

UNITED STATES DEPARTMENT OF DEFENSE

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

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PUBLIC MEETING

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SATURDAY
SEPTEMBER 14, 2019

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

PRESENT:

Ms. Martha S. Bashford, Chair
MG Marcia M. Anderson, USA (Ret.)
Ms. Kathleen B. Cannon
Ms. Margaret Garvin
Hon. Paul W. Grimm
Ms. Jennifer G. Long
Mr. James P. Markey
CMSAF Rodney J. McKinley, USAF (Ret.)
Brig. Gen. James R. Schwenk, USMC (Ret.)
Ms. Meghan A. Tokash
Hon. Reggie B. Walton

STAFF:

COL Steven Weir, USA, Staff Director
Ms. Julie Carson, Deputy Staff Director
Ms. Patricia Ham, Attorney-Advisor
Ms. Nalini Gupta, Attorney-Advisor
Mr. Dwight Sullivan, Designated Federal Officer

ALSO PRESENT:

Captain Josephine VanDriel, U.S. Air Force

Major Paul Ervasti, U.S. Marine Corps

Lieutenant Adam Miller, U.S. Coast Guard

Mr. Jim Martinson, U.S. Navy

Lieutenant Colonel Adam Kazin, U.S. Army

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

2 11:10 a.m.

3 MR. SULLIVAN: Good morning. I'm
4 Dwight Sullivan, the Designated Federal Officer
5 of the Defense Advisory Committee on
6 Investigation, Prosecution, and Defense of Sexual
7 Assault in the Armed Forces or DAC-IPAD. This
8 meeting is open.

9 For the benefit of the court reporter,
10 I request that everyone identify yourself before
11 speaking. The Director of the DAC-IPAD will be
12 serving as the moderator for today's meeting.
13 Colonel Weir?

14 COL. WEIR: Thank you, Mr. Sullivan,
15 and good morning. I'd like to welcome the
16 members and everyone in attendance today to the
17 14th public meeting of the Defense Advisory
18 Committee on Investigation, Prosecution, and
19 Defense of Sexual Assault in the Armed Forces.

20 This unusual Saturday meeting was
21 scheduled for today in order for the committee to
22 meet its deadline of September 16 for providing

1 input to the Department of Defense General
2 Counsel concerning collateral misconduct.

3 Because the participation of members
4 today is by teleconference, I am going to read
5 the names of the members expected this morning,
6 and I would like each of you to acknowledge your
7 presence when I read your name. Thank you.
8 General Anderson?

9 MG ANDERSON: Present.

10 COL. WEIR: Kathleen Cannon?

11 MS. CANNON: Present.

12 COL. WEIR: Margaret Garvin? Margaret
13 Garvin?

14 MS. GARVIN: Present. Sorry, I
15 couldn't get off of mute. I apologize.

16 COL. WEIR: Judge Grimm?

17 HON. GRIMM: I am present. Good
18 morning.

19 COL. WEIR: Jennifer Long?

20 MS. LONG: Present. Good morning.

21 COL. WEIR: James Markey?

22 MR. MARKEY: Present.

1 COL. WEIR: Chief Master Sergeant Air
2 Force Rod McKinley?

3 CMSAF MCKINLEY: Present.

4 COL. WEIR: Brigadier General Schwenk?

5 BRIG. GEN. SCHWENK: Present.

6 COL. WEIR: Megan Tokash?

7 MS. TOKASH: Present.

8 COL. WEIR: Reggie Walton?

9 HON. WALTON: Present.

10 COL. WEIR: Thank you. Five members
11 currently are unable to participate in today's
12 meeting, and that's Judge Brisbois, Mr. Kramer,
13 Jenifer Markowitz, and Dr. Spohn, and Ms.
14 Bashford.

15 The DAC-IPAD was created by the
16 Secretary of Defense in 2016 in accordance with
17 the National Defense Authorization Act for fiscal
18 year 2015 as amended.

19 The mandate is to advise the Secretary
20 of Defense on the investigation, prosecution, and
21 defense of allegations of sexual assault and
22 other sexual misconduct involving members of the

1 Armed Forces.

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

6 Today the committee will conduct final
7 deliberations on and vote whether to approve a
8 letter from the committee chair on behalf of the
9 committee to the Secretary of Defense.

10 This letter contains the DAC-IPAD
11 analysis of and recommendations regarding the
12 Department of Defense's 2019 sexual assault-
13 related collateral misconduct report and future
14 report requirements.

15 Each public meeting of the DAC-IPAD
16 includes a period of time for public comments.
17 We have received no requests for public comment
18 at today's meeting.

19 Thank you all for participating today,
20 and at this time, I am ready to begin the
21 discussion of the collateral misconduct, the
22 draft letter back to the Secretary of Defense.

1 If you'll take a look at the draft
2 that was sent to the members, what we'll do is
3 just go through this, and there are comments on
4 your copy of the draft by various members of the
5 committee, and so we'd like an opportunity to
6 discuss those, and deliberate, and then after
7 we're done with all of the discussions, we'll
8 vote on whether or not to accept the report as
9 drafted with those changes or additions that the
10 committee has made.

11 If you look at page one of the draft,
12 there were no comments by any of the committee
13 members to anything that's contained on page one,
14 and also if you look at page two, there are no
15 comments from any members of the committee.

16 If we look at page three, there was a
17 comment submitted by General Schwenk, and he
18 suggested adding a footnote containing the number
19 of false reports that were submitted.

20 So the staff drafted a footnote, which
21 is footnote four, which says, "The Army reported
22 eight cases involving false allegations of sexual

1 assault. The Navy, Marine Corps, and the Air
2 Force each reported five cases involving false
3 allegations of sexual assault, and the Coast
4 Guard reported no cases involving false
5 allegations of sexual assault."

6 Would anyone like to comment or
7 discuss the recommendation or suggestion by
8 General Schwenk to add that footnote?

9 MS. LONG: This is Jennifer Long, and
10 I apologize for not putting my comment in. I
11 think that it's very important to describe or
12 explain that the Services define false allegation
13 of sexual assault broadly, and that that
14 definition also included third parties making a
15 report of a sexual assault that then a victim
16 clarified was consensual.

17 Because under no common understanding
18 or even understanding in the research is false
19 allegation understood to include that, and so
20 what you will do is sort of create a record of
21 true false reports that we don't know how many of
22 these actually were those versus the others, and

1 that came out during the hearing, so I would just
2 like that explanation in.

3 COL. WEIR: Okay, in anticipation of
4 Ms. Long's comment, the staff drafted, if you'll
5 look at the paragraph on page three that begins,
6 "The Services were also inconsistent." So I will
7 read the suggested language that you don't have
8 and then we can discuss further the language that
9 we've drafted.

