believe there is widespread expedited transfer abuse to disbelieve the victim and acquit.

I'm not sure how best to phrase that, but I believe that was the primary reason for the expressed concern.

So, you will see the staff recommended language to address that suggested edit in red. Is the Committee comfortable with that language? Are there any objections?

BG SCHWENK: Yes, this is Jim Schwenk. I think that's fine. Thank you.

CAPT TIDESWELL: There being no objections, I'll go ahead and move on to G14, which is a comment, I believe it's a Chair Bashford suggested edit. Same as the testimony, the finding, or does the testimony support a finding by us that there is no widespread abuse?

MS. BASHFORD: This is Martha. That's sort of the same clarification for 1, 2, 3, and 4. I was just questioning whether these are actually findings or testimony. So, I think we
can just keep that in mind for the future.

CAPT TIDESWELL: Yes, ma'am. We'll go ahead and move on to Comment G15. Chair Bashford suggested edit. Finding 2, that many counsel perceive an abuse of expedited transfers, seems to be contradicted by Finding 4, little to no abuse seen by VLCs, prosecutors.

The staff suggests deleting the second sentence of Finding 2 and adding the following phrase at the end of Finding 4, "though they do believe there are some rare cases in which it has been abused by Servicemembers".

Are there any discussions on that comment and the recommended change in language? Are there any objections to the recommended change?

MS. GARVIN: I'm sorry, this is Meg Garvin. Can you repeat the recommended change? I think I'm not seeing it in my document, which means I've just lost it a little bit.

CAPT TIDESWELL: Yes, ma'am. So, Chair Bashford suggested that Finding 2, that many
counsel perceive an abuse of expedited transfers, seems to be contradicted by Finding 4, little to no abuse seen by VLCs and prosecutors.

So, the staff has suggested deleting the second sentence of Finding 2 and adding the following phrase at the end of Finding 4, "though they do believe there are some rare cases in which it has been abused by Servicemembers".

MS. CARSON: This is Julie Carson. If I can just clarify what the issue is? In the Judicial Proceedings Panel report, they commented that counsel perceive there is abuse.

In the testimony that the Committee and the Policy Working Group heard from counsel, counsel didn't think there was a pervasive problem of abuse, but they reported that it is a widespread perception among the force at large.

So, the contradiction is to say, in agreement with the JPP report, would be saying, in agreement with the notion that it's counsel who perceive the abuse.

So, just taking out the JPP reference
at all and then, adding in where we talk about, in Finding 4, where we say, there were -- the counsel that testified to the DAC-IPAD did indicate there were some instances of abuse, but not that it's widespread --

CAPT TIDESWELL: Very rare.

MS. CARSON: -- fixes the problem.

That's the distinction, if that makes sense.

CAPT TIDESWELL: Are there any objections to the staff recommended language?

There being none, we'll move on to Comment G16. Brigadier General Schwenk suggested edit. Insert "only" after "applies" for emphasis. Are there any objections to that recommended change?

There is not a recommended change that is on your document, it's under the paragraph called Summary of DAC-IPAD Recommendations, it's on Page 7 of your document.

We received an email very recently from the Coast Guard and in their review of the recommendations, you see references to the
Secretary of Defense for DoD level family advocacy. Nowhere do we include the Coast Guard in the language.

And so, what the staff would like to recommend to the Panel is that we include language that addresses not only the Secretary of Defense, but also includes the Coast Guard.

So, for example, in Recommendation 1, the Secretary of Defense, and then we would add in parentheses or additional language that would say, "and in the case of the Coast Guard, the Secretary of the Department in which the Coast Guard is operating in, take action to dispel".

So, what we would do in each one of those recommendations is just put verbiage in that would include the Coast Guard.

BG SCHWENK: Yes, this is Jim Schwenk. I don't know why we need to say the legal language, why don't we just say, Secretary of Homeland Security?

CAPT TIDESWELL: Fair enough, sir.

BG SCHWENK: I mean, the Coast Guard's
not going anywhere in the life of our Panel.

    CAPT TIDESWELL: Yes, sir.

    BG SCHWENK: So, I would say, the
Secretary of Defense, comma, the Secretary of
Homeland Security, comma, and the Services take
actions to dispel the misperception.

    CAPT TIDESWELL: Are there any
objections to including the Coast Guard,
specifically to the language to include Secretary
of Homeland Security?

    There being no objections, the staff
will go ahead and make the changes to the
recommendations. And thank you to our Coast
Guard rep who raised the issue.

    The next recommended change is Comment
G17. Ms. Tokash pointed out that Fort Leonard
Wood is not in Kansas, it's actually in Missouri.
So, thank you very much. Are there any
objections to that change?

    BG SCHWENK: Did that come from the
famous expression, we're not in Kansas anymore?

    (Laughter.)
CAPT TIDESWELL: The next comment is G18, from Chair Bashford. The suggested edit is, I would move charging decisions to the front of conviction rates, so it tracks chronologically through charging, conviction, sentence.

The recommended change was made in the text. Are there any objections to that change?

No objections.

The next recommended change is from Ms. Long. There's a suggested edit. I would suggest using the language from Page 18, "because these cases typically involve the most serious sexual assault offense and have garnered the most attention from Congress". The way it reads now is a little minimizing and generalizing.

And, Ms. Long, I believe you're on the line. We also noted that you had tracked changes in your document and so, the tracked changes that you see were put in by Ms. Long. Did you want to address this comment, ma'am?

MS. LONG: If people think it's necessary. I think the -- hopefully the comment
was clear. I made the track changes and that edit before I made it later down. So, once I saw the language later on in the document, I was fine with the second way you described.

