UNITED STATES DEPARTMENT OF DEFENSE

+ + + + +

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

+ + + + +

PUBLIC MEETING

+ + + + +

FRIDAY
OCTOBER 23, 2020

+ + + + +

The Committee met via Teleconference, at 11:00 a.m. EDT, Ms. Martha Bashford, Chair, presiding.

PRESENT:

Ms. Martha S. Bashford, Chair
Maj. Gen. Marcia M. Anderson, USA (Ret.)
Hon. Leo I. Brisbois
Hon. Paul W. Grimm
Mr. A.J. Kramer
Ms. Jennifer Gentile Long
Brig. Gen. James R. Schwenk, USMC (Ret.)
Dr. Cassia C. Spohn

Ms. Meghan A. Tokash

Hon. Reggie B. Walton

STAFF:

Col. Laura J Calese, JAGC, U.S. Army, Director

Ms. Julie Carson, Deputy Staff Director

Mr. Dale Trexler, Chief of Staff

Mr. Dwight Sullivan Designated Federal Official

Ms. Alice Falk, Technical Editor

Ms. Nalini Gupta, Attorney-Advisor

Mr. Chuck Mason, Attorney-Advisory

Ms. Eleanor Vuono, Attorney-Advisor

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

2   11:01 a.m.

3   MR. SULLIVAN: Good morning. I am

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, colloquially known

8   as the DAC-IPAD. Welcome to the public meeting

9   of the DAC-IPAD, which is now open. Ms.

10   Bashford, you have the con.

11   CHAIR BASHFORD: Thank you, Mr.

12   Sullivan. Good morning to everybody. I'd like

13   to welcome the members and everybody in

14   attendance today to the 19th Public Meeting of

15   the Defense Advisory Committee on Investigation,

16   Prosecution and Defense of Sexual Assault in the

17   Armed Forces or DAC-IPAD. In accordance with the

18   current Department of Defense guidelines for

19   operations during the COVID-19 pandemic, today's

20   meeting is being held via teleconference.

21   Please note that non-DAC-IPAD

22   attendees will be muted by our teleconference

1   administrator in compliance with DoD's legal

2   guidance and to prevent background noise for

3   disruptions during the meeting. Committee

4   members and staff, I ask you to please keep your

5   phones muted, as well, when you're not speaking.

6   Additionally, in case the current conference line

7   fails, we will break for 10 minutes and move to

8   an alternative line.

9   The alternative line dial-in

10   information will be posted on the DAC-IPAD

11   website with instructions for rejoining the

12   committee. Dale has emailed this to us, as well.

13   I just want to take one moment, even though we

14   have a quorum, just to see if anybody who did not

15   answer has jumped on. Judge Grimm?

16   HON. GRIMM: Yes, thank you very much,

17   Madam Chair.

18   CHAIR BASHFORD: Mr. Markey? Dr.

19   Markowitz? Ms. Cannon? Ms. Garvin? Chief

20   McKinley? We've added Judge Grimm. The DAC-IPAD

21   was created by the Secretary of Defense in 2016

22   in accordance with the National Defense

1 Authorization Act for Fiscal Year 2015 as

2 amended. Our mandate is to advise the Secretary

3 of Defense on the investigation, prosecution and

4 defense of allegations of sexual assault and

5 other sexual misconduct involving members of the

6 armed forces.

7 Today the committee will receive a

8 presentation from its professional staff on the

9 Congressionally-mandated requirement for the

10 committee to review and assess the race and

11 ethnicity of members of the armed forces

12 investigated for, charged with and convicted of

13 sexual offenses under the Uniform Code of

14 Military Justice.

15 This requirement was part of the

16 December 2019 National Authorization Act for

17 Fiscal Year 2020, but given the national

18 conversation regarding race and ethnicity since

19 then, and considering some complexities involved

20 in collecting and analyzing data for race and

21 ethnicity in criminal cases involving sexual

22 assault, I asked that we convene an open session,

1   present the data collected thus far, and

2   determine a path ahead.

3   Thus, the purpose and organization of

4   this meeting is somewhat different than the

5   committee's usual process. Today's presentation

6   will include an overview of the previous studies

7   of racial and ethnic disparities in military

8   justice, a discussion of the Congressional

9   directive for the current DAC-IPAD study, an

10   explanation of the methodology for the

11   committee's review, and a presentation of the

12   data that has been collected from the military

13   services for this purpose.

14   The presentation will be followed by

15   committee discussion and deliberation on

16   development of potential findings,

17   recommendations and guidance for the report. Two

18   weeks from now, we will hold an administrative

19   session, followed by a public meeting on November

20   6th, where we will solidify and approve our

21   observations, findings and recommendations

22   concerning the NDAA tasking to review and assess

1   race and ethnicity in the context of sexual

2   assault in the armed forces.

3   This meeting is being transcribed, and

4   a complete written transcript will be posted on

5   the DAC-IPAD website. If a meeting attendee

6   would like to make a public comment, please

7   submit your name and the phone number you are

8   calling from to Mr. Dale Trexler at

9   dale.l.trexler.civ@mail.mil no later than 1:00

10   p.m. Eastern time. Comments will be heard at the

11   discretion of the Chair. Written public comments

12   may be submitted at any time for committee

13   consideration.

14   Before I hand it over to the

15   professional staff, I request that committee

16   members signal when they have a question or wish

17   to speak by just stating your name and then

18   waiting to be acknowledged. This process will

19   both help us identify who's speaking when

20   multiple people speak at the same time, and will

21   also be very helpful to the court reporter in

22   identifying speakers.

1   Thank you again for your attendance

2   today, and with that, I will turn the floor over

3   to the leaders of DAC-IPAD Racial and Ethnic

4   Disparities Research and Writing Team, Ms.

5   Eleanor Vuono, Mr. Chuck Mason, and Ms. Nalini

6   Gupta, to begin their presentation. Thank you.

7   MS. VUONO: Good morning. This is

8   Eleanor Vuono. Thank you all for your attendance

9   today. The purpose of today's meeting is to give

10   you an in-progress report on the race and

11   ethnicity project underway at the DAC-IPAD. This

12   is in response to the Congressional tasking, and

13   just a correction, for Fiscal Year 2020, National

14   Defense Authorization Act.

15   As you know, in the FY20 NDAA,

16   Congress included Section 540I, with the

17   requirement for the DAC-IPAD to review and assess

18   by fiscal year race and ethnicity in three

19   categories involving sexual offenses. First,

20   members of the armed forces accused of a

21   penetrative or contact sexual offense in an

22   unrestricted report, including an unrestricted

1   report involving a spouse or intimate partner.

2   Of that group of cases, the race and

3   ethnicity against whom charges were preferred for

4   a penetrative or contact sexual offense. Then

5   third, of those cases, the service members

6   convicted of a penetrative or contact sexual

7   offense. This Congressional tasking was limited

8   to cases involving adult victims of penetrative

9   or contact sexual offenses. For your

10   information, Section 540I of the legislation is

11   located at Tab 2 of your meeting materials.

12   We have divided today's presentation

13   into four sections. First, Nalini Gupta will

14   describe the history of studies on racial and

15   ethnic disparities in the military justice

16   system. She also will update the committee on

17   the implementation of Article 140a of the UCMJ

18   and the Department of Defense's new data

19   collection and reporting requirements that got

20   underway in June of this year.

21   Next, I will explain the methodology

22   for this particular report and the requests for

1 information we sent to the services. Third,

2 Chuck will present the data results from the

3 service responses to our RFIs. This will be a

4 focused data presentation that includes the FY18

5 demographic data for the Department of Defense,

6 followed by the data results we received from the

7 services for the race and ethnicity of military

8 subjects in the three categories requested by

9 Congress. That is the unrestricted reports,

10 preferrals and convictions.

11 Finally, I will conclude the meeting

12 by asking the DAC-IPAD members to think about

13 questions, observations, proposed recommendations

14 for how the DAC-IPAD or the military justice

15 review panel or the Department of Defense should

16 address race and ethnicity in the military

17 justice system moving forward. Again, our goal

18 today is to inform your deliberations in November

19 on these important issues.

20 The information you receive today will

21 generate your thinking about the findings,

22 observations and recommendations you want to

1   discuss at the November 6th public meeting. Just

2   a quick admin note, for today's meeting, Nalini

3   and Chuck and I, we will each pause after each of

4   our presentations to give you a chance to ask

5   questions. Again, just to remember to state your

6   name for the court reporter if you have a

7   question.

8   First we'll turn the phone over to

9   Nalini Gupta, who will speak with you about

10 historical studies and the path forward on race

11 and ethnicity data collection in the Department

12 of Defense.

13   MS. GUPTA: Thank you, Eleanor, and

14 good morning, everyone. This is Nalini Gupta.

15 As Eleanor mentioned, I want to take a couple of

16 minutes to talk about how we got to where we are

17 in studying race and ethnicity in the military

18 justice system. If you rewind back to 1972, the

19 then-Secretary of Defense established a path for

20 us to look at the nature and extent of racial

21 discrimination in the administration of military

22 justice.

1   The task force released a four-volume

2   report finding a clear disparity in disciplinary

3   rates between Black and White servicemen. They

4   noted, however, that its analysis was hampered by

5   the inadequacy of data on race and ethnicity, and

6   one of its recommendations was that DoD establish

7   a uniform system for the collection of this type

8   of data.

9   I bring up this recommendation not

10   only because of the DAC-IPAD's interest in data,

11   but also because this has been a consistent

12   recommendation since 1972. There were multiple

13   studies in the '80s, '90s and 2000s that made

14   similar findings about the inadequacy of data on

15   race and ethnicity in the military.

16   If you fast-forward to more recent

17   times, there are two studies I'd like to draw

18   your attention to. The first is the 2017 report

19   by the non-profit Protect Our Defenders, which

20   found that Black service members were more likely

21   than White service members to face military

22   justice or disciplinary action.