10 "The Services were also inconsistent
11 in how they treated what they considered to be
12 false allegations of sexual assault. Some
13 Services included false allegations in their data
14 as collateral misconduct, while others did not.

15 "To clarify whether a Service included
16 false allegations in the reported number of cases
17 involving collateral misconduct, the DAC-IPAD
18 asked all of the Services to separately provide
19 data concerning false allegations and adverse
20 actions taken.

21 "None of the Services provided a
22 written definition of what they classify as a

1 false allegation of sexual assault or specified
2 the evidentiary threshold necessary to classify
3 an allegation as false.

4 "During the August 23, 2019 public
5 meeting, the committee members questioned the
6 Service representatives on this issue and learned
7 that at least one Service classified cases in
8 which a mistaken report was made by a third party
9 as a false report.

10 "The Service representatives also
11 mentioned instances in which a suspect makes a
12 cross claim of sexual assault, meaning that one
13 person reported the sexual assault and the
14 suspect in that case then countered by accusing
15 the reporter of sexual assault.

16 "Several Service representatives noted
17 that they had difficulty determining how to
18 classify these reports," and then that would be
19 footnoted to the transcript of the August 23
20 public meeting.

21 So I think, Ms. Long, we added in that
22 language. Did that, the language that I read,

1 did that satisfy what your concern was?

2 MS. LONG: It does. Thank you very
3 much.

4 COL. WEIR: Does anyone have any
5 questions about that, the drafted language that
6 was suggested be put in based upon Ms. Long's
7 comments?

8 MS. GARVIN: This is Meg Garvin, just
9 that it answers my concern as well about the
10 paragraph, so I'm pleased that it's already been
11 drafted. Thank you for that.

12 COL. WEIR: And I think what the draft
13 language does is it just clarifies in more detail
14 what you all learned at the August 23 meeting
15 about the false allegation claim. Does anyone --

16 BRIG. GEN. SCHWENK: This is Jim
17 Schwenk. Thank you for doing that footnote. I
18 was trying to get something in the report about
19 how few cases there were regardless of all of the
20 problems on how to count them, that there aren't
21 that many.

22 Is there any way to take that big

1 number from our enclosure three of the total
2 number of Service member victims, I think it was
3 5,733, and maybe start the footnote by saying, Of
4 the 5,733, you know, Service member victim cases
5 during that period, eight were this and five were
6 that, which would maybe make my point even
7 better? I don't know.

8 MS. CARSON: We could combine all of
9 the Services, General Schwenk, this is Julie
10 Carson, and give the total number of military
11 sexual assault victims, and then the total number
12 of military determined false allegations by
13 whatever method, and then whatever very low
14 percentage that is.

15 BRIG. GEN. SCHWENK: Yeah, because
16 it's so small and we had a 5,000 and something
17 number in our enclosure three, I thought if we
18 reflected that, it would help in that sense to
19 give a perspective to the reader.

20 COL. WEIR: So the footnote will say,
21 There were a total of 5,733 Service member
22 victims, and of that number, the Army reported

1 eight cases, and then it would just go with the
2 footnote we already have in the draft.

3 BRIG. GEN. SCHWENK: Yeah.

4 COL. WEIR: Does that make sense?

5 BRIG. GEN. SCHWENK: Yeah, that's all
6 I'm suggesting. That's exactly right.

7 MR. SULLIVAN: Steve, this is Dwight
8 Sullivan. Could you read that again, the
9 beginning of that again, please?

10 COL. WEIR: Yes, so footnote four
11 would say, "There were a total of 5,733 Service
12 member victims."

13 MR. SULLIVAN: Rather than "victims,"
14 should that word be "reports?"

15 MS. CARSON: Well, the question is
16 victims. That's the number that was provided by
17 the Services.

18 MR. SULLIVAN: It would seem a bit odd
19 to say that there were this number of victims,
20 and of this number of victims, blank were a
21 number of false reports.

22 MS. CARSON: But there could be

1 multiple victims in a case, so I don't know.

2 MR. SULLIVAN: My point is if we're
3 saying, you know, the number of victims is ten
4 and two of the victims were false reports, that
5 would suggest that they weren't actually victims.

6 MS. CARSON: Right.

7 BRIG. GEN. SCHWENK: So should you
8 say, "reported victims" or --

9 MR. SULLIVAN: That would address it.

10 COL. WEIR: So, There were a total of
11 5,733 reported Service member victims, and of
12 that number, the Army, and then just finish the
13 footnote?

14 MR. SULLIVAN: Right.

15 BRIG. GEN. SCHWENK: That works for
16 me. This is Jim Schwenk. That's good.

17 MR. SULLIVAN: Does anyone have any
18 further discussion on the footnote or the
19 language that the staff drafted to answer Ms.
20 Long's concerns?

21 MS. LONG: Just, it's Jennifer Long
22 again, "involved reported false allegations,"

1 because again -- I'm sorry if I missed that. I
2 was trying to listen carefully. If you're going
3 to talk about the total number of reported
4 victims, then I would equal it with "reported
5 false reports" or something since we have already
6 said we don't know what standard they're using,
7 so I just don't want it to be a conclusion that
8 they are false until we know more. I'm not
9 saying we can't do that at some point.

10 PARTICIPANT: So, Ms. Long, where
11 would --

12 MS. LONG: I know it's hard. I'm
13 looking at the old footnote. I tried to write
14 down what you were all saying. I don't know that
15 this grammatically is correct in the original
16 footnote where it said --

17 I just, now that you've added of the
18 5,000 or whatever reported victims, I think just
19 where you're talking about the false allegations,
20 that it's very clear that those are also reported
21 or that they found false allegations, but I want
22 us to be careful we are not concluding that they

1 were false because we don't know what their
2 determination was. Does that make sense?

3 MS. CARSON: This is Julie Carson
4 again. I think I see what you're trying to say.
5 It's these that were reported by the Services as
6 false allegations.

7 MS. LONG: Right, exactly.

8 MS. CARSON: I think we can make that
9 change.

10 MS. LONG: Thank you.

11 COL. WEIR: Okay, moving on to page
12 four, I don't see any comments on page four from
13 any of the committee members. If we look to page
14 five in the recommendations, there's a suggested
15 edit by General Schwenk.

16 It's at recommendation one and it
17 added language, "or where appropriate, the
18 Department should submit a legislative proposal
19 to Congress to amend Section 547 by clarifying
20 certain methods, definition, and timelines."
21 Does anyone have any concerns about that
22 additional language?

1 BRIG. GEN. SCHWENK: Yeah, this is Jim
2 Schwenk. I just want to explain the reason I
3 said that is it seems to me that arguably some of
4 our recommendations would require an amendment to
5 the statute.