   It was just the first way, it basically said, all contact crimes aren't serious, is the -- was the implication by the language, I thought. And I didn't think that's what we meant to say. I think we were just talking about grading and that's what I thought we were doing.

   CAPT TIDESWELL: Yes, ma'am. So, would the Committee like to discuss the recommended language, "tend to be graded more seriously"?

   The only thing I would throw in as the staff director is the term graded isn't something we typically hear in the military, in military practice.

   MS. LONG: That's why I said I was fine with the way you said it later on. You used different language later on in the document and that language, I thought was more clear than the
language that occurred here. And it seemed to be addressing the same, why we selected penetrative crimes.

CAPT TIDESWELL: Yes, ma'am. So, I think what I'm hearing is, instead of using the track changes language, we would adopt the language that we see in the bubble comment, where the quotes are, because these cases typically --

MS. LONG: That's correct.

CAPT TIDESWELL: Yes, ma'am.

MS. BASHFORD: This is Chair Bashford. I'm not sure that I would want to put "has garnered the most attention from Congress".

I don't -- I wouldn't want this to be like a public opinion, it should just be -- I would just nick that sentence and I would have it as, because these cases typically involve the most serious sexual assault --

CAPT TIDESWELL: Chair Bashford, ma'am, I think you're breaking up.

MS. BASHFORD: I'm sorry. I would leave out the "and has garnered the most
attention from Congress". I don't want it to be
like an opinion poll. I would just put a period
at the end of, because these cases typically
involve the most serious sexual assault offenses.

CAPT TIDESWELL: Yes, ma'am. Are there
any objections to that approach? Does the
Committee --

MR. MARKEY: This is Jim Markey. I am
on the line, thank you, good morning. I concur.
And I read it to mean that one of the reasons
we're assembled as a Committee is because
Congress -- theoretically, yes, but because we're
doing this because Congress is concerned.

It actually is because the need
addresses overall in the community of the
military as well. So, I agree, I concur with
leaving that out as well.

CAPT TIDESWELL: Thank you, sir. Any
other comments? So, with that said, the language
will now read: "because these cases typically
involve the most serious sexual assault
offenses".
The next comment is Comment C20. Brigadier General Schwenk suggested edit. The first sentence can easily be read to say that we didn't have the authority to do what the third sentence says we did.

Delete both sentences, then change "formed" to "tasked", on Page 16, Chapter 1, II, Line 4, for consistency.

You will see the staff made the recommended changes from General Schwenk. Are there any objections to those?

The next change is Comment 21. Brigadier General Schwenk suggested edit. For consistency with the prior edit, the word "formed" has been changed to "tasked". Any objections?

The next comment is C22. Brigadier General Schwenk suggests, change "a sentence of A" to "a sentence including A" for clarity and accuracy. Any objections to that change?

Moving on to Comment T23. The Case Review Working Group added some additional
language to this sentence, based on a meeting that they held as a working group on the 6th of March, regarding jurisdiction at time of disposition.

They would like to add the language, so the sentence now reads: "The CRWG decided to consider only investigations involving a military subject and an adult victim, where the military had jurisdiction at the time of disposition".

Are there any objections to that recommended change?

The next comment is Comment 24.

Brigadier General Schwenk edit. Delete the no-action bullets and the paragraph that follows. We don't discuss it in any detail.

It seems to come out of nowhere and I'm not sure what we gain by highlighting that piece of the bigger puzzle at this point. Let's wait until after we've done some analysis, then decide what to say in next year's report.

Are there any objections from the Committee to deleting that language? No
The next comment is T25. Brigadier General Schwenk has suggested edits, and you'll note that it applies to all of the Service charts on the next several pages.

His suggested edit is, in the charts and tables give each a name and number. Change "reported" (action reported and no action reported, the latter left me wondering whether some reader might wonder whether an action was taken, but not reported) to "taken" to more clearly state what we mean.

And the Service table charts would be more helpful if they included the percentages for the two main categories, in what percentage of case was "action taken" and "not taken"?

So, you will note that each chart by Service has been given a title. We did not include a table number; we were going to allow the graphic designer to take care of that, when she gets the report in order.

And we've added the terms "action
taken" and "no action taken", they're embedded in the chart. And you will note, we've also included the requested percentages for each.

Are there any objections? And you will note again that the same comment applies to the charts for each one of the Services. So, we're really looking at Page 20 through 23. Does anyone on the Committee have any objections to any of the recommended changes?

Okay. There being no objection, the next comment is C30. Brigadier General Schwenk suggested edit. I think it's inevitable that the Case Review Working Group will end up assessing, based solely on the information in the investigative files, all disposition decisions. Anything less will open us up to being incomplete and/or cherry-picking.

So, I recommend we say: "When reviewing cases, the CRWG will also make a subjective assessment, based solely on the information in the investigative file, whether the disposition decision in each case was
reasonable".

You will also note that in that sentence, there were also some recommended changes, Ms. Long suggested, do we really intend to make a subjective conclusion or aren't we going to base it on some agreed upon standard?

And so, you will note, there's sort of a combined change of that sentence. The CRWG met on March 6 and the members have also suggested, from that working group, deleting the subjective language and adding the language as noted.

I know it looks a little confusing, so allow me to read the sentence, so we make sure everyone understands. The sentence will now read:

"When reviewing cases, the CRWG will also make a neutral assessment, based on a detailed analysis of the information in the investigative file, whether the disposition in each case was reasonable".

Is there any discussion on those changes?
MR. MARKEY: This is Jim Markey. I was curious what a neutral decision is. And I was thinking of an objective assessment, so I don't know if that's something to consider.

MS. BASHFORD: This is Martha Bashford. When I saw it in print, I also was not sure what "neutral" adds. I would just take "neutral" out just say "make an assessment".