1   Depending on the military service and

2   the type of actions taken, POD found that in an

3   average year, the disparities ranged from 1.29 to

4   2.61 times more likely. In conducting this

5   study, POD relied on data from the services from

6   2006 to 2015, and noted significant

7   inconsistencies across the data received,

8   including in how the services categorized racial

9   groups and whether they treated Hispanic as a

10   race or as an ethnicity.

11   The second study I'd like to discuss

12   is a 2019 GAO report on racial and ethnic

13   disparities based on data from FY13 to '17. GAO

14   conducted a multivariate analysis to test the

15   association between characteristics such as race

16   and ethnicity and the odds of military justice

17   action taken, while holding constant attributes

18   such as rank and education and other things.

19   GAO found that Black and Hispanic

20   service members were more likely than White

21   service members to be the subject of recorded

22   investigations in all of the services. And

1   depending on the service, this ranged from 1.07

2   to 2.36 times more likely. GAO also found that

3   Black and Hispanic service members were more

4   likely than White service members to be tried in

5   general and special court martials in four of the

6   services, the Army, Navy, Marine Corps and Air

7   Force. On the other hand, GAO found that race

8   was not a specifically significant factor in the

9   likelihood of conviction in general and special

10   court martial in the Army, Navy, Marine Corps and

11   Air Force.

12   The GAO report from 2019 echoed the

13   report of the task force from 1972, almost 50

14   years earlier, noting that the services do not

15   collect consistent information about race and

16   ethnicity, which limits the ability to identify

17   disparities. As one example that GAO pointed

18   out, they noted that the number of potential

19   responses for race within 15 databases across the

20   military services ranged from five to 32 options.

21   The GAO made 11 recommendations, many of which

22   were geared towards including data collection.

1   Given this history, I'd like to now

2   give you a sense of the future of race and

3   ethnicity data collection in the military justice

4   system. And with the data is two developments

5   I'd like to focus on. The first is one you all

6   are intimately familiar with, and that's the

7   requirement of Article 140a. As you may recall,

8   in December of 2018, the DoD General Counsel

9   promulgated the Uniform Standards for the

10 Collection of Military Justice Data, which is to

11 be implemented no later than December 23rd of

12 this year, 2020.

13   Under these requirements, each service

14 must operate a military justice case processing

15 and management system that is capable of

16 collecting 155 specific data points. While the

17 services are required to collect information on

18 the race and ethnicity of the accused as two of

19 these data points using specific categories,

20 there is no similar requirement to collect any

21 information on the race or ethnicity of the

22 victims.

1   Just to underscore another limit of

2   140a, the GAO report found that the Article 140a

3   uniform standards only applied to the services'

4   military justice databases, and not to their

5   investigation and personnel databases since those

6   databases do not fall under the charter of the

7   DoD General Counsel. So even though the services

8   were directed to standardize reporting of race

9   and ethnicity data using specific categories in

10   their military justice databases, these same

11   categories do not have to be used in their

12   services investigation and personnel database.

13   The second development I'd like to

14   draw your attention to is the FY20 NDAA, which

15   was the same piece of legislation that tasked the

16   DAC-IPAD with this race and ethnicity study.

17   Based on the recommendations of the 2019 GAO

18   report, the FY20 NDAA also tasked the military

19   services to record the race, ethnicity and gender

20   of the victim and accused for every court martial

21   it conducts and include this data in their annual

22   military justice report.

1   In June of this year, the General

2   Counsel of the DoD issued a memorandum to the

3   services instructing them to collect race and

4   ethnicity of the victim and accused for each

5   court martial convened on or after June 17, 2020.

6   The notable gap in this memorandum is that it

7   does not include any requirement that the

8   services collect race and ethnicity data for

9   cases that do not reach the court martial stage

10   of the military justice process.

11   That's the background I have for you

12   today. Does anyone have any questions before I

13   turn it back to Eleanor to discuss the

14   methodology? Okay, Eleanor, it's on to you.

15   Thank you.

16   MS. VUONO: Great, thanks Nalini.

17   Turning now to the methodology for the current

18   DAC-IPAD report. In August, Chair Bashford sent

19   a request for information, 18A, to the Service

20   Judge Advocates General, asking the services to

21   provide their race and ethnicity date for contact

22   and penetrative sexual offense cases completed in

1   Fiscal Year 2019. So that's all cases completed

2   between October 1, 2018 and September 30, 2019.

3   A copy of RFI 18A is at Tab 3 of your

4   meeting materials if you want to take a look at

5   that. In that request, the DAC-IPAD asked the

6   services to give us the data in a standardized

7   format for each of the three Congressionally-

8   mandated categories on three separate Excel

9   spreadsheets. First, every unrestricted report

10   of a contact or penetrative sexual offense

11   completed in FY19.

12   Second, out of that first group of

13   cases, a separate spreadsheet with every case

14   that had a contact or penetrative sexual offense

15   charge preferred against a service member. The

16   third spreadsheet was from those cases with a

17   preferral, each conviction for a contact or

18   penetrative sexual offense. As you know, by law

19   every "unrestricted report" of a contact or

20   penetrative sexual offense must be investigated

21   by the military criminal investigative

22   organization.

1   When we use the phrase completed for

2   the question we asked is completed in FY19, we

3   used the definition in the legislation.

4   "Completed means a case tried to verdict,

5   dismissed without further action, dismissed and

6   then resolved by non-judicial or administrative

7   proceedings, or no legal action taken at all."

8   We did not ask the services for their source

9   documents for this report.

10   Instead, we asked them to report to

11   the DAC-IPAD the race and ethnicity information

12   they had in their various databases, including

13   their MCIO databases and their military justice

14   databases.   All of the requested information for

15   this report is limited to cases completed in

16   FY19. FY19 was chosen partly because Congress

17   asked for this report on a very short one-year

18   timeline, but also it was a recognition of the

19   data collection limitations, the ones that

20   existed in the services up until now.

21   As all of you know, the DAC-IPAD case

22   review project investigated penetrative sexual

1   offenses closed in FY2017. That's the report

2   that we just provided or just issued. In that

3   most recent study, the DAC-IPAD found it very

4   difficult to assess demographic data like race

5   and ethnicity because information in the

6   investigative files, it was often incomplete, and

7   because the services record this information

8   differently, if at all.

9   But as Nalini just explained, we

10 anticipate the possibility for more comprehensive

11 assessments in future years, once the new DoD

12 collection methods are implemented and based on

13 the questions the DAC-IPAD may decide to

14 recommend for future study. That's the summary

15 of the methodology that we used. Before I turn

16 the phone over to Chuck to explain to you the

17 answers and the data that we received, do you

18 have any questions about the methodology of the

19 report?

20   Hearing none at this point, and of

21 course, you'll have a chance to ask questions

22 throughout, Chuck will now present to you the

1   data results we received from the Services.

2   MR. MASON: Good morning, everybody.

3   If you'd like to look at Tab 4 in your materials,

4   that will begin the data presentation of

5   information that I'm going to be providing to

6   you. First, though, I'd like to just go over a

7   few issues that will help frame the rest of our

8   discussion. You heard that the RFI was based on

9   three questions, a very limited question that

10   Congress asked, which was the race and ethnicity

11   of the subject, and then it was unrestricted

12   report of a sexual offense, the preferred

13   charges, and then convicted sexual offense.

14   So you have three buckets of

15   information and Congress is looking just for that

16   potential raw number if you read the stricter

17   sense of the language. However, Congress didn't

18   define for us what race and ethnicity categories

19   we should be utilizing. Just as background, race

20   is used more as a social definition. It's not an

21   attempt to define biologically, anthropologically

22   or genetically.

1   Ethnicity is a separate and distinct

2   concept, and it generally looks at Hispanic or

3   not Hispanic traditionally where they they've

4   then expanded the definition or the title

5   Hispanic or Latino and not Hispanic or Latino.

6   Generally speaking, individuals of Cuban,

7   Mexican, Puerto Rican, South or Central America

8   or other Spanish culture descent, regardless of

9   their race, would be considered Hispanic or

10 Latino.

11   Now both of these categories,

12 regardless of how they're recorded in any system,

13 and this goes from the census all the way down to

14 our government, it's a self-reporting

15 determination. When you fill out the paperwork,

16 you set what your race is. You're going to set

17 what your ethnicity is. Limitations that we have

18 in this study that we have tried to address and

19 acknowledge is that this information is self-

20 reported by the service.

21   It is not document-based like the case

22 adjudication and case review process which you're

1 all familiar with. We didn't request the

2 documentation, as Eleanor said, based on the

3 timeline that we were working with and the

4 understanding that the baseline definitions are

5 sufficiently different among the services that

6 even if you had the source documents, it's just

7 going to still be (audio interference) The next

8 one is --

9 PARTICIPANT: If everyone could please

10 go on mute unless you are speaking, please.

11

12 MR. MASON: The next statement is that

13 because it isn't document-based like the other

14 studies, we aren't able to verify information.

15 So one, it's self-reported and two, we're taking

16 it as face value from the services that this is

17 the correct answer. Third, the services do not

18 utilize the same racial and ethnic categories, as

19 we said, and as Nalini said, in some systems

20 within the government, there's up to 35 different

21 categories.

22 Specific to this request and this RFI,

1   we actually are crossing from MCIOs to the

2   military justice system within the service. So

3   automatically, we're introducing the possibility

4   that there's going to be a disconnect because we

5   are using two different systems to try to get to

6   an answer. We had to do that because Congress

7   asked a question that is kept in two different

8   systems. So those are all indications that we

9   have with this data that you're going to see.

10   One question that you may have is if

11   you look at the RFIs, why did we ask for so many

12   data fields if the main question is the subject's

13   race and ethnicity? It was done for multiple

14   reasons. Primarily, we wanted to fully inform

15   and develop the response that we receive from the

16   service, if possible.

17   Additionally, it was a way for us to

18   try to verify the responses that we were getting

19   specific to this RFI that would also be in the

20   FY19 case adjudication responses or possibly FY18

21   cases that we received previously to see if there

22   was any overlap. So it was one, internal quality

1   control, and two, to better develop the overall

2   picture for your use in determining how you want

3   to proceed with this topic in the future.