6 The Secretary couldn't do it alone,
7 and the recommendation goes to the Secretary, so
8 we needed something to cover the recognition that
9 some of this will require amending Section 547,
10 and this language is fine with me, Steve.

11 COL. WEIR: Any other comments on the
12 proposed language? Okay, and that was at the
13 bottom of page four. I'm sorry if I said page
14 five.

15 And I want to preface the discussion
16 on the definitions by stating that we met with
17 the Service reps in July, and also with the
18 Service reps were those individuals who
19 participated in gathering the information for
20 each Service's report, the draft report that came
21 to the DAC-IPAD committee.

22 And so we further followed up after

1 that meeting with the Services because it became
2 very clear that there was different methodologies
3 employed across the Services and the Services
4 used different definitions to define what they
5 were looking at.

6 So they stated to us, the staff, that
7 it would be very helpful if the committee drafted
8 definitions across the Services that all of the
9 Services could follow.

10 So we had a back and forth with the
11 Services because obviously they're the ones that
12 are required to get the information and data from
13 each Service's, you know, collection of the
14 information.

15 So we went back and forth and the
16 definitions that we drafted for the committee are
17 those that we ran by or were suggested by the
18 Services themselves, and so there was close work
19 done with the Service reps to ensure that the
20 definitions that the committee submitted made
21 sense to the Services and allowed them to do a
22 comprehensive review for the next report.

1 CHAIR BASHFORD: Colonel Weir, it's
2 Martha Bashford. I totally apologize. I'm sorry
3 I'm so late to the call.

4 COL. WEIR: No problem, ma'am. We
5 have picked up on what's page five of the draft.

6 CHAIR BASHFORD: Okay.

7 COL. WEIR: And we're just going
8 through the committee members' comments. So we
9 defined the committee's definition of sexual
10 assault. There were no comments based upon that
11 definition.

12 HON. WALTON: This is Reggie Walton.
13 Sorry I didn't weigh in earlier, but I've been in
14 trial. I would just recommend that in addition
15 to attempt conspiracy and solicitation, that we
16 include aiding and abetting.

17 COL. WEIR: Anyone have any comments
18 or questions about Judge Walton's proposed
19 addition to the definition of sexual assault?

20 CHAIR BASHFORD: I'm not familiar
21 enough with what it would be under the UCMJ, but
22 it seems to me if we're including conspiracy,

1 then aiding and abetting would be appropriate.

2 COL. WEIR: Okay, well, we will make
3 that addition. Now, the definition of collateral
4 misconduct, this is directly from the Air Force
5 submission because it was clear that there was
6 different definitions of collateral misconduct
7 used by the Services, so all of the Services have
8 reviewed this definition that is currently part
9 of the draft.

10 HON. GRIMM: This is Paul Grimm. Can
11 we conclude from that comment that they've
12 reviewed it that that language that the Air Force
13 is using is acceptable to all of the Services?

14 COL. WEIR: Yes, based upon the emails
15 that went back and forth, Judge.

16 HON. GRIMM: Okay, I just want to make
17 sure that if we're picking one definition, it was
18 completely appropriate to run that by the other
19 Services as well, but I just wanted to make sure
20 that they were on board with that.

21 COL. WEIR: Yes, sir. The way it
22 transpired is that the Air Force Service reps

1 submitted definitions and all of the other
2 Service reps and others were cc'ed on the email,
3 and then we reached out to ensure that there were
4 no concerns by the other Services based upon that
5 definition, and all of the Services received a
6 draft copy of what you all are reviewing for
7 their review prior to ensure that they were happy
8 with the way that we had drafted the definitions.

9 HON. GRIMM: That sounds great.

10 MR. SULLIVAN: And Colonel Weir,
11 Dwight Sullivan here. When you have an
12 opportunity, could you give me a moment to
13 address the aiding and abetting point?

14 HON. GRIMM: Sure, go ahead, Dwight.

15 BRIG. GEN. SCHWENK: This is Jim
16 Schwenk. You're not allowed to say anything
17 about the law of principals in doing so.

18 MR. SULLIVAN: So, General Schwenk
19 anticipated exactly where I was going, and this
20 is not inconsistent with the proposition. I just
21 wanted to familiarize everyone with how military
22 justice treats this point.

1 So in Article 77 of the UCMJ, 10 USC
2 Section 877, Congress defined principals as one
3 who commits an offense or aids, abets, counsels,
4 commands, or procures its commission.

5 So under military law, we treat aiding
6 and abetting not as a standalone offense, but if
7 someone is an aider or abettor, they have
8 committed a 120, or, you know, if it's for
9 larceny, they have committed a 121.

10 So again, that's not at all
11 inconsistent with Judge Walton's point. I just
12 wanted to familiarize everyone with that aspect
13 of military law, which I was not familiarizing
14 General Schwenk with because he anticipated
15 exactly where I was going.

16 CHAIR BASHFORD: So it seems as though
17 it's already included in the basic definition.

18 MR. SULLIVAN: It is already baked in.

19 COL. WEIR: Judge Walton, does that
20 satisfy your concern that it's already --

21 HON. WALTON: Yes, it does.

22 COL. WEIR: Okay.

1 HON. WALTON: It does.

2 COL. WEIR: Okay, then we will not add
3 aiding and abetting based upon the discussion
4 that was just had. Do any of the members want to
5 talk about the definition of collateral
6 misconduct?

7 BRIG. GEN. SCHWENK: Yeah, this is Jim
8 Schwenk. So I guess the way I look at collateral
9 misconduct is why do we care? We care about
10 collateral misconduct only from the sense that it
11 might deter the reporting of the sexual assault.
12 So what might deter the reporting of the sexual
13 assault? Well, if the misconduct might come to
14 light in an investigation, that deters, that
15 could deter the reporting.

16 So any misconduct that might come to
17 light during the course of the investigation to
18 me is collateral misconduct, so if I were writing
19 the definition just out of the blue, that's what
20 I'd write. Our definition is a lot narrower. So
21 why have we decided to narrow it as much as we
22 have?

1 COL. WEIR: I think the discussion,
2 sir, that was had was under your definition, if
3 during the course of the investigation, it was
4 found that the victim smoked marijuana two months
5 before, under your definition, that would be
6 considered collateral misconduct, correct?

7 BRIG. GEN. SCHWENK: If it was
8 reasonable, you know, to think that the
9 investigation would reveal that, yes.

10 COL. WEIR: And that was the issue
11 that the Services had, was when someone would be,
12 you know, down the road, Why did you smoke
13 marijuana? It was because I was sexually
14 assaulted. And so they wanted to make it as a
15 result of or close in time to the actual sexual
16 assault, not something that happened, you know,
17 months before or months after under the
18 definition. That's why the definition was
19 narrowed to close in time of the sexual assault.