DR. SPOHN: This is Cassia Spohn. I do think "neutral" raises kind of a red flag. I agree with Martha Bashford, that we should just take that out. Or replace it with "objective", one or the other.

MS. GARVIN: This is Meg Garvin. I agree with removing any of the descriptors. And other people are going to identify how they think we did it, but I think we, in our language, just say we're doing it.

DR. MARKOWITZ: This is Jen Markowitz. I agree with everybody on that.

BG SCHWENK: Yes, this is Jim Schwenk. I agree with deleting "neutral".
CAPT TIDESWELL: All right. So, if there's no objections, we'll go ahead and delete the word "neutral", it'll read: "an assessment". Are there any objections to that? Are there any other objections to the remaining part of the statement?

Okay. The next comment is G33. It's a Ms. Long suggested edit. I apologize for not picking this up sooner. The reason we developed the case complexity chart was not to justify declining cases, but rather to help offices determine the complexity of the cases going forward, so that they could better assess their practices, their conviction rates, and the types of cases they were willing to prosecute.

I just want to be clear here, because I don't think it should be used to determine if it was reasonable. If anything, it might point to a gap in training, skills, or perhaps missing support in a jurisdiction. Or, if complex cases are going forward, it can highlight elevated practices.
So, with that said, the staff made some recommended changes to the sentence. And I believe at the March 6, 2018 Case Review Working Group, the members also had a recommendation to strike some of the language, and the language has been added as noted.

So, the sentence will now read:

"Drawing on their collective experience, the Case Review Working Group members also identify case complexity and evidentiary factors that may affect case outcomes", and added these factors to the template.

Are there any objections to the sentence as it now reads? And you will note then, the last sentence in that paragraph was deleted, the sentence that started with "consideration of such factors". Are there any objections to that?

All right. Moving on to Comment C36. Brigadier General Schwenk suggested edit. This is confusing because the numbers do not add up and the explanation of Footnote 82 isn't real
clear, to me anyway, because it doesn't expressly address how the change to the U.S. Coast Guard numbers creates an addition problem.

Recommend either changing the numbers in the total sample column, so everything adds up, or adding a sentence to Footnote 82 specifically addressing the addition problem.

So, the staff recommended change is to take the numbers in the Coast Guard column, to reduce them from two to the number one.

And in the footnote, Footnote 83, clarify that as we conduct the review, the Coast Guard number of sample size will include two cases and not just one, because the statisticians have advised that in order to get a solid sample, you need at least two cases.

Brigadier General Schwenk, does that address your issues, sir?

BG SCHWENK: Yes, that's fine.

CAPT TIDESWELL: Are there any objections to that recommended change from the Committee?
MS. BASHFORD: This is Marsha Bashford. I'm just confused, because we're saying we're going to take two cases from the Coast Guard, but we seem to have crossed out two and replaced it with one.

CAPT TIDESWELL: Yes, ma'am. So, we had one of two approaches. We could either change the numbers in the chart, so that they add up to -- counting the Coast Guard as having two cases or we could change the footnote. So, we could do it either way.

In this instance, we decided to decrease the number of Coast Guard cases to one, but we are in fact really going to review two and explain it in the footnote. But it could go either way.

The statisticians have just said, you don't want to review one case. In order to be statistically viable, you need to review at least two.

BG SCHWENK: So, the -- this is Jim Schwenk. So, the title of the table or chart is
Number of Cases Selected for Review by CRWG Members Through Random Selection.

So, the random selection gives us one, one, one, one, in the Coast Guard numbers, are all ones. Except that the statisticians came along and said, you really need to do at least two.

So, the footnote tells us that, although random selection said one was enough, the statisticians have told us to do two and we intend to do two. Is that right?

CAPT TIDESWELL: Yes, sir. That's correct.

BG SCHWENK: Okay.

CAPT TIDESWELL: Are there any objections to the change or would the Committee prefer to see it another way? Okay.

There being no objections, the next comment is Comment 37. Brigadier General Schwenk edit. Change "appropriate" to "reasonable", because that is what we are going to assess. Are there any objections to that change?
Comment C38, Brigadier General Schwenk suggested edit. And I'll read all four of the bubble comments, because they're all related.

First, C38, as written, this isn't accurate, because their assessments will be based solely on the investigative files, because that is all we have.

The CRWG, but not the Committee, has discussed what to do for any cases where we think the disposition decision was not reasonable, and possibilities include asking the Services for any additional info they may have outside the investigative file, that may help us better understand the commander's decision. For example, a trial counsel memo.

But we haven't decided, so that is down the road. I think this bullet should read exactly the same as the sentence addressed in the comment above.

Ms. Long suggested that we have an edit, do we really intend to make a subjective conclusion or aren't we going to base it on some
agreed upon standard?

At the March 6 Case Review Working

Group meeting, the members suggested deleting the

subjective language and adding language as noted.

Ms. Long also suggested, I think this

needs to be reworded. A subjective assessment
doesn't seem helpful. I know we don't want to
review cases with 20/20 hindsight, but shouldn't
the standard be an objective, reasonable person
or, alternatively, an appellate standard?

So, the staff has recommended deleting

the bullet that starts with "analyze

investigations resulting in" and rewriting the

bullet to say below.

"Make a neutral assessment, based on

a detailed analysis of the information in the

investigative file, whether the disposition in

each case was reasonable."

I know we've removed the word

"neutral" before, so I would like to throw that

also to the Committee. Is that something you

want to delete from this particular sub-bullet?
MS. BASHFORD: I would say, yes.

BG SCHWENK: Yes, this is Jim Schwenk.

Yes, the two sentences should read the same.

DR. MARKOWITZ: This is Jen Markowitz,

I agree.