4   The other question you may have is why

5   do we not have the more complex multivariate

6   analysis that are seeing in both the case review

7   and case adjudication reports? One, it goes to

8   the validity of the data in having common

9   definitions across the spectrum. Second, it is

10   completeness of data. We don't know that we have

11   everything, and there is a chance that on a

12   sensitive topic, you don't want to make a

13   conclusion if you don't have all of the data

14   behind it to back it up.

15   Third, you do get into some very small

16   numbers, which you will see as we go through the

17   services. For example, the Coast Guard had one

18   conviction in their RFI response to us. When you

19   start getting into these smaller numbers, you

20   don't have a large enough sample to do some of

21   the more complex analysis. These are all issues

22   that can be addressed in future studies and

1   future research, which we will get to at the very

2   end of the data presentation.

3   Based on that, I would invite your

4   attention to the first table. All the tables in

5   the reading say Table X and then there's a title,

6   Service Response to RFI. The X's will be

7   replaced by the proper numbering system once

8   they're placed into the report. But I wanted you

9   to have at least the ability to see what we're

10   doing right now. Looking at the service response

11   to the RFI, you can see that we received over

12   2,800 cases where subjects were identified on a

13   sexual offense unrestricted report and

14   investigated.

15   Of those 2,800 roughly, 500 cases

16   involved a subject that had a charge or charges

17   preferred for a sexual offense. And then 129 of

18   those 500 cases resulted in a conviction. Now we

19   asked for cases to be recorded as convictions for

20   a sexual offense. If we've learned anything with

21   respect to the case adjudication, sometimes they

22   get reported as a conviction for a sexual offense

1   when in reality, a charge is preferred that way,

2   but the conviction is for something that is a

3   non-sexual offense, like assault and battery.

4   Based on that it's coded as a

5   conviction, but when we look at the

6   documentation, we see that that's not the case.

7   Why I'm bringing that up for your attention now

8   is if you look at the 500 cases where it says

9   charges were preferred, this is not -- because of

10   the limitations I said, but if you look at FY18,

11   the case adjudication report, the total number of

12   cases where charges were preferred was 574. So

13   we've gone from 574 in FY18 to 500 in FY19. That

14   could be problematic.

15   But if you've looked at the historical

16   decline, since FY16, we have been dropping in

17   cases each fiscal year. There was a 10 percent

18   decline and then a 17 percent decline, and then

19   in this most recent year, if you use these

20   numbers and accept them as they were reported, it

21   would be a 13 percent decline. So that number

22   seems pretty good when you think about what we've

1   seen on the other projects that we've done.

2   Where there's a difference, it goes

3   back to how it's reported as whether it's a

4   sexual offense conviction or not. If you look at

5   that number that says 129, well, in FY18 we

6   recorded 106 convictions for sexual offense at

7   court martial. Lower numbers in FY18 compared to

8   what's in the FY19, but we can account that there

9   is probably going to be some variance in maybe

10   the convictions that are reported here are

11   reported convictions for any offense and not just

12   a sexual offense.

13   Without having the actual record of

14   trial, the charge sheets, to look at them and try

15   to track it through the system to see what

16   happened, we can't say that 129 is a hard and

17   fast, accurate number. But we're going to use it

18   for the purposes of this discussion because it

19   was what was reported to us.

20   Looking at Table X, Racial and Ethnic

21   Categories, this is where it really gets

22   difficult for the analysis that we're trying to

1   do. I have included two tables there, Race,

2   which is the American Indian/Alaska Native,

3   Asian/Native Hawaiian/Pacific Islander,

4   Black/African American, Mixed, White, and

5   Unknown. Then Ethnicity is Hispanic or Latino,

6   Not Hispanic or Latino, Unknown.

7   Now these fields or these categories

8   have some history in the OMB Directive 15 from

9   1977. In 1977, they essentially established that

10   there would be four categories for race. What

11   they did is American Indian and Alaska Natives

12   have always been that one category. Asian or

13   Pacific Islander was the second category. Third

14   was Black, fourth was White, and then you would

15   have unknown. But you have four categories.

16   For ethnicity, it would've been

17   Hispanic or Not Hispanic. And then for

18   ethnicity, we have in 1977, Hispanic or Not

19   Hispanic. I apologize if I said that point. In

20   1997, OMB Directive 15 was updated, and this

21   directly impacts our reporting that we're going

22   to be getting to. In 1997, the American

1   Indian/Alaska Native remained as one category.

2   However, Asian or Pacific Islander was then

3   separated into Asian as one category, Native

4   Hawaiian/Pacific Islander as a second category.

5   Then they had Black and White, and

6   they added in a new concept of two or more races

7   or mixed. Additionally, for the ethnicity they

8   added in Latino on the end of Hispanic or Not

9   Hispanic to flesh out that category further. Why

10   this is interesting today, when we go through the

11   services you will see that only one service is

12   using the OMB standard as of 1997, which is not

13   the standard that we're using today because two

14   services, it appears, have not broken the Asian

15   and Pacific Islander into two different

16   categories like OMB did in 1997.

17   For our purposes, we have Asian,

18   Native Hawaiian and Pacific Islander are all one

19   category because two of the services are

20   utilizing that, and in order to make the analysis

21   work, I then had to take the services' responses

22   and make them fit these new categories so that we

1   were talking apples to apples at the 1,000-foot

2   level.

3   I know that is all very confusing. It

4   becomes clearer on the next slide, which is going

5   to be the Racial Composition. Now you can look

6   at these two slides and the racial composition

7   for FY 2018 and the ethnic composition for FY

8   2018. You may question why are we using '18 and

9   not '19? Well, Department of Defense has not

10   published the demographic report for FY 2019 yet.

11   We wanted to use FY 2018 because that

12   was the most recent year that was published in

13   order to give context to the racial and ethnic

14   composition of the services. We are not trying

15   to draw a direct correlation or direct connection

16   between FY18 and '19. The assumption is that the

17   services' composition has not drastically changed

18   in one fiscal year.

19   But we're doing this so you can just

20   get an idea of the overall picture before we get

21   into the responses from the RFI to FY19.

22   Additionally, when you look at these two charts,

1   the first column is Armed Forces. Armed Forces

2   is the term that we are utilizing to reflect

3   Department of Defense and the Coast Guard. A lot

4   of times you will see data reported as just

5   Department of Defense and then the Coast Guard as

6   a separate category.

7   We have throughout combined the armed

8   forces, which is Army, Navy, Marine Corps and Air

9   Force, to include the Coast Guard so that we have

10   one baseline and then each service against that.

11   If you're looking at the first chart, you can

12   start with Armed Forces 69 percent White. That's

13   the largest category. As you go across, you will

14   see the Army was 68 percent White, Navy 62

15   percent, Marine Corps 80 percent, Air Force 72,

16   Coast Guard 75. We broke down the racial

17   composition for each service against the baseline

18   of the armed forces in FY18.

19   The second slide is the Ethnic

20   Composition, and it does the Hispanic or Latino,

21   not Hispanic or Latino, and then Unknown. The

22   one thing that's interesting in this in FY18, the

1 Marine Corps did not report any unknown. So

2 everybody in FY18 for the DoD report had either

3 answered Hispanic or Latino or not Hispanic or

4 Latino. I think it's fairly unusual to see that,

5 based on the data that we're going to get to in a

6 moment.

7 Just keep those charts. They're there

8 for frame of reference. When you get to the next

9 page, which is going to be Page 3 in Tab 4, it

10 takes you to the Race Categories. This chart is

11 an attempt to show you that the Army, on the RFI

12 response, they provided eight different

13 categories for race in addition to unknown. As I

14 said, we are utilizing the five categories in

15 addition to unknown.

16 So I tried to make an illustration

17 that shows you how these categories have come

18 together. The best way to look at this one is

19 American Indian and Alaska Native, since that

20 hasn't changed, you just have a straight line

21 across to American Indian or Alaska Native. The

22 next is Asian, Asian/Pacific Islander, and then

1   Native Hawaiian or Other Pacific Islander. Why

2   there are three categories in that column is

3   because on the Air Force response, those were

4   three possible entries in the RFI that we

5   received.

6   With the assumption that we are

7   combining them into one, you'll see three lines

8   now making those three categories are counted and

9   recorded as one for our purposes. Additionally,

10   on all of the charts you're going to notice that

11   Mixed and Other are combined into Mixed. We

12   didn't separate them out to have Mixed and Other.

13   It's a little bit of a misnomer to say that Mixed

14   means that everybody in that category is more

15   than one race.

16   What we're saying is if somebody said

17   they were one race, but it wasn't one of the main

18   categories, or they're two or more, those are all

19   grouped together as Mixed for the ease of the

20   discussion. When you look to the bottom of that

21   page and you see the Ethnicity Categories RFI

22   response, you can see that the Army was utilizing

1   Hispanic or Latino, Not Hispanic or Latino, Not

2   of Hispanic Origin, and Unknown.

3   So for some reason in their systems,

4   and it may be because the MCIOs were using one

5   and military justice was using another. But we

6   pulled the Not Hispanic or Latino and the Not of

7   Hispanic Origin and combined them into one. Now

8   as difficult as it might be to get your head

9   wrapped around how these were put together, it

10   gets more complicated as we go.

11   If you go to the next page, you will

12   see the top chart is the Army Racial and Ethnic

13   Composition. Earlier we showed you all of the

14   services against the Armed Forces. Now just

15   because we're going to be talking solely about

16   the Army for the next couple of pictures or

17   couple of graphs, we wanted to give you a

18   refresher of what was the Army's racial and

19   ethnic composition in FY18.