20 BRIG. GEN. SCHWENK: Yeah, I guess my
21 concern with that is -- I mean, I understand why
22 they want to do that, but my concern is now we're

1 narrowing what would deter a victim from making a
2 report, because a victim is deterred by the
3 knowledge that any kind of prior misconduct is
4 going to come out as part of the investigation.

5 And now we've said, "Well, we're only
6 going to count collateral misconduct if that
7 misconduct occurred, you know, around the time of
8 or during the sexual assault itself." So we've
9 taken a subset of what our big concern is, which
10 is misconduct by the accused that might come out
11 in the investigation.

12 So that sort of bothers me, and if we
13 had time, I would recommend that we, you know,
14 run this back and ask the Services directly that
15 through a working group and try to work out
16 wherever we're going, but we don't have time, so,
17 you know, I'll just point that out and say I've
18 got misgivings about that, and so let everybody
19 know that's how I feel.

20 I also, you'll see in my note that
21 they put on the side over there, we incorporate a
22 lot of terms that we don't define in that, and,

1 you know, my experience in the past is as soon as
2 you write "directly related," you know,
3 "committed close in time," you know, then how
4 close? How directly?

5 How always comes up in the months and
6 the years afterwards. And so if we had time, I
7 would recommend we define those, but we don't, so
8 that leads me to say from my standpoint, you
9 know, I'm not going to vote in favor of B for
10 those reasons.

11 And, you know, I could vote in favor
12 of something that said, There needs to be a
13 definition of collateral misconduct that
14 everybody agrees and, you know, one that you
15 might consider is this one, as long as, you know,
16 I'm not signing up to say I think this is a good
17 definition because I can't do that. Thank you.

18 CHAIR BASHFORD: It's Martha Bashford.
19 General Schwenk, when you start talking about
20 what might reasonably deter somebody from
21 reporting, I just think you open up, like, a
22 person's entire life.

1 I can think of lots of things
2 completely unrelated to an incident that might
3 deter somebody from reporting, something that
4 happened before they joined the military, and I
5 don't know to what extent, if something is
6 remote, how anybody is going to understand
7 whether they think that would be uncovered by the
8 investigation or not. I think it gets just too
9 far afield.

10 HON. GRIMM: This is Paul Grimm. You
11 know, Judge Walton might have similar thoughts
12 along this same line.

13 We run into the same kind of
14 difficulties in federal court when we have civil
15 cases involving sexual discrimination or age,
16 gender, national origin discrimination, and the
17 notion of retaliation, when someone has been
18 retaliated against.

19 And the court does struggle with
20 trying to figure out what's the temporal nexus
21 required for some sort of adverse action taken
22 against the person who reports this

1 discrimination.

2 And they have developed on a case by
3 case basis sort of presumptive periods of time
4 that may vary from circuit to circuit, but it's
5 impossible to have it absolutely granular, but
6 they do say things such as, if you get beyond two
7 or three months, then it's too remote in time.

8 And I think General Schwenk's comment
9 is well taken, but as Chair Bashford said, this
10 is one of those things like pulling a thread on a
11 sweater. The more you pull on it, the more it
12 unravels.

13 I don't know whether or not, in the
14 decisions of the appellate courts within the
15 military, they further refine conflicts like
16 this, but it's hard to get a specific period of
17 time that we would identify, and without having
18 some limitation on it, it does open the door for
19 a lot of subjective analysis.

20 And if we're going to have -- I mean,
21 I think maybe if the notion of it is an objective
22 test, in other words, what a reasonable person

1 would find as opposed to a subjective test, what
2 an individual might think themselves regardless
3 of whether others might reasonably think that,
4 then that might get at that same issue, but it's
5 a legitimate concern, but I'm not sure it's one
6 that can be more specifically identified.

7 MS. GARVIN: This is Meg Garvin. I
8 too have concerns about this definition. And
9 mine stem from some of what has already been said
10 by General Schwenk, but also there has been so
11 much conversation at the policy level from, you
12 know, the prior committees like ourselves as well
13 as from Congress about in trying to ensure that
14 victims are not inappropriately punished for
15 collateral misconduct if we are going to
16 encourage reporting.

17 And I feel like for me to vote on a
18 definition right now, I want to put that
19 definition in context of all of those other
20 policy conversations to make sure that those
21 policy discussions that have already been about
22 collateral misconduct fit with what we're asking

1 them to collect in data, and I just don't feel
2 comfortable doing that.

3 And I didn't have time this week to do
4 that, and I apologize for that, but that's my
5 hesitation to vote for something right now
6 because I can't put it in context with everything
7 else that has come before that is driving this
8 data collection, so I'm not comfortable voting
9 for a specific definition.

10 CHAIR BASHFORD: It's Martha Bashford
11 again. Under bullet point one, there is a
12 definition, right? You said it's the current DoD
13 definition, is that correct?

14 COL. WEIR: Yes, the first bullet
15 under B, "Current DoD policy defines collateral
16 misconduct as victim misconduct that might be in
17 time, place, or circumstance associated with the
18 victim's sexual assault incident," and that's
19 footnoted to Department of Defense instruction
20 6495.02.

21 CHAIR BASHFORD: So it seems to me
22 we're sort of reiterating that with a little bit

1 more language, so, you know, they say "might be
2 associated in time, place, or circumstances," and
3 we say "potentially punishable under the UCMJ,"
4 which I think is a good distinction, and that
5 it's discovered as a result of the report of a
6 sexual assault. I don't have a problem with that
7 definition. Are there any other comments?

8 MS. CANNON: Kathleen Cannon here. I
9 agree with Martha.

10 CHAIR BASHFORD: Colonel Weir, should
11 we put that, the definition to a vote by the
12 committee then?

13 COL. WEIR: Yes, ma'am.

14 CHAIR BASHFORD: Then I would ask
15 that, I propose that we adopt bullet point two as
16 the definition for this data collection purposes
17 of collateral misconduct.

18 COL. WEIR: And ma'am, I will just go
19 down the role and ask each individual to vote.
20 General Anderson?

21 MG ANDERSON: I vote yes.

22 COL. WEIR: Ms. Cannon?

1 MS. CANNON: Yes.

2 COL. WEIR: Ms. Garvin?

3 MS. GARVIN: No.

4 COL. WEIR: Judge Grimm?

5 HON. GRIMM: Yes.

6 COL. WEIR: Ms. Long?

7 MS. LONG: I'll vote yes. I don't
8 like "directly," but, I don't like the word
9 "directly" in there, but I'll vote yes for this
10 purpose.