MS. TOKASH: Meghan Tokash, I agree.

MS. CANNON: Kathy Cannon, I agree.

HON. WALTON: Reggie Walton, I agree.

CHIEF McKINLEY: Rod McKinley, I agree.

HON. GRIMM: Paul Grimm, I agree.

CAPT TIDESWELL: All right. So, it sounds like -- I'll just double-back. The sentence will now read: "make an assessment, based on a detailed analysis of the information in the investigative file, whether the disposition in each case was reasonable." Are there any objections to that change?

Next comment is G42. Suggested edit by Chair Bashford, "to carry out these recommendations" makes it sound like we felt they were mandatory. It should be more that we agreed with the recs and decided to, dot dot dot.
So, you will note, this sentence has been changed. "The DAC-IPAD agreed with these recommendations and decided to form the Data Working Group to continue the collection and analysis of data on sexual assault courts-martial."

Are there any objections to that recommended change?

The next recommended change is G43. Ms. Bashford identified a split infinitive. You will note, instead of saying "thoroughly assess", we now say "assess thoroughly".

BG SCHWENK: Yes, that's something up with which we cannot put.

(Laughter.)

CAPT TIDESWELL: Are there any objections to that recommended change? There being none, we'll move on to the next comment.

Which is G44. Chair Bashford suggested edit. A variety? Otherwise, my first thought was different from what?

So, you will note, it now states,
"commanders have a variety of tools of military justice at their disposal". Are there any objections to that recommended change?

The next comment is G45. It's a Ms. Long suggested edit. Are we speaking about just filing of charges? This is a little limiting. We have diversion, special problem solving courts, and restorative justice is starting to be considered.

It is true that these would generally not be available in sexual assault cases, but it's a little limiting to lay it out in this way.

Ms. Long, is there anything you would like to add?

MS. LONG: No, unless people are confused.

CAPT TIDESWELL: Yes, ma'am.

MS. LONG: It just seemed like the civil remedies available were being not fully laid out in there, making it sound like there was a big distinction between what was possible in military and civilian.
MS. BASHFORD: This is Martha. I'm just not sure how often, in this context, you would see diversion or problem solving courts or restorative justice. We certainly don't have that here for sexual assault cases.

MS. LONG: I guess my point is, I don't know that we fully know that, in terms of what people do if they downgrade and put things in. But to say -- or maybe they're available, but they're not used in the same way.

Versus the way it was written here made it sound like the military had specific non-judicial punishment that we didn't have available, the distinction may be -- maybe it's better to say, the civilian world has these, but doesn't use them for sexual violence cases.

Because the way it was written, it sounded like the military had something, a tool that we don't have.

MS. BASHFORD: This is Martha again. What if it said, "civilian prosecutors may be often limited to"?
(Simultaneous speaking.)

MS. LONG: I know it sounds like a

crazy distinction, but if we're choosing not to
use this, I mean, there's nothing stopping us,
it's just that we don't think they're
appropriate.

Isn't that a distinction, if it's
being used in the military and we're not using
it? Or do people think that's too combative? I
certainly don't want to be combative, I just
thought as it was written, it was a little
inaccurate.

BG SCHWENK: This is Jim Schwenk. It
seems to me that this section has the Committee
in its annual report going off on a tangent,
talking about, the title of the section is The
Court-Martial Process.

And I wondered why it was there, and
I'm sure it's there in an effort to allow a
reader who doesn't know anything about it, or
very little about the court-martial process, to
understand it.
So, I don't see, if that's the purpose of this section, why to make a comparison between civilian and military is even necessary. Let's just talk about the military justice process.

So, I would just get out and get rid of the whole thing about a significant difference between military and civilian systems is the range of options available. Just delete it and just -- and the same thing with civilian prosecutors are limited.

And instead, just say, a military commander, as convening authority, may refer a case to a court-martial or, if the commander determines that's not an appropriate disposition in the case, imposes non-judicial punishment and administrative.

Rewrite it just to talk about the military process and dispense with trying to make the comparison with civilians.

Because those people -- Jennifer and Martha have already pointed out, we'll go around forever trying to figure out how to say that
accurately. And it's not necessary, so I say delete it.

MS. BASHFORD: This is Martha. So, I would suggest it read, delete those sentences and then, start up: "a military convening authority may determine that court-martial is an appropriate disposition, but also has other ways to address misconduct." Something like that.

BG SCHWENK: Right. That sounds good to me. This is Jim, yes.

HON. WALTON: Hi, this is Reggie Walton. I agree with that suggestion.

CAPT TIDESWELL: Are there any objections from the Committee to that suggestion? All right. The staff will make the recommended changes. Thank you, Ms. Long.

The next comment is G46. Brigadier General Schwenk was kind enough to find a typo, the word "that" has been changed to "than".

BG SCHWENK: You know what's amazing to me is it's the only typo I saw reading through this. So, I was really proud of that comment.
CAPT TIDESWELL: I cried for days, sir.

(Laughter.)

CAPT TIDESWELL: The next change or next comment is G47, which does not appear until Page, I believe, 51.

BG SCHWENK: Fifty.

CAPT TIDESWELL: Fifty, Page 50. It's Comment G47. Brigadier General Schwenk suggested edit. I think something is wrong with at least one part of the two Article 32 charts on Pages 51-52.

The number that caught my eye was in the chart on Page 52, where it says that in FY16, accused waived the Article 32 preliminary hearing in almost 85 percent of the cases with a penetrative offense.

That seems way too high as a practical matter and when I checked the numbers, I couldn't get them to add up to anything close to 85 percent.

My rough guesstimates were the opposite, about 15-25 percent. I can explain in
more detail, but somebody needs to look closely
at all the data in these two charts.