20   You can see by looking at race, 68

21   percent of the racial population of the Army was

22   White. Four percent were unknown, six percent

1   were Asian/Native Hawaiian/Pacific Islander. You

2   have American Indian/Alaska Native, and then you

3   have 21 percent Black or African American. When

4   you look to the right and you look at ethnicity,

5   84 percent are not Hispanic or Latino, 15 percent

6   are Hispanic or Latino, and then it says zero

7   percent for ethnicity. That will be revised for

8   publication to show less than one percent. It is

9   more than zero, but Excel made it zero and I just

10   haven't made that change yet.

11   When we do our graphic design with

12   Laurel, who is our staff on that, we will make

13   fix that for the future. So now look directly

14   below that. Race of the Subject in FY19. What

15   you're looking at here are the actual responses

16   as received from the Army to the RFI. You can

17   see that there are, quote-unquote, three buckets,

18   the first being Sexual Offense Unrestricted

19   Report, the second Sexual Offense Preferred, and

20   the third Sexual Offense Convicted.

21   The raw numbers are just that: raw

22   numbers in each group. The percentage is that

1   raw number as a percentage. Where this is

2   important is when you look at Sexual Offense

3   Preferred, it isn't a percentage of the first set

4   of numbers. The percentage is based on that

5   bucket of information. So for example, if you

6   look at the top chart, 68 percent of the Army is

7   recorded as White in FY18. In the response that

8   we got on FY19 for those subjects with a sexual

9   offense unrestricted report against them, 63

10 percent of those subjects were White.

11   When you go to the next category over,

12 Sexual Offense Preferred, of the cases where

13 charges were preferred against a subject, 57

14 percent of the subjects were White. When you

15 take one more step to the right with Sexual

16 Offense Convicted, of the cases where the subject

17 was convicted, 65 percent were White. You do a

18 little bit of a V there.

19   You go from 63 percent to 57 percent

20 proportion to 65 percent proportion. We don't

21 know why. We're not saying that that's a

22 problem. We're saying it's something that we

1   have observed. It's the same thing for the

2   discussion if you look at Black/African American.

3   They were at 29 percent of the reported cases, 37

4   percent of the preferred cases with a subject

5   that was Black or African American, and then 31

6   percent of the convictions. So you have a

7   reverse V at that point.

8   Again, we're not saying that you're

9   more likely to be preferred or more likely to be

10   charged. We're not making that determination.

11   We're saying this is observed in raw numbers, and

12   that with additional data, additional research,

13   we could try to figure out why that's happening.

14   Then we could look at what is the proportion of

15   the population versus how many are being

16   reported. Then the proportions of those that are

17   -- what is the White component of preferred

18   against reported? There are so many other

19   questions you could ask, but without additional

20   data, you can't actually get the answer at this

21   point. We're just giving you the raw numbers,

22   proportions for each group as an observation.

1   The next slide that's on Page 5 is the

2   Army's Ethnicity of the Subject. When you're

3   looking at the ethnicity, what you're going to

4   see is that it is fairly consistent. There's

5   really a three percent variance in proportion up

6   and down between the categories. There is

7   nothing really outstanding in just a basic

8   observation. Then with further analysis we might

9   be able to find a trend or see something within

10   that data, but we're not at the point of being

11   able to do that based on all of our limitations.

12   The next one is the Navy. When you're

13   looking at the Navy, it's the same format that we

14   just did for the Army. We're going to start out

15   with the Race Categories and the Ethnicity

16   Categories. Now this is the first service of the

17   two where they are still using the Asian, slash,

18   Pacific Islander definition that was in the 1977

19   OMB rather than the split of Asian is one

20   category, Native Hawaiian/Pacific Islander as a

21   second category that was in the 1997 OMB

22   directive.

1   For our purposes, this grouping that

2   the Navy and the Marine Corps, as you'll see, are

3   utilizing is the common denominator that we had

4   to settle on for all the services for the

5   discussion. With the addition of adding Native

6   Hawaiian to the category Asian/Native

7   Hawaiian/Pacific Islander, so it accurately

8   reflected what the other services were also

9   titling that category as.

10   This is one of the first breaks now

11   where the Army gives you many more choices than

12   what the Navy and the Marine Corps are doing, and

13   the Navy and Marine Corps are using the

14   categories essentially from 1977 versus 1997.

15   Additionally, the Navy's ethnicity categories for

16   Hispanic, Not Hispanic and Unknown, they are just

17   lacking the term Latino, so we added that on.

18   All of that being said, these are based on the

19   responses in the spreadsheets that were provided

20   to us.

21   It is entirely possible that when you

22   go into their actual tracking system, they may

1   have Native Hawaiian as an option, and it may be

2   added to the Asian/Pacific Islander category, and

3   it's just not being shown to us. So we're

4   working on the assumption that the categories

5   that were given to us are how they report it in

6   their system.

7   There is the potential that there's a

8   disconnect, and future research would suggest

9   that we would like to see the actual system, the

10   actual source material, whether it's coming from

11   a personnel system or it's coming from a paper

12   that was filled out by the MCIO. Whatever it is

13   that feeds into their military justice system, we

14   would like to see the beginning stages of that.

15   But if you take those race categories,

16   ethnicity categories, they're the same that we

17   settled on for the Army. You go to the next

18   page, which is Page 7, and the first one is the

19   Racial and Ethnic Composition of the Navy in

20   FY18. Again, it's there for background material

21   to inform the next two charts you're going to see

22   for the Navy. When you look at race of the

1   subject based on the RFI, something that pops out

2   and is an observation that we would want to do

3   more research to find out why, but Black/African

4   American individuals as a subject for an

5   unrestricted report were 29 percent of the

6   responses we received.

7   When you go to preferred cases, they

8   were 28 percent of the cases. However, when you

9   go to convictions, they're 44 percent of the

10   convictions. With respect to White at 57 percent

11   to 59 percent to 56 percent. That's a fairly

12   consistent number. The Black proportion has gone

13   up, and there are no individuals of Asian/Native

14   Hawaiian/Pacific Islander, Mixed or Unknown or

15   American Indian/Alaska Native that had a

16   conviction against them.

17   All of that comes with the caveat that

18   we are talking about extremely small numbers.

19   We're talking about nine individuals total

20   convicted of a sexual offense based on the RFI

21   response. It would be dangerous to draw

22   conclusions off of such a small number in the

1 grand scheme of what we're doing. We would not

2 want to say that the armed forces have a problem

3 based on a result of nine cases ultimately. Just

4 keep that in the back of your mind as we're going

5 through this, that there are limitations to what

6 we're trying to determine.

7 When you go to the next page and you

8 look for ethnicity of the subject, Not Hispanic

9 or Latino climbs over the three groups

10 proportion-wise from 71 percent to 75 percent to

11 100 percent of the convictions. Again, we're

12 talking nine convictions, but we would like more

13 information to figure out what were these cases.

14 What were the underlying charges? Are we talking

15 about multiple victims? There are so many

16 possible questions you could ask with additional

17 data.

18 The basic observation is Not Hispanic

19 or Latino proportion increases until they are 100

20 percent of the convictions in FY19 for the Navy.

21 The Marine Corps is going to be, which is the

22 next page, Page 9, is going to look very similar

1 to the Navy because they are using the same

2 categories. The same discussion that we had over

3 race categories and the Asian, slash, Pacific

4 Islander, adding in the Native Hawaiian to the

5 category in order to meet the common denominator

6 and then adding Latino to Hispanic or Not

7 Hispanic categories holds true for these, as

8 well.

9 When you go to the next page, which is

10 Page 10, we're looking at the same format that

11 we've done. What is the racial composition and

12 the ethnic composition of the Marine Corps in

13 FY18. Again, I draw your attention to they have

14 zero Unknown in the FY18 category for ethnic

15 composition. However, when you look at the next

16 chart, Race of the Subject for the RFI, there are

17 11 or two percent of the proportion for the

18 unrestricted report have an Unknown ethnicity.

19 What this tells us is that the

20 reporting system that was utilized in reporting

21 the data to the Department of Defense for their

22 demographic report has different data than the

1   MCIO and the military justice system has, or in

2   FY19 all of a sudden they now have unknowns that

3   they didn't have in '18. A couple of questions

4   you could raise from that -- are the systems

5   sufficiently different that they aren't tracking

6   with the same validity the answers? Or was there

7   a change between FY18 and FY19 where more

8   individuals decided that they weren't going to

9   provide what their ethnicity was? I'm sorry,

10 that was race of the subject. I apologize.

11   If you go to the next slide, there are

12 30 individuals that were unknown ethnicity in the

13 Marine Corps. So it's a larger number than what

14 I was saying for subject. I misspoke. Going

15 back to race of the subject though, what you see

16 is the proportion of White for the unrestricted

17 report were 70 percent in FY19. However, we

18 provided that chart to show you FY18. In the

19 demographic report, 80 percent of the population

20 was reported as White. So there was a slight

21 difference there.

22   For the preferred cases, White went to

1   75 percent and then convictions 69 percent. So

2   again you've got that reverse V. With the Blacks

3   for race in the Marine Corps, you go from 21

4   percent of the unrestricted report proportion to

5   21 percent of the preferred cases proportion to

6   31 percent of the convictions that were reported.

7   Again, you do not have any American Indian,

8   Asian, mixed or unknown convictions, only Black

9   and White subjects were convicted in the data

10   that was reported to us.

11   The next slide on page 11 and this

12   chart is the Ethnicity of the Subject, and it's

13   what I was just discussing with you. The Unknown

14   category in the reported doesn't necessary match

15   up with what the DoD reported numbers were. In

16   this case, the Hispanic or Latino proportion

17   grows in each bucket, from 26 percent to 33

18   percent to 44 percent. That wasn't something

19   that we saw in the Army and Navy reported

20   numbers, and it's not something that you're going

21   to see in the Air Force or Coast Guard numbers as

22   well.

1   We are looking at these as individual

2   services, but that would be a question for

3   further research of how do these issues play out

4   when you try to compare the services against each

5   other? Again, with agreed definitions and

6   comprehensive data, you'd be able to do a more

7   thorough analysis.