11 COL. WEIR: Mr. Markey?

12 MR. MARKEY: Yes.

13 COL. WEIR: Chief McKinley?

14 CMSAF MCKINLEY: Yes.

15 COL. WEIR: General Schwenk?

16 BRIG. GEN. SCHWENK: No.

17 COL. WEIR: Ms. Tokash?

18 MS. TOKASH: Yes.

19 COL. WEIR: Judge Walton?

20 HON. WALTON: No.

21 COL. WEIR: Chair Bashford?

22 CHAIR BASHFORD: Yes.

1 COL. WEIR: That was eight in favor
2 and three opposed.

3 CHAIR BASHFORD: So the definition is
4 adopted.

5 COL. WEIR: Yes, ma'am. The next, on
6 page six, does anyone have any comments on page
7 six?

8 Hearing none, I'll move to page seven.
9 General Schwenk had a comment that we did not
10 offer a definition of suspected, but we come very
11 close, and so based upon General Schwenk's
12 comment, the staff added footnote number nine
13 which is case law, United States v. Cohen, which
14 defines suspect as -- and also that definition
15 covers Article 31b right. So General Schwenk,
16 with that footnote, does that alleviate your
17 concern?

18 BRIG. GEN. SCHWENK: Well, it wasn't
19 really a concern. This is Jim Schwenk. It
20 wasn't as much a concern as a consistency thing.
21 Since we had a lot of other recommended
22 solutions, I figured we ought to have a

1 recommended solution here, so that's great. That
2 does take care of that concern.

3 On the substance of the
4 recommendation, "a reasonable person to believe,"
5 that seems to me to ring like preferral, you
6 know, a reasonable belief that a crime was
7 committed and the individual committed it, and
8 yet later on we say under that third bullet under
9 there, "The definition of suspected does not
10 require a preferral."

11 But if reasonable belief is preferral
12 or probable cause, then, you know, I'm not sure
13 how we answer that question, and I'm not smart
14 enough to know the answer, so I raise the issue
15 and let somebody smarter figure it out.

16 COL. WEIR: I think, sir, what we did
17 was we deleted the third bullet based upon the
18 footnote.

19 BRIG. GEN. SCHWENK: Oh, the one that
20 says, "The definition of suspected does not
21 require"?

22 COL. WEIR: Yes, we lined that out.

1 So what we did was, based upon your comment, we
2 added --

3 BRIG. GEN. SCHWENK: Oh, great, okay,
4 then never mind.

5 COL. WEIR: And deleted three. I'm
6 sorry. I should have made that clear.

7 BRIG. GEN. SCHWENK: No, that's fine.
8 Mine came out with, I don't understand this, but
9 mine came out with dotted lines around it and
10 then it went over, and of course it blamed Julie
11 Carson for it, whoever she is, and it said
12 "deleted," so if I read, I'd figure that out.
13 Okay, there is no inconsistency.

14 COL. WEIR: Does anyone else have any
15 comment on that definition? And once again, this
16 was to clarify what the Services, you know, for
17 the Uniform Code of Military Justice purposes,
18 accused means something very different than
19 suspect, so we wanted to make sure that was
20 clear, and I think the definition, I think, does
21 that for the Services as well as when this report
22 goes to Congress.

1 HON. WALTON: This is Judge Walton.
2 My only concern is the use of the term "believe."
3 That just seems so vague. I understand you're
4 saying, "a reasonable person to believe," but the
5 term "believe" is so broad, I just don't know if
6 it's sufficiently succinct that it's really
7 understandable as to what's being conveyed.

8 MS. CARSON: This is Julie Carson.
9 The "believed" was taken straight from the case
10 law definition that determined whether the
11 military questioner believed or reasonably should
12 have believed that the Service member committed
13 the offense.

14 BRIG. GEN. SCHWENK: Yeah, this is Jim
15 Schwenk. You know, Judge Walton, I think you're
16 right. Other than what Julie says, "believe" is
17 a term that the military has used for a long time
18 in the military justice world, both to prefer
19 charges, and as the footnote points out, to
20 determine whether Article 31b warnings are
21 triggered.

22 It may be used elsewhere. I just

1 can't think of another example, so it has been
2 used a lot, so I don't have any problem with us
3 using it.

4 HON. WALTON: I mean, if there is a
5 common understanding within military law as to
6 what that term means, then I guess I'm
7 comfortable with it.

8 MS. CARSON: We actually started with
9 the word "concludes" and we changed it to
10 reconcile it with the case law, so.

11 HON. WALTON: Right.

12 COL. WEIR: Any other comments on the
13 definition of accused?

14 CHAIR BASHFORD: "Suspected of," you
15 mean, right?

16 COL. WEIR: Yes. I don't think a vote
17 is in order because we didn't have any dissension
18 on that definition.

19 The definition of adverse action, this
20 was one that we coordinated heavily with the
21 Services to narrow it down to those adverse
22 actions that the Services contract.

1 And we know that there are other
2 adverse actions that are not in the four main
3 ones, the letter of reprimand, imposition of a
4 non-judicial punishment, preferral of charges,
5 and initiation of involuntary administrative
6 separation proceedings.

7 Those were the ones that the Services
8 all came back and agreed that they would be able
9 to pull data on those, accurate data, because
10 those are tracked through the Services in
11 different databases.

12 The problem becomes when you ask them
13 about an adverse letter of counseling that a
14 military member received. They would have no way
15 to track that, and so it made sense to have the
16 definition of an adverse action be narrowly
17 tailored in order for the Services to provide
18 accurate information.

19 And when you look at what the Services
20 provided us after the July meeting on what type
21 of misconduct it was, or the type of adverse
22 action, it was these types of adverse actions

1 that they were able to track.

2 They're never going to be able to go
3 down and get a local letter or an adverse
4 counseling statement that some commander has in
5 their desk, so that's how we came to this
6 definition in coordination with the Services.

7 And then if you look underneath those
8 four, the committee recommends limiting the
9 definition for the purpose of reporting to ensure
10 consistency and accuracy across the Services.

11 One of the things that we found during
12 our meeting with the Service reps and the
13 individuals who are responsible for gathering the
14 information was that it wasn't consistent across
15 the Services. So in order to help the Services
16 provide accurate data, it made sense to be
17 consistent across with what they were gathering.

18 So limiting or narrowing the
19 definition of adverse action does that and it
20 helps the Services provide that consistent
21 information across the Services to the Sec Def as
22 well as the congressional committees, so that's

1 kind of the background on how we got to adverse
2 action.

3 CHAIR BASHFORD: This is Martha
4 Bashford. What kind of an adverse proceeding
5 could lead to discharge that can't be tracked?

6 COL. WEIR: Well, that goes under the
7 initiation of an involuntary admin separation
8 proceeding. So if someone is going to be
9 separated for collateral misconduct, there is a
10 paper trail where the commander initiates the
11 separation procedures.