So, Brigadier General Schwenk was kind
enough to work with Mr. Mason and I late
yesterday afternoon. Sir, I believe you're
comfortable that the numbers are in fact
accurate?

BG SCHWENK: Yes, I was -- I misread
what the comparison was all about. I applied the
numbers to the first chart on Article 32s, with
the FY2016 total number of cases, 614. And
that's not what the chart, the second chart is
doing. It's comparing within the smaller
universe.

So, the numbers are correct. I just
thought, okay, if the numbers are correct and I
misread it, somebody else may misread it. So,
let's change that introductory paragraph to be
more explanatory. And take it away, Captain
Tideswell.

CAPT TIDESWELL: Yes, sir. So, you'll
see additional staff language, which is in
Comment G48. And as you read through that,
General Schwenk recommended that we include
percentages with that language, he thought that
that might be more explanatory for the reader of
the report.

So, the language that you're looking
at has been slightly changed to include
percentages. So, if you will indulge me, I'm
going to go ahead and read the new language, to
see if there's any objections.

So, that paragraph that starts right
now with "in Fiscal Year 2016, the percentage of
Article 32 hearings waived" will now read, and
the whole paragraph will read:

"In Fiscal Year 2016, Article 32
hearings were waived in 90 cases (70.9 percent)
without a pretrial agreement, an increase from 31
cases (50.8 percent) in Fiscal Year 2015.

Of the 127 cases in Fiscal Year 2016,
where the Article 32 hearing was waived, 20 (15.7
percent) involved a contact offense and 107 (84.3
percent) involved a penetrative offense.
Of the Article 32 hearings waived, the percentage involving a contact offense decreased from Fiscal Years 2014, which was at 35.5 percent, to 2016's 15.7 percent, while the percentage involving a penetrative offense increased from Fiscal Year 2014's (65.5 percent) to 2016, which was at 84.35 percent.

The conviction rate when the Article 32 is waived continued to decrease from Fiscal Years 2013 to 2016. In 2013, it was 92.1 percent and in 2016, it was 52 percent."

I think this might be a slightly complicated change and I would ask the members to allow the staff to make the change and that, when we send out the final report, that this is one area that you specifically check prior to us going to print, if that's okay.

I know it's --

BG SCHWENK: Yes, this is Jim Schwenk. I don't think we need all the percentages there for all the numbers, but if you send it out to us, we can look at it.
CAPT TIDESWELL: Yes, sir.

MS. BASHFORD: This is Martha. I just think, going forward, it's fascinating that where Article 32 is waived, the conviction rate has seen such a substantial decrease. I don't know what that signifies, but I'm interested in finding out in the future.

CAPT TIDESWELL: Yes, ma'am. So, if you don't mind, we'll go ahead and we'll make the recommended changes. We'll get rid of the percentages and we'll provide the language to you in the final report and give you just one last check on that.

Are there any objections to that approach? The next --

HON. GRIMM: There's no objection, but when you do that, can you flag what is our -- I'm guessing there will be a relatively few number in which that's the case and flagging where we need to go, right to that point, would be helpful.

CAPT TIDESWELL: Absolutely, will do, sir. The next recommended change is Comment 49.
Apologies to Brigadier General Schwenk,
apparently we gave him the wrong middle initial
and we have deleted the middle initial per his
request.

    BG SCHWENK: My mother thanks you.

    CAPT TIDESWELL: Yes, sir. Any
objections to that?

    COL WEIR: Yes.

    (Laughter.)

    CAPT TIDESWELL: The next recommended
change is G50. Brigadier General Schwenk
suggested edit. Last sentence, we may want to
add that the Policy Working Group also heard from
a parent of a Servicemember victim. Very
compelling testimony and we mention it later in
the report.

    The staff made the recommended change
to the sentence. Are there any objections?

    The next comment is Comment G51.

    Brigadier General Schwenk suggested edit. What
two issues? We should state them or delete this
point, because the draft raises the question and
I don't know what they are, since we had four recommendations, not two.

You will note that the staff has deleted the language. Are there any objections to that change?

The next comment is G52. Brigadier General Schwenk suggested edit. Sub-bullets are likely to raise the question, what did the rest of the respondents answer?

For example, the first sub-bullet says that 54 percent liked their new duty station better than their old. But how many liked their old better and how many didn't see much of a difference between the two? I'd like to know and I think our readers may too.

So, you will note that the staff went through under the sub-bullets and basically put more explanatory language addressing the issues identified by General Schwenk, sort of doing the comparison before and after. Are there any objections to the additions to those sub-bullets?

Next comment is a Brigadier General
Schwenk suggested edit, it's G53. Delete the second and third sentence. We will consider this for next year's report, when the Policy Work Group evaluates the RFI data.

I'm pretty hard over on this one and the next -- and I believe he's referring to the next comment.

So, the staff went ahead and deleted the language as requested by Brigadier General Schwenk. Are there any objections?

Comment G54, Brigadier General Schwenk suggested edit. Delete and start on Page 64, Paragraph C. As we note in the first sentence of the third paragraph, the Policy Working Group hasn't had time to look at this data.

The Policy Working Group can analyze the data for the next year's report and advise the Committee accordingly.

So, what the staff has done is they have removed the language and they've also removed the charts that contain the data following the text. Are there any objections to
this?

MS. BASHFORD: I'm just looking through
-- this is Martha. I'm just looking through it.

BG SCHWENK: Yes, this is Jim Schwenk.
I thought, Martha, that you wanted to talk about
whether to leave, take out any comments, but
leave the data in, since we have the data.