8   If you go to the next page, page 12,

9   this is where it really gets interesting. It

10   shows you the extremes as to how the services are

11   attempting to record race and ethnicity. When

12   you look at what the Navy and the Marine Corps,

13   as I presented to you, are using essentially the

14   OMB groups without breaking apart to the

15   Asian/Native Hawaiian. You look at the Air

16   Force, they have 19 categories, plus unknown.

17   We had to take those 19 categories and

18   get them to the common denominators or the common

19   categories that we were looking at for the

20   analysis. You will see it is an I chart with the

21   lines going in every direction to explain how we

22   got there. When you look at the Air Force

1   ethnicity categories on the next page, you will

2   see the same dilemma, which is they have 15

3   categories for ethnicity and two unknown

4   categories.

5   Now the two unknowns can be explained

6   by having different databases that were merged.

7   That's a possibility. What you're seeing also on

8   this chart is that it has American Indian, and

9   then in parens it has an N. And then Cuban has

10   an H. The assumption is that American Indian is

11   Not Hispanic or Latino, but Cuban would be

12   Hispanic or Latino, and that tracks. Where it

13   gets a little bit more difficult though is they

14   do say like, none would be Not Hispanic or

15   Latino.

16   For our purposes, we considered none

17   as unknown. If you're only, according to the

18   government, supposed to have Hispanic or Latino

19   or Not Hispanic or Latino, so none would be

20   slightly ambiguous. So we viewed that as

21   Unknown. That would be the same thing for Other.

22   Rather than saying Other is Not Hispanic or

1   Latino, we classified that as Unknown, because if

2   you look two boxes down, there is Other Hispanic

3   and Other Asian. So they do have ways of getting

4   them into Not Hispanic or Latino.

5   The point of those two tables is to

6   show how complex this issue is and how the

7   services do not agree on what constitutes the

8   race categories. In order to do research on

9   this, it would really benefit anybody that's

10   doing the research to have the services reporting

11   the same terms, the same categories throughout.

12   When you get to the next page, page

13   14, you're going to have the same slide that we

14   showed you for the others, Racial and Ethnic

15   Composition for FY18, just as a throwback, or to

16   give you some awareness of what was reported the

17   prior fiscal year. Then when you look at the

18   next one, the next table is the Race of the

19   Subject for the Air Force based on the RFI

20   responses. A couple things that step out or you

21   can make observations on this chart, that White

22   individuals were 60 percent of the reported

1   cases. They were 51 percent of the subjects in

2   the preferred cases, and they were 52 percent of

3   the subjects in the convicted cases.

4   You have a slight decline, or a very

5   short V in that distribution. When you look at

6   Black/African American, you go from 21 percent to

7   29 percent to 35 percent, so you have an actual

8   slight incline between those three groups. This

9   is probably the best example to show you, there

10   is an incline, but when you look at those charts

11   and actually look at the decline, how the

12   distribution is set up when you put charts

13   against each other.

14   It's a little confusing in that sense,

15   but that's why the requests that you had in the

16   past of having both raw numbers and percentages

17   really works in this case because it makes a

18   point that we are going 21 percent, 29 percent,

19   35 percent. Again, we're not saying how that's

20   happening or why that's happening. It is just

21   what was reported to us.

22   The other observation that I would

1 draw your attention to on this one is this is the

2 first service where we have seen subjects of each

3 category reported in the convicted space other

4 than American Indian/Alaska Native. In the

5 others you've seen Black/African American and

6 White as primarily convictions. The Air Force

7 has a wider distribution in the representation of

8 which subjects were convicted absent American

9 Indian or Alaska Natives being in that category.

10 When you go to the next slide, which

11 is Ethnicity of the Subject, you're going to see

12 that the Unknown category has the potential of

13 skewing the numbers here. I wanted to report it

14 the way that we received it. For the Air Force,

15 on the Unrestricted Report, which the assumption

16 is that they're coming from the MCIOs, 64 percent

17 of the subjects it was not noted what their

18 ethnicity was in the investigation. Then when

19 you get to preferred, the unknowns dropped from

20 that 64 percent of proportion to 42 percent.

21 Then it dropped to 29 percent.

22 That is something for future study to

1 figure out is there a disconnect between those

2 two reporting systems as to why there would be

3 such a high unknown proportion in the

4 unrestricted report subjects? Additionally, if

5 you look in Hispanic or Latino, they as a

6 proportion went from eight percent to 15 percent

7 to 16 percent, so it's a higher proportion of the

8 preferred and convicted against proportion in the

9 unrestricted reports.

10 Again, Not Hispanic or Latino also

11 climbed. The reason why I'm saying they're

12 observations, we don't know if that Unknown, the

13 large Unknown proportion in the first bucket, how

14 that might be skewing the numbers. Where I would

15 look at this as saying there's something that

16 we're observing, but because we don't know the

17 validity of the data, we don't know what we're

18 actually seeing.

19 Without further research, we couldn't

20 make a statement that says you're more likely to

21 be convicted if you're Hispanic, because had such

22 a large number of Unknowns to begin with. If you

1   go to the next page it's the last service, so

2   we're at the Coast Guard. We're in the home

3   stretch now. If you look at the RFI response,

4   they have six categories plus Unknown. What I

5   would like to highlight just in that response is

6   they are using the OMB standard from 1997. They

7   have the truest representative sample as what you

8   would see in the census every 10 years.

9   Unfortunately, because we've already

10   defined that common denominator, we ended up

11   combining the Asian/Native Hawaiian/Pacific

12   Islander into the one category so that it matched

13   with the other services for discussion purposes.

14   With respect to ethnicity, they were sort of an

15   outlier in that they had Hispanic or Latino and

16   Not Hispanic or Latino, but then they also added

17   in American Indian/Alaskan Native and they added

18   in Non-Hispanic.

19   I would think if you get into the

20   data, you're actually able to tell that there was

21   a coding mistake with respect to American

22   Indian/Alaskan Native and being Not Hispanic or

1   Latino. There were, I believe, five entries

2   where race and ethnicity appeared to be swapped

3   when they were put into the system. How that

4   information was transposed between where it was

5   put into their systems and how it got to us, I

6   don't know, but it was pretty apparent when you

7   look at the spreadsheet that it was just a swap.

8   In the appendix that is attached to

9   this report, when we get to that point, there

10   will be a footnote or an explanation that this

11   was observed in our data, and in order to clarify

12   the analysis, we did account for that and we

13   switched the categories in those entries for

14   those purposes. However, and this accounts for

15   everything that we've discussed up to this point,

16   I would propose that the committee consider

17   including all of the raw data as it came to us

18   from the services, minus any PII, anything that

19   would identify who these individuals are, that it

20   be stripped down but it be in the response that

21   we received from them so that if somebody would

22   like to look at how we got from A to Z, they

1 would have that data available to them.

2 My best way of explaining this is it's

3 how we show our work. We don't want to appear

4 that we're hiding anything, so if we show what we

5 received and how that translated into our data

6 tables, it would make it easier for the reader to

7 understand how we're making the observations that

8 we're making. Then ultimately any findings or

9 recommendations that would come out of the DAC-

10 IPAD would be based on the data that was

11 received.

12 I digress by doing that. I should

13 finish off with the Coast Guard quickly in that

14 the Racial and Ethnic Composition on the next

15 page, which is page 17, it just shows you what

16 was recorded in the DoD demographic report in

17 FY18. What you see for Race of the Subject is

18 White subjects were 76 percent, and then 95

19 percent, and because there was only one

20 conviction for the Coast Guard, we know that the

21 accused in the Coast Guard that was convicted was

22 White.

1   When you look at Ethnicity of the

2   Subject, the same trend is there and you can see

3   that they were White, Not Hispanic/Latino. So

4   when you're looking at filling out, say for the

5   census, that in theory is how that person would

6   check their answers when the government was

7   asking the question. Now the next page, it would

8   be at the tail-end of your read-ahead, is

9   something that is a complete disconnect from what

10   we have been doing up to this point.

11   All of the data that I just provided

12   to you, all of the charts and the analysis that

13   we have done, are based on the numbers that were

14   provided to us based on the question that

15   Congress asked. What is the subject in those

16   three scenarios? Their race and their ethnicity.

17   However, we've looked at that question as limited

18   in that it is a question that can be asked, and

19   you're getting a basic answer. However, we asked

20   those additional questions with regard to the

21   age, the pay grade, the sex, to see if we could

22   develop a picture a little bit broader.

1   The other component that we added in

2   was the victim. We are not reporting any of that

3   because one service didn't provide any victim

4   data. Another service may have provided just

5   cases, maybe the first victim in the case, not if

6   there were multiple victims. Other services it

7   appears have included the subject and then a

8   separate entry for each of the victims. So what

9   we've attempted to do is to just get an idea if

10   this is possible, is we tried to find the

11   subject/victim correlation.

12   Now this is a sample. This is not one

13   particular service. It's not multiple services.

14   It's not anything that I want to say this is the

15   armed forces as a whole. This is a hypothetical

16   sample of trying to connect subject to victim in

17   order for you as members to see if this is

18   something we would want to try to study in the

19   future.

20   When you look at the first chart,

21   Racial Composition: Subject/Victim Correlation -

22   Sexual Offense Unrestricted Report, what you're

1 looking at is along the bottom, you have a sixth

2 column, American Indian/Native American. We'll

3 use that as our first discussion. In that, when

4 you have an American Indian or Native American

5 identified subject, what was the race of the

6 victim? In this case, we would say American

7 Indian/Native American subject, 29 percent of the

8 time, the victim was also American Indian or

9 Native American, 71 percent of the time the

10 victim was White.

11 You can do that same observation

12 across the spectrum. You can look at

13 Asian/Native Hawaiian/Pacific Islander. When the

14 subject was Asian/Native Hawaiian/Pacific

15 Islander, in 19 percent of the cases, the victims

16 were Asian/Native Hawaiian/Pacific Islander, 13

17 percent were Black/African American, six percent

18 were Mixed, 56 percent were White, and then 6

19 percent, we don't know what the racial

20 composition of the victims were, so it is

21 Unknown.

22 Where this information has some

1   limitations at the level that we're at right now,

2   and where you could go with it, would be if you

3   had the valid data in the first place. You would

4   then also be able to look and differentiate when

5   it is a single subject with a single victim

6   versus a single subject with multiple victims.