12 The Service member is notified in
13 writing that they are subject or going to be
14 involuntarily separated. That triggers a right
15 to see a defense counsel to discuss the
16 separation, and then based upon the longevity of
17 the Service member's career in the military, they
18 are entitled to a separation board.

19 So for the Army, if you have over six
20 years of service, regardless of your rank, you
21 are entitled to a separation board, but there is
22 a notification procedure throughout. The Service

1 member is notified and that's tracked.

2 And then the individual's DD-214, the
3 separation document you get when you leave the
4 Service, there's a code on that document that
5 also would tell you why the Service member or how
6 the Service member was separated, and that's
7 tracked through the human resources offices
8 across the Services.

9 CHAIR BASHFORD: But in our last
10 bullet point in that section, we say, "The
11 committee recognizes the existence of other
12 adverse proceedings or actions that could lead to
13 discharge." That seems like a fairly severe
14 thing that we would not be tracking, that the
15 Services would not be tracking. I don't know
16 what other than the involuntary admin separation
17 proceeding would lead to discharge.

18 COL. WEIR: Yeah, that sentence
19 doesn't make sense since we are tracking
20 initiation of involuntary admin separation
21 proceedings.

22 BRIG. GEN. SCHWENK: This is Jim

1 Schwenk. Why don't we just delete -- why don't
2 we have it read, "The committee recognizes the
3 existence of other adverse administrative
4 proceedings or actions such as loss of special or
5 incentive pay, administrative reduction of
6 grade," you know, et cetera? Just take out "that
7 could lead to discharge" and substitute "such
8 as."

9 COL. WEIR: Okay, sir, so the sentence
10 would read, "The committee recognizes the
11 existence of other adverse administrative
12 proceedings or actions such as loss of special or
13 incentive pay, administrative reduction of grade,
14 loss of security clearance, bar to re-enlistment
15 or reclassification." Does anyone have any
16 comment about that change to "such as?"

17 MG ANDERSON: This is General
18 Anderson. I don't have a comment to that, but I
19 do have another question, so I'll just wait.

20 CHAIR BASHFORD: This is Martha
21 Bashford again. I still think it says, "that
22 could lead to loss of special," because I don't

1 think the administrative proceedings or actions
2 are "such as." They're actions and what happens
3 during these proceedings could lead to these
4 consequences, right?

5 BRIG. GEN. SCHWENK: Yes, this is Jim
6 Schwenk. I agree with Martha.

7 COL. WEIR: Okay, so the sentence
8 would say, "other adverse administrative
9 proceedings that could," or, "actions that could
10 lead to"?

11 CHAIR BASHFORD: Yes.

12 BRIG. GEN. SCHWENK: Right.

13 CHAIR BASHFORD: "Loss," and then just
14 leave "discharge."

15 COL. WEIR: Okay, any other comment or
16 concern about that sentence?

17 LT MILLER: This is Lieutenant Miller,
18 excuse me. The one thing that I know that we
19 can't track for the Coast Guard would be
20 achievement of marks.

21 So if somebody's marks went from a
22 five in a category of judgment to a four, there's

1 no way to determine how that, why that happened
2 because there is no policy requirement to
3 document that, so perhaps adding just something
4 in there for evaluation, or I don't know if
5 that's something, a road we want to go down, but
6 I think that might be something a victim might
7 later say or point to as collateral misconduct.

8 So I guess I'm proposing "actions that
9 could lead to," keep everything there, and then
10 at the very, before reclassification or after
11 reclassification, "reduction in marks, reduction
12 in evaluation."

13 COL. WEIR: Well, we have to use
14 something that's consistent across the Services,
15 so "adverse evaluation reports"? I mean, I don't
16 know how -- and we don't -- if there is no way to
17 track why the person got downgraded in their
18 evaluation, how would we know it was because of
19 collateral misconduct?

20 LT MILLER: I guess all I'm saying is
21 that if we're looking at this from one side of
22 what the Services can track versus the other side

1 would be what a victim is reporting, that a
2 victim could report, "My marks went down because
3 I said I was sexually assaulted." The Services
4 have no way of correlating that allegation of
5 retaliation from their own data.

6 COL. WEIR: So we could put in as
7 another thing we can't track, "adverse
8 evaluations," because if you say, "downgrade
9 marks," the Army is going to go, "What are we
10 talking about?"

11 LT MILLER: Right.

12 COL. WEIR: But I think an adverse
13 evaluation across the Services would make sense.

14 HON. GRIMM: Should it be performance
15 evaluations, because that's what we're talking
16 about, right?

17 COL. WEIR: So the proposal would be
18 to add performance evaluations in that list of
19 stuff that they can't track. Do any of the
20 committee members disagree with adding that?

21 BRIG. GEN. SCHWENK: Adverse
22 performance evaluations? This is Jim Schwenk and

1 that's fine. Those three words are fine.

2 MG ANDERSON: This is General
3 Anderson. "Adverse performance evaluations or
4 the Service equivalent" because I think we all
5 use different terms to describe those.

6 COL. WEIR: "Adverse performance
7 evaluations," and with --

8 MS. CARSON: "Or Service equivalent."

9 COL. WEIR: "Or Service equivalent,"
10 is how that -- those words would be added. Does
11 anyone disagree with adding "Adverse performance
12 evaluations or Service equivalent"?

13 MR. MARKEY: This is Jim Markey. I do
14 not, but my thought is this is not an exhaustive
15 list of every adverse action, is it? This is
16 just some general most likely? I guess what's
17 the purpose of -- we're trying to say there's
18 other actions that could be taken, but this is
19 not an exhaustive list of those, I presume.

20 COL. WEIR: That is correct, sir.

21 HON. GRIMM: This is Paul Grimm. I
22 think that adverse performance evaluations are

1 pretty significant in terms of what their
2 ultimate impact may be on a person's career, and
3 so they're of a type that are highly significant,
4 but it's impossible to track.

5 And while there are many other things
6 such as, you know, what particular room in a
7 barracks you are assigned and whether it's a
8 preferable view or something like that that could
9 have an impact on it, this is something that has
10 a major impact because if those evaluations drop
11 and you're up for review for a promotion or some
12 sort of reassignment, then everyone who is in the
13 Service knows how important it is to keep your
14 evaluations positive.

15 That has a significance, I think, that
16 is important enough that mentioning it in that
17 fashion is helpful.

18 CMSAF McKINLEY: This is Chief
19 McKinley. I really think this is kind of a
20 slippery slope because when you talk about
21 adverse performance reports, you know, is that
22 due to the person being sexually assaulted?