MS. BASHFORD: It seems to me that if
we wait a year, some of this data might be kind
of stale. And I think it's really pretty
compelling, right? I think we should reference
it in some form. It's just hard to --

BG SCHWENK: Yes, this is Jim Schwenk.
I was mostly concerned about making comments on
the data, when we hadn't really analyzed it at a
working group level or a DAC-IPAD level.
I'm less concerned about putting the
data out there. Part of me says, well, we just
got the data, we haven't even analyzed it, so
we're sort of just throwing it out there without
any comments.

But the other part of me says, well,
we are a Federal Advisory Committee. Any data
that we get is available to the public, all
they've got to do is ask for it.

And this isn't one of those where
we're going to put another report out in a month
or two; it's another year to go. So, when our
illustrious staff director told me that Martha
was wondering about the data, I reconsidered.

And I don't mind putting the data in
here, as long as we don't comment on it, because
we haven't had a chance to analyze it and make
any decisions. But the data itself, we have it,
I guess I'm not as -- it doesn't bother me to put
it out.

MS. BASHFORD: I would have some
comment, but an objective comment, since the Navy
provided the SVC/VLC representation to the DAC-
IPAD, that's the third sentence in the beginning
paragraph that's struck out.

And I would leave out the "striking",
I would just simply say, "out of 302 requests for
expedited transfer, 300, or 99 percent, were
represented by VLCs". And then that we believe
going forward that tracking this would be very
useful.

But I do think the fact that 99 percent were -- I think that's a sentence that
should be in there, without saying that we find
it "striking" or anything. It is what it is.

CAPT TIDESWELL: Any further discussion
from the Committee? If there's no objections,
ma'am, we as a staff will go ahead and put
appropriate text in there and this will be
another item that I will flag, per Judge Grimm's
request, when I send the report out for the final
review. If that's okay with the Committee.

All right. There being no objections,
is everyone comfortable that we keep the data in?

MS. BASHFORD: Yes.

CHIEF McGINLEY: This is Rod McKinley.

I'm comfortable with that.

CAPT TIDESWELL: All right. There
being no objections, we'll keep the data charts
in.
The next recommended change is G55.

And I believe there were edits on Page 5, at the beginning of the report, that we will now have to make changes to this particular finding to make sure everything matches.

So, just so the Committee knows, as we've made changes, the staff will take it upon themselves to make sure we maintain consistency throughout the report.

With that noted, the next comment is G56. The staff added this language in response to General Schwenk's request for more information to support Finding 3, which was made at the beginning of the report and the beginning of our review today.

And I would also note that we added Footnote 190, which is a cite to a Policy Working Group preparatory session, specifically citing the testimony of Captain Brandon Regan of the U.S. Marine Corps.

Are there any objections to that language?
The next comment is G57. Brigadier General Schwenk suggested edit. Do we really want to get into officially commenting on which duty locations/stations are better than others? Based on what criteria?

I vote not to go there. I'd delete everything having to do with this RFI until the Policy Working Group has time to review and discuss what to publish and what to say about what is published. We appear to be trying to do too much too quickly.

So, with that said, are there any objections to that being deleted? No objections.

The next comment is G58. Just to note that the findings will be revised based on the edits we made on Page 5, to make sure we have consistency. That's more of a flag than anything.

Next comment is G59. Brigadier General Schwenk suggested edit. Can we add any additional info/testimony to support this finding, as it is pretty weakly supported?
And that's the information that we provided on Page, I believe it's 65, next to Comment G56. That's the bolstering language that he requested.

HON. GRIMM: Where is that bolstering language, please?

CAPT TIDESWELL: Yes, sir. It's right next to Comment 56. It starts with, "another concern noted by the JPP". Are there any objections --

HON. GRIMM: Could I just make one --

CAPT TIDESWELL: Yes, sir.

HON. GRIMM: We say that while this is -- on Page 68, top of the page, the blue language, it says "while this is a proper line of questioning", I'd be interested in Judge Walton's view, but it's an appropriate line of questioning when there's a legitimate basis for questioning the motivation of the person making the transfer. It's not a legitimate line of questioning if you're just pulling it out to ask the question, to leave the inference that was
there, there's nothing there to do it.

So, I don't know, how about saying
"may be an appropriate line of questioning in a
particular case"? That's something the military
judge is supposed to control.

The defense attorney is -- the
prosecutor is supposed to be trained to know to
object and to approach the bench and ask for a
proffer if there's a factual basis to support the
line of questioning.

There are evidentiary tools available
to deal with that. But I think it goes too far
to imply that it's universally proper line of
questioning.

MS. GARVIN: This is Meg Garvin. I'm
going to concur with that, adding at least "may
be" would be useful.

HON. GRIMM: It's a loophole fix just
to say "may".

HON. WALTON: This is Reggie Walton. I
agree with that.

HON. BRISBOIS: Judge Brisbois, I
concur.

CAPT TIDESWELL: So, unless there are any objections from the Committee, and I believe we were referring to a sentence that appears very close to G59, just to orient everyone, the sentence will now read:

"While this may be a proper line of questioning, it may reinforce the member's perception of widespread abuse of the expedited transfer policy."

HON. GRIMM: Thank you.

CAPT TIDESWELL: Are there any objections to that language?

With that said, I believe the only remaining comment is G61, from Brigadier General Schwenk. I think we should further explain, perhaps by putting something like the following at the end: "And these differences are less favorable to victims."

Are there any objections to that change? There being no objection, I think that's the last recommended change to the report.
Is there anything else the Committee would like to discuss before I address the transmittal letter?

MS. BASHFORD: This is Martha. There are places, I'm sorry, I can't find one right now, I know they are -- for example, on Page 83, when they're talking about people who testified in front of the Policy Working Group. Airman First Class EF, Petty Officer Second Class CC, is that sufficiently anonymized? Petty Officer Third Class JC from the Coast Guard? Is putting their initials with their rank going to really keep them anonymous? I don't know the answer to that, I'm just raising it.