7   You could look single subject with pay grades of

8   victims or if they're civilian/military, again,

9   the sex of the victims versus the sex of the

10   subject.

11   There are multiple ways you could pull

12   strings. Going to the next level of analysis,

13   which we have not attempted to do with the case

14   adjudication, would be to say the race of the

15   subject, the race of the victim, the type of

16   offense, the racial composition of the members of

17   the court martial if they existed. Or you could

18   say the racial composition of the military judge

19   if it were a judge alone case. You could start

20   taking these data points and trying to do that

21   multivariate analysis that we have done in the

22   past to see if there are any trends in that if

1   one service might be doing something differently,

2   or one service is providing a different level or

3   a more diverse member pool for the court martial

4   to pull from.

5   I mean there are so many unknowns, but

6   without having the common language to begin with,

7   it's hard to get to that point. But we take all

8   of that discussion and we look at the next for

9   Sexual Offense Preferred, and you can see

10   American Indian/Native American, you don't have

11   any cases where they were preferred. We don't

12   know any known victims of American Indian/Native

13   American based on this sample and this

14   hypothesis, who have any cases preferred against

15   them, the subject.

16   And then in this case, Asian/Native

17   Hawaiian/Pacific Islander, 100 percent of the

18   cases that were preferred, the victims were

19   Black/African American. You start to see what

20   does this mean? Then when you get to conviction,

21   the convictions that you see in this sample are

22   Black/African American and White subjects, and

1   then you look at the racial composition of their

2   victims.

3   In discussing this with Dr. Spohn and

4   Dr. Wells, Dr. Spohn made the comment that this

5   might be something that could fit into what she

6   had called the sexual stratification hypothesis.

7   Those are words to me, but it is a concept to

8   her. I think, Dr. Spohn, if you at some point in

9   our conversation today would like to enlighten

10   everybody on that, that's where it could go with

11   this type of data going forward.

12   But based on the data that we have

13   now, these three charts are hypothetical. It's

14   where we could get. Where we're comfortable at

15   this point is the presentation that I gave up to

16   this point, which is very limited in scope to the

17   question that Congress asked, which is the race

18   and ethnicity in those three categories of the

19   subject. All the other information that we

20   gathered can be in the appendix if you would

21   like. It doesn't have to be included, either.

22   You're going to see all of it, and you can

1   determine what you feel is important to hang your

2   observations on and findings and recommendations.

3   But the information is there for you to peruse as

4   you get further into this process.

5   With that, that is a quick overview of

6   the data that we have for you as you try to

7   figure out where this report can go. Are there

8   any questions that I can attempt to answer for

9   you based on what I've just presented?

10   DR. SPOHN: Chuck, this is Cassia

11   Spohn. I don't really have a question. You and

12   I talked about these things yesterday. But I

13   think it's really important to look at the race

14   of victims because research shows that if we're

15   looking at capital punishment and sexual assault,

16   that the race of the victim is actually a

17   stronger predictor of outcomes than is the race

18   of the subject. When you look at the interaction

19   or the correlation between the race of the

20   subject and the victim, there is more explanatory

21   data there.

22   I think these findings are intriguing

1 and I would encourage us to at least make a

2 recommendation that someone follow up on this,

3 because I do think it's important. Thank you.

4   MR. MASON: Yes, ma'am. This is Chuck.

5 I would say that this ties back to what Nalini

6 and Eleanor started the conversation with today,

7 is that 140a standard is recording one thing.

8 OGC's guidance is recording something that's

9 slightly different. There's a disconnect between

10 the two. One is capturing at court martial, but

11 not capturing at investigative because of where

12 the authority lies. So what we're able to say is

13 this is information we would love to have, but if

14 the services don't collect it in a way that it

15 can be utilized, there's still going to be the

16 unknown that can't be addressed. Any other

17 questions?

18   MS. LONG: Chuck, this is Jen Long.

19   MR. MASON: Go ahead.

20   MS. LONG: My question is because of

21 the relative small number of actual cases we're

22 working with, is it possible to do a case-by-case

1   analysis where we're looking through the cases to

2   determine more than just a case review by really

3   even trying to have decision-makers, if they're

4   still there, talk about the decision or really

5   making sure we're looking through at every single

6   pat of the case from beginning to end? Like in

7   much more care, I would say, than the original

8   case review.

9   Looking at the video or listening to

10   things, looking at trial transcripts or whatever

11   we have of those, looking at motions to really

12   try and be able to say with certainty, since this

13   universe is so small and we could get to a true

14   understanding of what happened? Or is that not

15   consistent with research best practices, or we're

16   not able to do it based on the resources we have?

17   MR. MASON: This is Chuck. I would

18   say, I don't want to tell you you can't do

19   anything, because you are the members. We work

20   for you, and we try to get the material that you

21   feel would be beneficial to make determinations

22   and to provide your advice to the Secretary of

1   Defense, which is the charter. So what I would

2   say is if it's something that you believe in and

3   you would like to see happen, there is no harm in

4   saying we would like to do this.

5   Whether it's an observation, it's a

6   recommendation to the DAC-IPAD or it's a

7   recommendation to the Secretary of Defense -- it

8   could be a recommendation to the military justice

9   review panel that's being stood up. There are

10   many ways that you could go with that. If it's

11   something that you would like to keep internal,

12   we could say we're looking at a total of 106

13   cases where there were convictions. Can we look

14   at those in greater detail?

15   Because of the way this information

16   was presented to us through the RFI, we do have

17   the ability to track down these individual cases.

18   We can tell you when we do the analysis where the

19   PII, who that actual case involves. It's

20   obviously stripped out in anything that we share

21   with the public, but we do have it as part of our

22   exchange of information with the services.

1   Now the ownership of all that

2   information are the services. If we were then to

3   go back and say you've identified these cases and

4   we would like to have access to them, you always

5   run the potential of a service saying we're not

6   really comfortable doing that or yes, absolutely,

7   here is the information, but we retain ownership

8   of it. If there was a FOIA request, you would go

9   back to the service for that information. That's

10   how we've operated in the past. If it's

11   something you would like to see, I'm taking notes

12   as we talk, it's definitely something that we can

13   explore to see how we would do it.   And then we

14   would work with Dr. Wells as our criminologist,

15   how to frame the research questions to get to the

16   answers that would be beneficial for your use.

17   Any additional questions?

18   CHAIR BASHFORD: Yeah, this is Martha

19   Bashford, Chuck. I think we're starting off from

20   a bad premise. We don't know if there's any

21   disparities in restricted reports versus

22   unrestricted reports. We don't know if there's

1   any disparities in the nature of the reporting

2   itself as opposed to -- does reporting

3   necessarily correlate specifically with

4   occurrences or not? Right from the get-go we may

5   be getting flawed information.

6   I don't really know how to account for

7   that or to note that if, in fact, it is flawed.

8   The one thing I do see though, across everything

9   there does seem to be some disparity between

10   population and ultimate results.

11   MR. MASON: Yes, ma'am. We've had lots

12   of internal discussion as we were working through

13   this process, from the first RFI to how we

14   revised it and how we added information. Part of

15   where we have struggled is we would like to get

16   to those answers, but we know that the question

17   that was asked was so narrowly focused that we

18   want to give Congress their answer.   But we also

19   want to be able to tell Congress that they might

20   be ahead of the game in their question, that

21   they're asking a question that is being impacted

22   by a law that they had passed that is not fully

1 implemented yet.

2 This question might be better a year

3 from now or two years from now as the services

4 have an opportunity to actually record this

5 information in their systems and to report it out

6 accurately. That they've agreed to a standard

7 and using that standard. We do know that the

8 initial premise is flawed.

9 We know that there are many more

10 questions that should be asked if you're going to

11 do this type of analysis that's limiting it to

12 just this one snapshot runs the risk of doing a

13 disservice to the accused. It does a disservice

14 to the victim, it does a disservice to the

15 military justice system. It really isn't a fair

16 analysis for all parties involved. So by having

17 this additional background information, the valid

18 data that we can work from, we could provide

19 better answers.

20 All of that doesn't take away from the

21 fact, though, that with this basic information

22 that we have that was presented, that yes, we are

1 seeing, observing some disparities there, but we

2 don't know why. Even at its most basic form,

3 we're still getting information that will help

4 us, and us being the DAC-IPAD, make the

5 determination of how to do this research going

6 forward and how to bring everybody onto the same

7 page.

8 If you've identified the problems that

9 we've talked about and we're going to have to

10 include them in the narrative and explain why

11 there are problems and what those limitations

12 are. I hate doing a data presentation where I'm

13 constantly saying to you, there's a limit. This

14 isn't what it could be. But the DAC-IPAD has

15 done such an amazing job with establishing our

16 standards that we're document-based and we verify

17 information, and that the case review and case

18 adjudication projects have had that standard,

19 that it's a little difficult to now do one where

20 we're saying we're just accepting the answers

21 that we got as being the truth.

22 So there is a big caveat to this

1   report, but it shows that this report could be so

2   much more in the future if the DAC-IPAD wants to

3   go down that road. Any additional questions or

4   comments before I turn it back to Eleanor? Okay.

5   Well with that, I will hand it back over to

6   Eleanor to lead the next part of our

7   conversation.

8   MS. VUONO: Great, thanks Chuck. This

9   has really been the perfect segue to the fourth

10   and wrap-up session for this particular meeting.

11   What Chuck has done is he's really shown us, he's

12   raised all of these questions for you to consider

13   for future study. One of the things we want to

14   focus your work on for the next two weeks before

15   the November 6th meeting is: what are those

16   questions that come to mind?