1 Are they in a state of depression or
2 PTSD because of the sexual assault or is it
3 because of lack of duty performance, failing
4 their PT test, or many other things that would
5 require the performance report to be marked down
6 to, say, from a five to a three?

7 So it's just a slippery slope on where
8 you go here to tie an adverse performance report
9 directly to the sexual assault.

10 LT MILLER: Chief, this is Lieutenant
11 Miller. That's exactly what the point that I was
12 getting at was, that there's just no way to tie
13 that, but that could be something that a victim
14 or an alleged victim down the road said, "You
15 know, I didn't go to MJP. I didn't go to court
16 martial. I didn't have administrative action,
17 but my marks went down."

18 So I guess I'm looking more at it's
19 more covering ourselves or at least really
20 showing kind of the bounds of what we can track
21 and what we can't track.

22 CHAIR BASHFORD: This is Martha

1 Bashford again. It seems to me when we're talk -
2 - that's kind of straying from collateral
3 misconduct. I don't think somebody will say,
4 "I'm not going to report a sexual assault because
5 my marks may go down in a future evaluation."

6 That would strike me more under the
7 category of retaliation as opposed to any
8 misconduct that's being -- you know, an adverse
9 evaluation would be, I think would be pure
10 retaliation, not because of something collateral
11 to a sexual assault.

12 COL. WEIR: Where we left it was that
13 adding "adverse performance evaluations or
14 Service equivalent." Chair, do you want to take
15 a vote on whether to add that language or not?

16 CHAIR BASHFORD: Sure, all in favor of
17 adding the language? Do you want to go down?

18 COL. WEIR: Yeah, I'll start. General
19 Anderson -- the question is to add "adverse
20 performance evaluations or Service equivalent" to
21 that list of stuff.

22 MS. CARSON: Can I make one comment?

1 This is Julie Carson. We're making this list of
2 things that cannot be tracked, correct?

3 CHAIR BASHFORD: Yes.

4 MS. CARSON: Okay.

5 COL. WEIR: Okay, so, General
6 Anderson, we'll start with you, and the question
7 is are you in favor of adding "adverse
8 performance evaluations or Service equivalent" to
9 that list, General Anderson?

10 MG ANDERSON: No.

11 COL. WEIR: Ms. Cannon?

12 MS. CANNON: Yes.

13 COL. WEIR: Ms. Garvin?

14 MS. GARVIN: Yes.

15 COL. WEIR: Judge Grimm? Judge Grimm?

16 HON. GRIMM: Yes.

17 COL. WEIR: Ms. Long?

18 MS. LONG: Yes.

19 COL. WEIR: Mr. Markey?

20 MR. MARKEY: No.

21 COL. WEIR: Chief McKinley?

22 CMSAF MCKINLEY: Kind of a yes, but

1 I'll say yes.

2 COL. WEIR: General Schwenk?

3 BRIG. GEN. SCHWENK: Yes.

4 COL. WEIR: Ms. Tokash?

5 MS. TOKASH: Yes.

6 COL. WEIR: Judge Walton?

7 HON. WALTON: Yes.

8 COL. WEIR: Chair Bashford?

9 CHAIR BASHFORD: No.

10 COL. WEIR: We have eight yeses to
11 adding the additional language.

12 CHAIR BASHFORD: So the language will
13 be added.

14 COL. WEIR: Are there any more
15 comments? Let's look at recommendations two,
16 three, four, and five. Are there any comments
17 from the members on those recommendations?

18 General Schwenk, on recommendation
19 four, the suggested edit was, "The Department
20 should include in its report data on the number
21 of collateral offenses the victims were suspected
22 of by type of offense, and the number, and type

1 of adverse actions taken for each of the
2 offenses, if any." Does anyone have any concern
3 with that suggested edit?

4 (No response)

5 COL. WEIR: All right, hearing none,
6 we'll -- so that --

7 CHAIR BASHFORD: Just let me -- I'm
8 sorry. It's Martha Bashford. Is number four,
9 does that now contradict number three since we've
10 said that -- I'm sorry, it's number H,
11 methodology letter H, "Cases in which a victim is
12 suspected of more than one type of collateral
13 misconduct should be counted only once."

14 But in recommendation four, if I'm
15 reading it correctly, doesn't it seem "collateral
16 offenses that victims were suspected of by type
17 of offense and number of types of adverse
18 actions," so if they were underage drinking in a
19 barracks and, you know, something else, are we
20 now telling them in recommendation four you have
21 to count it all and all of the adverse actions,
22 or are we going back to the methodology for

1 counting numbers of instances, or does it comport
2 and I'm just misreading it?

3 MS. CARSON: Ms. Bashford, the
4 intention was that it's the same as Section H,
5 only for the most serious collateral misconduct,
6 but we need to reference that in there, so it
7 won't be a list that includes every single type
8 of misconduct, but the most serious for each
9 victim.

10 CHAIR BASHFORD: If we could do that,
11 because the way it reads now, it seems to me
12 you're contradicting H.

13 MS. CARSON: Unless the committee
14 wants to have every single kind of misconduct,
15 but it seems to me it's a little harder to track,
16 so to keep it consistent, we'll note that this
17 includes only the most serious form of collateral
18 misconduct for each victim.

19 COL. WEIR: That's going to be in
20 recommendation four.

21 BRIG. GEN. SCHWENK: Yeah, this is Jim
22 Schwenk. I thought four was just a

1 recommendation that said all of the work that the
2 staff did to collect that information, the
3 Department ought to do in the future.

4 MS. CARSON: Correct, it's what the
5 Services already did for us and it is in
6 enclosure three.

7 BRIG. GEN. SCHWENK: So to Martha's
8 point, if we want to clarify that, that's fine
9 with me.

10 COL. WEIR: So we'll clarify that in
11 recommendation four and that concludes the
12 recommendation review. Now if you look at
13 enclosure two and three -- enclosure one, you
14 have, which is the Services' draft report, so
15 that's what they've provided, so there's no need
16 to comment about what they're provided.

17 Enclosure two is just the DAC-IPAD
18 analysis of the draft DoD collateral misconduct
19 report, and basically what this does is point out
20 the inconsistencies with the Services'
21 methodologies.

22 So basically it just backs up what the

1 committee is saying about "These recommendations
2 are being made to help with the inconsistencies
3 and here they are," and they're pointed out in
4 enclosure two.

5 Is there any discussion on enclosure two?
6 And this was the same enclosure that you
7 previously received at the 23rd.

8 MS. CARSON: We added the Coast Guard.

9 COL. WEIR: And added the Coast Guard,
10 right.

11 BRIG. GEN. SCHWENK: Yeah, this is Jim
12 Schwenk. I thought that was an interesting work
13 product that I benefitted from having.