MS. CARSON: We can just make it the generic, "a Petty Officer Third Class".

CAPT TIDESWELL: Yes, ma'am.

MS. BASHFORD: Okay. I would feel more comfortable with that.

CAPT TIDESWELL: Are there any
objections from the Committee to eliminating the 

victims who testified, their initials? We'll 

just go with rank only.

MS. BASHFORD: And I'm sorry to do this 
to you, but it appears as footnotes throughout as 

well.

CAPT TIDESWELL: Yes, ma'am. We'll 
take care of it, that's easy.

MS. BASHFORD: Okay. Thank you.

CAPT TIDESWELL: Is there any other 
discussion, objections, comments on the report 
itself?

MS. PETERS: Ma'am, I have one 
question. This is Meghan Peters, from the staff. 
Regarding the language, the new language of 
Finding 3.

The additional language that the 
Committee just discussed, the second sentence 
says that "trial defense counsel can use the fact 
that a victim received an expedited transfer to 
show a potential motive to fabricate a sexual 
assault, even with no evidence to corroborate or
support such an assertion", and then the finding continues on.

Is that phrase, "even with no evidence to corroborate or support such an assertion",
something that falls in line with Judge Grimm's concerns about making statements further than we need to go about the nature of the evidence that's subject to cross examination?

HON. GRIMM: That's a good point. What we might -- what we have -- what has been reported to us that there have been instances in which that may have happened, without a factual basis to support it.

And if that phraseology was used, it does not get into the weeds about when is it or is not appropriate ethically to pursue a line of cross examination if you know that you don't have factual basis for pursuing, because it's a nuanced line that is very fact dependent.

But nor, frankly, did we have enough information presented to us to say that in the cases where it was done, that it wasn't a basis
to do it.

So, if we were to approach it from the description that it was reported that there are cases where it may have been done in instances where there was not a factual basis, it raises an issue of a situation that we've been told occurs.

We're not trying to tell the military justice folks how to fix it, but we're saying that that perception reinforces, or may reinforce, the perception widely among commanders and others that this transfer process is being abused, when the evidence presented to us overwhelmingly shows that it is not.

It explains a reason why there was a finding that we made without asserting it as if it is factually established. I don't know if that was helpful.

CAPT TIDESWELL: So, do we want --

MS. BASHFORD: This is Martha.

CAPT TIDESWELL: I'm sorry.

MS. BASHFORD: I think the factual basis is that the person received a transfer.
The cross examination would be as to the motivation. I mean, we see it in civilian prosecutions most often with somebody applying for a U visa.

So, the fact is that, yes, they applied for a U visa. And then, that's used to question their motivation for lodging the charge, which is a prerequisite for getting the U visa.

So, I would think that you received a transfer, the follow-up -- does that -- did you make the allegation so that you could receive it? I don't know how you would be able to prove that.

HON. GRIMM: It's the difference between the way in which you ask the questions. Did you do this in order to get -- just simply to do that? As opposed to asserting, in argument, for example, before the court, or a final argument to the jury, if there was no evidence to support it, that that's what was done.

And that's where you get into the mechanics of how a trial is supposed to operate, how a prosecutor is supposed to object if the --
if the answer was, yes, I considered that, then they've got evidence and they can make the argument.

So, it's likely not to happen unless there was an actual transfer, that's true. It's likely to be an area where asking the question and seeing what the answer is. But if you assert it as, they did this, so you all know why that was done, there's no evidence there, that's where the abuse comes in.

CAPT TIDESWELL: So, Chair Bashford, would it be appropriate to just delete the verbiage "even with no evidence to corroborate or support such an assertion"? So, the sentence basically reads:

"At trial, defense counsel can use the fact that a victim received an expedited transfer to show a potential motive to fabricate a sexual assault in the hope that doing so will be enough for members who believe there is widespread abuse."

MS. BASHFORD: I would just say,
instead of "can", I would say "may".

HON. GRIMM: I agree with that.

CAPT TIDESWELL: "May use"?

MS. BASHFORD: Yes.

BG SCHWENK: Yes, this is Jim Schwenk.

That's fine with me.

CAPT TIDESWELL: And then, leave the language in?

HON. GRIMM: Yes.

MS. BASHFORD: I thought it was fine the way you just read it, except instead of "can use it" I would have said, they "may use it".

HON. GRIMM: Right.

CAPT TIDESWELL: Yes, ma'am. So, Chair, just to confirm, we would like to delete the language "even with no evidence to corroborate or support such an assertion", take that out?

MS. BASHFORD: I would take that out, yes.

CAPT TIDESWELL: Are there any objections from the Committee in doing so? Are
there any objections to changing the word "can"
to "may"? All right. Thank you, Ms. Peters,
that was a good catch.

Okay. Anything else from the Committee
on the report itself? Major King, should we do a
roll call real quick, just to confirm that the
Committee is approving the report --

MAJ KING: Absolutely.

CAPT TIDESWELL: -- with the changes as
recommended?

BG SCHWENK: Hey, I'd like to say one
thing. I want to go back to what Chair Bashford
said to start off.

I thought the Committee did a terrific
job of taking a bunch of blank -- I mean, the
staff did a terrific job of taking a bunch of
blank pieces of paper and a lot of stuff that we
did and putting a very compelling, easy to
understand piece of paper together as our final
report for this year.

So, I want to say exactly what she
said, congratulations to the members of the staff
who did this and thank you so much for all your efforts.

MS. BASHFORD: Ditto.

CAPT TIDESWELL: Thank you. Thank you, everybody.