17   As you view these data results, you're

18   going to receive sometime next week a draft

19   report, we ask that you will look at those, the

20   data that's included, the draft report, and think

21   about what questions, what observations, what

22   recommendations you will want to make at the

1   public meeting for your next deliberation on

2   November 6th.

3   Already you've already raised some of

4   those questions, and we've focused on, for

5   example, the victim/subject pairing, perhaps a

6   deeper dive into convictions. There are a few

7   more I may throw out here just for your

8   consideration, some questions to get you started

9   as you think about this before your deliberations

10   in November.

11   First, should the DAC-IPAD incorporate

12   reviews of race and ethnicity data in all of the

13   future reports? Is that something you want as a

14   feature? What specific studies of race and

15   ethnicity do you want to undertake in future DAC-

16   IPAD projects? I've heard and we've written down

17   the need for data on victim/subject pairings, how

18   that should be collected and assessed. Other

19   questions, what, if any, studies should be done

20   on the racial makeup of the MCIOs?

21   Perhaps the prosecutors or convening

22   authorities, of the judges, the panels of members

1   who hear courts martial? Are there studies or

2   should there be studies on racial disparities

3   between those who plead guilty versus those who

4   go to trial? What about racial disparities

5   between convictions in the penetrative versus the

6   contact sexual offenses? Those are just some of

7   the things that might come to mind.

8   You'll certainly come up with more,

9   and we look forward to hearing those and having

10   that conversation with you at the next public

11   meeting on November 6th. Before we wrap up

12   today's meeting and I turn this over to Colonel

13   Calese for any comments, are there any other

14   questions about the information that we've

15   presented today? And of course, we are really

16   thankful and grateful to all of you for your

17   time, because this is such an important subject.

18   If not, I'm turning it over I guess to Colonel

19   Calese.

20   COL. CALESE: Thanks much, Eleanor.

21   First and foremost, I want to thank the race and

22   ethnicity team that's been working so hard on

1   this. And I also want to put out a big thank you

2   to our service representatives who are on this

3   call. They have done all kinds of very helpful

4   collaborative work, explaining some of the

5   limitations that they have, helping us frame and

6   get as much data as we can. I think it's really

7   important that we all put this in context.

8   We're pulling together race and

9   ethnicity, very tough questions, with brand-new

10   laws and policies on how we're going to collect

11   that data, and we're trying to braid that and

12   translate into the expertise that every single

13   one of our committee members have in particular

14   with sexual assault. So how we try to pull that

15   data is really tough, and my hat is off to the

16   race and ethnicity team and those services for

17   doing that.

18   It's also off to you, Chair Bashford,

19   for your wisdom in having us go ahead and convene

20   in advance of deliberating on this paper so that

21   we could put this data out and give everybody an

22   opportunity to look at some things. As you well

1   know, what you'll be getting from us next from

2   the staff are some proposed ways ahead for the

3   paper.

4   Essentially, that is what -- before I

5   turn this over to you, Ms. Bashford, or when I

6   turn this over to you, if you would, some of the

7   things I think as a staff we would like to hear

8   are: how do we capture exactly what the DAC-IPAD

9   would like us to produce in terms of this race

10   and ethnicity report? Is it something you'd

11   like, like Eleanor said, we should include in our

12   annual reports that we look at? Are there things

13   that we can systemically look at, definitely

14   taking into account the victim side and the

15   correlation between the victim and the accused,

16   as Dr. Spohn has pointed out.

17   But this is an opportunity if you

18   could now to think about those, voice them on

19   this call if you can. If not, we'll give you

20   some information on how to feed those to the team

21   so that we can capture them appropriately and get

22   that out for everybody for our deliberations on

1   the 6th of November. Finally, I have confirmed

2   with Mr. Trexler that we do not have any public

3   comments. Ms. Bashford, it's over to you.

4   CHAIR BASHFORD: People have been kind

5   of quiet on this call so far. There's a lot to

6   absorb. But since we are going to have to

7   deliberate on this in just two weeks, I would

8   really encourage people if you have any thoughts

9   now to voice them. If not, please email Colonel

10   Calese with ideas. We've got half an hour that

11   was still allotted to this, and as I said, people

12   have been rather subdued today. I encourage

13   anybody who has any comments to please make them.

14   HON. GRIMM: Grimm.

15   CHAIR BASHFORD: Please, go ahead.

16   HON. GRIMM: My first comment is simply

17   to thank the staff for the fabulous work that

18   they have done. Obviously we would have no way

19   of being able to get our heads around what kind

20   of data we need or want or what we think is the

21   best path going forward without that assistance.

22   Walking through the charts and explaining it was

1   exceptional.

2   I can just say that from my personal

3   viewpoint, I would feel helped as we make a

4   decision as a committee next month with a

5   breakdown that the staff has done for us many

6   times in the past, which would include possible

7   outcomes, possible recommendations that we could

8   make. We could recommend this, this, this, this,

9   and this is possible, the bang for the buck that

10   we get from each of those recommendations.

11   For example, we now know that not

12   having the same number of categories identical

13   throughout creates certain systemic problems in

14   trying to understand it. We now know that if we

15   had information about victims, that we could do

16   better correlation. We know that if we had the

17   raw data, we could do independently and analyze

18   what it says and determine whether we believe

19   that there has been a coding error or something

20   of that nature.

21   It would help me as a non-

22   statistician, we have Dr. Spohn, we have others

1   on our committee who are researchers, who know

2   this much better than I do. But from someone

3   who's a generalist, but who has to make decisions

4   all the time about technical, scientific or

5   specialized areas, having a range of options that

6   we might want to pursue and what we get from each

7   one or what we are not able to -- you know, if we

8   do this, this is what we can do with this

9   information, but we can't do this.

10   That would help very much making sure

11   that we track through there and figure out what

12   is going on and if there are limitations on what

13   we could do, yes, if we had this we could do

14   this, we would not be able to do this. But to

15   get from here to there would involve this much

16   more level of complexity or cost or burden or

17   whatever, or would require a statutory change or

18   something of that nature.

19   To me, that kind of analysis that

20   helps us to rank or value the options would be

21   enormously helpful.

22   CHAIR BASHFORD: Any other comments,

1   suggestions, questions?

2   MR. SULLIVAN: This is Dwight Sullivan.

3   If I could ask Chuck two questions?

4   CHAIR BASHFORD: Please.

5   MR. SULLIVAN: Chuck, these questions

6   are interrelated, so it may help if I ask them

7   both and then you can give me a combined response

8   to both. So it seems to me that when you break

9   down the services individually, the numbers are

10   so small, as you pointed out, for some of the

11   services. I think it would be helpful to have

12   some sort of indication of statistical

13   significance of the variances as the case moves

14   from one of the three phases to the next.

15   Secondly, the opening charts had

16   combined data for the armed forces as a whole,

17   and I don't see anything in here that sums up the

18   data in the three categories for the armed forces

19   as a whole. I was wondering if that was going to

20   be produced in the final report, which would also

21   help to iron out some of those variances that

22   arise just because of the small numbers. Over.

1   MR. MASON: The first one with the

2   smaller numbers and the statistical significance,

3   we didn't go down that road because we've had the

4   limitations with the data to begin with. We were

5   just looking at these are the raw numbers as

6   recorded and that are proportioned within that

7   response. We didn't get into if there is a

8   statistically significant variation between them.

9   That is something that we would like to do once

10   we have the standardized data across the services

11   so that we can actually draw those correlations.

12   The way the response is being couched

13   right now is Congress asked for raw numbers, and

14   we're going to give raw numbers. But those raw

15   numbers do not tell the complete story, that you

16   need to have additional analysis if you're going

17   to try to do this type of research question.

18   The second issue with respect to the

19   armed forces, in those first two charts, because

20   we used the Department of Defense demographic

21   report, we wanted to show what the complete armed

22   services, the five services together, what that

1   number is. But then because we weren't going to

2   get into the statistically significant

3   components, the advanced bivariate and

4   multivariate analysis, we didn't try to do the

5   raw numbers for all of the responses.

6   That being said, and unfortunately the

7   staff had to sit through it already, I made 80-

8   some charts leading up to today. I've done a lot

9   of different trying to look at things to see if

10   there's something that we can explain it and

11   something that is worthwhile and does a holistic

12   view, the complete universe of cases. The data

13   just doesn't lend itself at this point to do

14   that.

15   But much like how we have done it with

16   the case adjudication report and the case review

17   report, that would be our goal going forward, is

18   that when we have more comprehensive valid data,

19   we would be able to do the overall viewpoint

20   analysis.

21   MR. SULLIVAN: Thank you.

22   CHAIR BASHFORD: Any other comments or

1   suggestions? At the risk of beating a dead

2   horse, I think we should really stress that for

3   almost 50 years now, since the 1972 report,

4   people have been saying the exact same thing

5   about the lack of clear and consistent data,

6   which we have said any number of times as well.

7   But I think it bears repeating every time.

8   COL. CALESE: This is Colonel Calese.

9   Judge Grimm, sir, I acknowledge that having that

10   breakdown of possible outcomes and

11   recommendations, and bringing those back to you,

12   we'll certainly be working on that. At the risk,

13   ma'am, of putting Dr. Spohn on the hook here,

14   ma'am, you had mentioned in the course of this

15   discussion the race of the victim is a stronger,

16   I believe you said indicator -- there's something

17   that you said. Could you expand on that so that

18   maybe we can look at how to explore some of that

19   in this menu of recommendations going forward?

20   Over.

21   DR. SPOHN: Sure. What I was referring

22   to is there's a substantial amount of work

1   primarily on the imposition of the death penalty

2   that illustrates that the race of the defendant

3   very often does not have a statistically

4   significant effect on the decision to impose the

5   death penalty. The race of the victim typically

6   does, with those who kill Whites being

7   substantially more likely than those who kill

8   individuals of other races to be sentenced to

9   death.

10   The race of the offender/victim pair

11   is also a significant predictor, such that Blacks

12   who are convicted of murdering Whites have the

13   highest likelihood of being sentenced to death.