14 MS. CARSON: Thank you.

15 COL. WEIR: And if we turn our
16 attention to enclosure three, that breaks down
17 the Service-provided collateral misconduct
18 information, and then also this enclosure points
19 out the alleged collateral misconduct. All of
20 this information was received from the Services.
21 We just put it into a graph type format.

22 I think what -- I mean, from a staff

1 perspective and from my perspective, I think that
2 the good news that this graph points out under
3 the Service member collateral misconduct is that
4 less than, or one percent across the Services are
5 committing collateral misconduct.

6 So this chart points that out, I
7 think, well, that there's not a lot of collateral
8 misconduct occurring in those victims who are
9 reporting. So are there any comments or
10 questions about enclosures two or three?

11 MS. LONG: Sorry, it's Jen Long. Just
12 in this enclosure three, do we need to -- I know
13 that -- okay, it's our analysis, sorry.

14 Do we need to put the same sort of
15 explanation around false report as it's included
16 in these charts as we did in the actual document
17 so that it's not picked up and misunderstood, or
18 I guess I don't want to ask that as a question.

19 I think there needs to be a footnote
20 around false report that explains that that is a
21 very broad category that in some cases includes -
22 - basically I would just map whatever footnote

1 you put above in the actual report.

2 COL. WEIR: Okay, does anyone have any
3 comments or concerns about adding a footnote to
4 further explain the false report issue that we
5 discussed earlier?

6 (No response)

7 COL. WEIR: Hearing no disagreement, I
8 don't think we need to vote on that because
9 everyone is in concurrence, so we will add a
10 footnote to the false report tying it back to
11 earlier comments in the draft, or in the letter
12 to the Secretary of Defense.

13 I think, Chair, that we've covered the
14 entire document. I would recommend that -- we've
15 taken two votes on the issue, but I think at this
16 point, we need to take a vote on the overall
17 report.

18 MR. SULLIVAN: Hey, Colonel Weir,
19 Dwight Sullivan here. Before you do that, I
20 thought that General Anderson had another point
21 she wanted to raise.

22 COL. WEIR: I'm sorry, ma'am.

1 MG ANDERSON: Well, I'm not sure now
2 if it's even -- I just wanted to make sure, and
3 this is my understanding, is that all of this
4 data includes data obtained in sexual assaults
5 that occur at the Service academies, as well?

6 COL. WEIR: Yeah, well, ma'am, the
7 data that we received is the data that the
8 Services provided to us and --

9 MS. CARSON: And the Air Force is
10 nodding that theirs included the academies. The
11 Army, Marine Corps, and Navy are online.

12 COL. WEIR: The Army Service rep, did
13 you include Service academy sexual assault
14 information?

15 LTC KAZIN: This is Lieutenant Colonel
16 Kazin. Yeah, we included the academies.

17 COL. WEIR: And Jim Martinson, are you
18 there?

19 MR. MARTINSON: Yes, so we got -- the
20 subset of victims was given to us by NCIS and
21 they would have investigated all offenses in the
22 Navy, so that would have included academy cases.

1 COL. WEIR: Okay, thank you. Marine
2 Corps rep?

3 (Simultaneous speaking.)

4 MAJ. ERVASTI: Yes, Dwight, this is
5 Major Ervasti, the Marine Corps Service rep, and
6 again, since NCIS pulled out the numbers based on
7 identifying Marine victims, there would be no
8 Marine victims at the Service academies.

9 BRIG. GEN. SCHWENK: I think just
10 wanna-bes.

11 PARTICIPANT: Was that General
12 Schwenk?

13 MAJ. ERVASTI: Yeah, thank you very
14 much, appreciate that.

15 COL. WEIR: Okay.

16 MG ANDERSON: Thank you very much.
17 This is General Anderson. Thank you.

18 CHAIR BASHFORD: Before we go, this is
19 Martha Bashford, I really want to thank the
20 Services. I know was a heavy lift pulling all of
21 this together and then we kind of sent you back
22 and said, "Do it again," and I really want to

1 thank the staff for pulling this together.
2 Nobody was given much guidance from Congress, so
3 I really think everybody has done a tremendous
4 job here.

5 BRIG. GEN. SCHWENK: Agreed.

6 COL. WEIR: Ma'am, with that, I would
7 recommend that we take a vote of the committee
8 members to approve the overall draft, and we've
9 already voted twice on some of the
10 recommendations, so if we could just go down the
11 roll again and vote on the entire document,
12 understanding some of you have voted no on a
13 couple of the recommendations, but they did pass
14 with a majority of the vote, so --

15 BRIG. GEN. SCHWENK: So we're voting
16 on the entire -- this is Jim Schwenk. We're
17 voting on the entire document as amended by
18 previous votes?

19 COL. WEIR: Yes, sir.

20 BRIG. GEN. SCHWENK: Okay.

21 COL. WEIR: General Anderson --

22 CHAIR BASHFORD: All right, I move

1 that --

2 COL. WEIR: Go ahead, ma'am.

3 CHAIR BASHFORD: I said I move that to
4 a vote. Go ahead.

5 COL. WEIR: General Anderson?

6 MG ANDERSON: Yes.

7 COL. WEIR: Ms. Cannon?

8 MS. CANNON: Yes.

9 COL. WEIR: Ms. Garvin?

10 MS. GARVIN: Yes, noting my prior
11 dissent on a piece.

12 COL. WEIR: Yes. Judge Grimm?

13 HON. GRIMM: Yes.

14 COL. WEIR: Ms. Long?

15 MS. LONG: Yes.

16 COL. WEIR: Mr. Markey?

17 MR. MARKEY: Yes.

18 COL. WEIR: Chief McKinley?

19 CMSAF MCKINLEY: Yes.

20 COL. WEIR: General Schwenk?

21 BRIG. GEN. SCHWENK: Yes.

22 COL. WEIR: Ms. Tokash?

1 MS. TOKASH: Yes.

2 COL. WEIR: Judge Walton?

3 HON. WALTON: Yes.

4 COL. WEIR: Chair Bashford?

5 CHAIR BASHFORD: Yes.

6 COL. WEIR: Okay, ma'am, I don't
7 believe the staff has anything else today, so are
8 there any questions you or any of the committee
9 members may have of us?

10 CHAIR BASHFORD: I just want you to
11 enjoy the rest of your day. It's gorgeous here
12 in New York.

13 COL. WEIR: Mr. Sullivan, I think that
14 based upon we've conducted the business today,
15 that you can do your thing.

16 MR. SULLIVAN: Roger that. This is
17 Dwight Sullivan, the DFO. This meeting is
18 closed.

19 (Whereupon, the above-entitled matter
20 went off the record at 12:18 p.m.)
21
22

A

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