BG SCHWENK: Yes, I'd like the public record to reflect that. It's an enormously impressive amount of work and the fact that it reads so well and flows so smoothly masks the fact that it was an enormous undertaking. And it really was a first rate job.

CAPT TIDESWELL: Chair Bashford, I don't make this comment lightly, but after 30 years of service, and please do not tell the Navy on me, this is literally the finest staff I have had the honor of working with. So, thank you to all of them. I so appreciate every one of you.

Okay. Ma'am, if you don't mind, I would like to run a real quick roll call on the report to get everybody's approval. And I'll just go name by name. And this is approval of the report with the recommended changes to be
made as discussed during this phone call.

Chair Bashford, do you approve?

MS. BASHFORD: Approve.

CAPT TIDESWELL: Judge Brisbois?

HON. BRISBOIS: Approve.

CAPT TIDESWELL: Ms. Cannon?

MS. CANNON: Yes, I approve.

CAPT TIDESWELL: Ms. Garvin?

MS. GARVIN: Yes.

CAPT TIDESWELL: Judge Grimm?

HON. GRIMM: I approve.

CAPT TIDESWELL: Ms. Long?

MS. LONG: I approve.

CAPT TIDESWELL: Mr. Markey?

MR. MARKEY: I approve.

CAPT TIDESWELL: Dr. Markowitz?

DR. MARKOWITZ: I approve.

CAPT TIDESWELL: Chief McKinley?

CHIEF MCKINLEY: Approve.

CAPT TIDESWELL: Brigadier General Schwenk?

BG SCHWENK: Approve.
CAPT TIDESWELL: Dr. Spohn?

DR. SPOHN: I approve.

CAPT TIDESWELL: Ms. Tokash?

MS. TOKASH: I approve.

CAPT TIDESWELL: Judge Walton?

HON. WALTON: I approve.

CAPT TIDESWELL: Have I missed anyone?

We have an approved report.

Did the Committee have the opportunity to review the transmittal letter and are there any recommended changes, edits, or --

HON. WALTON: This is Reggie Walton. My only recommendation is that the second, I guess it's the second sentence of the first paragraph, we indicate either that this is our preliminary impressions or our impressions at this time. We may have different impressions at some point down the line.

CAPT TIDESWELL: Yes, sir. Are there any objections to including the word "preliminary"?

MS. BASHFORD: I'm still pulling up the
transmittal letter, sorry. Yes, that's fine.

    CAPT TIDESWELL: Yes, ma'am. So, the
sentence will now read: "This report summarizes
the Committee's preliminary impressions on issues
of importance related to the investigation,
prosecution, and defense of sexual assault crimes
in the military."

    Do the members concur with the
transmittal letter as written? Let me just go
down, roll call real quick. Chair Bashford?

    MS. BASHFORD: Yes.

    CAPT TIDESWELL: Judge Brisbois?

    HON. BRISBOIS: Shouldn't the second
paragraph say "six public meetings"?

    CAPT TIDESWELL: Yes, excellent catch.
I don't know who that was, but thank you.

    HON. BRISBOIS: That's Judge Brisbois,
sorry.

    CAPT TIDESWELL: Thank you, sir. We
will make the change to "six public meetings".

    HON. BRISBOIS: Otherwise, yes, I am
fine with it.
CAPT TIDESWELL: Yes, sir. Ms. Cannon?

MS. CANNON: Yes, I'm fine.

CAPT TIDESWELL: Ms. Garvin?

MS. GARVIN: Yes.

CAPT TIDESWELL: Judge Grimm?

HON. GRIMM: Yes.

CAPT TIDESWELL: Ms. Long?

MS. LONG: Yes.

CAPT TIDESWELL: Mr. Markey?

MR. MARKEY: Yes.

CAPT TIDESWELL: Dr. Markowitz?

DR. MARKOWITZ: Yes.

CAPT TIDESWELL: Chief McKinley?

CHIEF MCKINLEY: Yes.

CAPT TIDESWELL: Brigadier General Schwenk?

BG SCHWENK: Yes.

CAPT TIDESWELL: Dr. Spohn?

DR. SPOHN: Yes.

CAPT TIDESWELL: Ms. Tokash?

MS. TOKASH: Yes.

CAPT TIDESWELL: Judge Walton?
CAPT TIDESCWELL: Unless the Committee has other matters to take up, I believe that's the end of the meeting. Is there anything anybody would like to raise?

HON. WALTON: This is Reggie Walton. Just a question. Will we -- will you be, when you have the final materials, will you be instructing us to sign and send it back in some fashion?

CAPT TIDESCWELL: Yes, sir. So, what will happen next is, we'll have about two or three days of downtime, while we wait for the transcript, so we can go back and make sure we're capturing everything properly.

We will then send it to our editor, Ms. Falk. Once she's done, it'll go to the graphics designer. So, what you all will see is literally the completed report, to include a blank transmittal letter.

And what I will ask you to do is, is to provide me with your okay on the document. I
will flag some of the highlighted areas that I would like you to pay particular attention to.

And once you're comfortable, I will ask each member to give me the okay to electronically place their signature on the document.

HON. WALTON: And you'll do that in a separate communication?

CAPT TIDESWELL: Yes, sir.

HON. WALTON: Okay, great. That's perfect.

CAPT TIDESWELL: And I suspect it's probably going to take us about a week or a week and a half. We're cutting it close, but I think we're still on target, unless the wind blows a lot in Washington and they cancel work.

But so far, I think we'll be fine.

All right, sir.

MAJ KING: And with that, this public meeting of the DAC-IPAD is officially closed.

(Whereupon, the above-entitled matter went off the record at 12:15 p.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: DAC-IPAD Public Meeting

Before: USDOD

Date: 03-09-18

Place: teleconference

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

__________________________
Court Reporter

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