14   Now in the context of sexual assault, Chuck

15   mentioned the sexual stratification hypothesis,

16   which really dates back to the 1970s. It's an

17   argument that response to sexual assault is

18   predicated on the race of the suspect and the

19   race of the victim.

20   Again, the argument is that Blacks who

21   sexually assault Whites have the highest

22   likelihood of being charged, successfully

1   prosecuted and sentenced more punitively.

2   Whereas, Blacks who sexually assault other Blacks

3   have the lowest likelihood of receiving those

4   more punitive outcomes. So I think that it is

5   important to think not only about the race of the

6   suspect or the subject, but also the race of the

7   victim.

8   And I noticed in the charts, I mean it

9   does appear, although this wasn't a focus of the

10   analysis that Mr. Mason presented, that the

11   typical victim in each of these outcomes that we

12   looked at, the typical victim was White. And I

13   think that deserves some more explanation.

14   COL. CALESE: Thank you, ma'am.

15   CHAIR BASHFORD: Colonel, so I'm going

16   to request that everybody, to the extent that you

17   can, if you have other comments to make, please

18   email Colonel Calese and please email Julie

19   Carson in advance so they can try to get a little

20   bit more focus with input from us. Colonel

21   Calese, do you have anything else to add today?

22   COL. CALESE: No, ma'am, I do not. I

1 believe we can conclude if you want to turn

2 things over to Mr. Sullivan or make any closing

3 comments yourself.

4   CHAIR BASHFORD: The only closing

5 comment I want to make is that this was a heroic

6 effort as far as the services and once again, the

7 staff, in a very compressed time frame when,

8 let's not forget, we were also getting the data

9 report to press. Congratulations to all involved

10 in both topics. And Mr. Sullivan, I think it's

11 time to bring us home.

12   MR. SULLIVAN: This meeting is

13 officially closed.

14   CHAIR BASHFORD: Thanks to everyone.

15   COL. CALESE: Thank you.

16   (Whereupon, the above-entitled matter

17 went off the record at 12:43 p.m.)

18

19

20

21

22

11:9,13,14

H

H 48:10
half 75:10
hampered 12:4
hand 7:14 14:7 70:5
hang 62:1
happen 65:3
happened 28:16 64:14
happening 38:13 50:20
  50:20
hard 28:16 60:7 72:22
harm 65:3
hat 73:15
hate 69:12
Hawaiian 30:18 34:1
  40:6 41:1 44:4 47:15
Hawaiian/Pacific 29:3
  30:4 36:1 39:20 40:7
  42:14 53:11 58:13,14
  58:16 60:17
head 35:8
heads 75:19
hear 72:1 74:7
heard 7:10 21:8 71:16
hearing 20:20 72:9
held 3:20
help 7:19 21:7 69:3
  76:21 77:10 78:6,21
helped 76:3
helpful 7:21 73:3 77:21
  78:11
helping 73:5
helps 77:20
heroic 84:5
hiding 55:4
high 52:3
higher 52:7
highest 82:13,21
highlight 53:5
Hispanic 13:9,19 14:3
  22:2,3,5,5,9 29:5,6,17
  29:17,18,19 30:8,9
  32:20,21 33:3,3 35:1
  35:1,2,6,7 36:5,6
  40:16,16 43:8,18 44:6
  44:7 46:16 48:11,12
  48:14,18,19,22 49:2,4
  52:5,10,21 53:15,16
  53:22
Hispanic/Latino 56:3
historical 11:10 27:15
history 9:14 15:1 29:8
hold 6:18
holding 13:17
holds 44:7
holistic 80:11

home 53:2 84:11
Hon 1:14,15,19 4:16
  75:14,16
hook 81:13
horse 81:2
hour 75:10
hypothesis 60:14 61:6
  82:15
hypothetical 57:15
  61:13

I

idea 31:20 57:9
ideas 75:10
identical 76:12
identified 26:12 58:5
  66:3 69:8
identify 7:19 14:16
  54:19
identifying 7:22
illustrates 82:2
illustration 33:16
impacted 67:21
impacts 29:21
implementation 9:17
implemented 15:11
  20:12 68:1
important 10:19 37:2
  62:1,13 63:3 72:17
  73:7 83:5
impose 82:4
imposition 82:1
in-progress 8:10
inadequacy 12:5,14
incline 50:8,10
include 6:6 16:21 17:7
  32:9 69:10 74:11 76:6
included 8:16 29:1 57:7
  61:21 70:20
includes 10:4
including 8:22 13:8
  14:22 19:12 54:17
incomplete 20:6
inconsistencies 13:7
incorporate 71:11
increases 43:19
independently 76:17
Indian 29:11 33:19,21
  46:7 48:8,10 51:9
  58:4,8
Indian/Alaska 29:2 30:1
  36:2 42:15 51:4
Indian/Alaskan 53:17
  53:22
Indian/Native 58:2,7
  60:10,12
indication 78:12
indications 24:8

indicator 81:16
individual 47:1 65:17
individually 78:9
individuals 22:6 42:4
  42:13,19 45:8,12
  49:22 54:19 82:8
inform 10:18 24:14
  41:21
information 4:10 9:10
  10:1,20 14:15 15:17
  15:21 17:19 19:11,14
  20:5,7 21:5,15 22:19
  23:14 37:5 43:13 54:4
  58:22 61:19 62:3
  63:13 65:15,22 66:2,7
  66:9 67:5,14 68:5,17
  68:21 69:3,17 72:14
  74:20 76:15 77:9
initial 68:8
input 83:20
instructing 17:3
instructions 4:11
interaction 62:18
interest 12:10
interesting 30:10 32:22
  47:9
interference 23:7
internal 24:22 65:11
  67:12
interrelated 78:6
intimate 9:1
intimately 15:6
intriguing 62:22
introducing 24:3
investigated 5:12 18:20
  19:22 26:14
investigation 1:3 3:6,15
  5:3 16:5,12 51:18
investigations 13:22
investigative 18:21
  20:6 63:11
invite 26:3
involve 77:15
involved 5:19 26:16
  68:16 84:9
involves 65:19
involving 5:5,21 8:19
  9:1,8
IPAD 55:10 71:16
iron 78:21
Islander 29:3,13 30:2,4
  30:15,18 33:22 34:1
  36:1 39:18,20 40:7
  41:2 42:14 44:4 53:12
  58:13,15,16 60:17
issue 49:6 79:18
issued 17:2 20:2
issues 10:19 21:7 25:21

47:3

J

J 2:11
JAGC 2:11
James 1:16
Jen 63:18
Jennifer 1:16
job 69:15
judge 4:15,20 17:20
  59:18,19 81:9
judges 71:22
Julie 2:12 83:18
jumped 4:15
June 9:20 17:1,5
justice 5:14 6:8 9:15
  10:14,17 11:18,22
  12:22 13:16 15:3,10
  15:14 16:4,10,22
  17:10 19:13 24:2 35:5
  41:13 45:1 65:8 68:15

K

keep 4:4 33:7 43:4
  65:11
kept 24:7
kill 82:6,7
kinds 73:3
known 3:7 60:12
Kramer 1:15

L

lack 81:5
lacking 40:17
language 21:17 60:6
large 25:20 52:13,22
larger 45:13
largest 32:13
Latino 22:5,5,10 29:5,6
  30:8 32:20,21 33:3,4
  35:1,1,6 36:5,6 40:17
  43:9,19 44:6 46:16
  48:11,12,15,18,19
  49:1,4 52:5,10 53:15
  53:16 54:1
Laura 2:11
Laurel 36:12
law 18:18 67:22
laws 73:10
lead 70:6
leaders 8:3
leading 80:8
learned 26:20
legal 4:1 19:7
legislation 9:10 16:15
  19:3
lend 80:13
Leo 1:14

let's 84:8
level 31:2 59:1,12 60:2 77:16
lies 63:12
likelihood 14:9 82:13 82:22 83:3
limit 16:1 69:13
limitations 19:19 22:17 27:10 39:11 43:5 59:1 69:11 73:5 77:12 79:4
limited 9:7 19:15 21:9 56:17 61:16
limiting 68:11
limits 14:16
line 4:6,8,9 33:20
lines 34:7 47:21
listening 64:9
little 34:13 37:18 48:13 50:14 56:22 69:19 83:19
located 9:11
Long 1:16 63:18,18,20
look 11:20 18:4 21:3 24:11 27:5,8,10 28:4 28:14 31:5,22 33:18 34:20 36:4,4,13 37:2 37:6 38:2,14 41:22 43:8,22 44:15 47:12 47:15,22 49:2,17 50:5 50:10,11 52:5,15 53:3 54:7,22 56:1 57:20 58:12 59:4,7 60:8 61:1 62:13,18 65:13 70:19 72:9 73:22 74:12,13 80:9 81:18
looked 27:15 56:17 83:12
looking 21:15 26:10 28:20 32:11 35:20 36:15 39:3,13 44:10 47:1,19 56:4 58:1 62:15 64:1,5,9,10,11 65:12 79:5
looks 22:2
lot 32:3 75:5 80:8
lots 67:11
love 63:13
Lower 28:7
lowest 83:3

M

M 1:14
ma'am 63:4 67:11 81:13 81:14 83:14,22
Madam 4:17
main 24:12 34:17
Maj 1:14
makeup 71:20

making 34:8 38:10 55:7 55:8 64:5 77:10
management 15:15
mandate 5:2
mandated 18:8
Marcia 1:14
Marine 14:6,10 32:8,15 33:1 40:2,12,13 43:21 44:12 45:13 46:3 47:12
Markey 4:18
Markowitz 4:19
Martha 1:11,13 66:18
martial 14:10 16:20 17:5,9 28:7 59:17 60:3 63:10 72:1
martials 14:5
Mason 2:17 8:5 21:2 23:12 63:4,19 64:17 67:11 79:1 83:10
match 46:14
matched 53:12
material 41:10,20 64:20
materials 9:11 18:4 21:3
matter 84:16
MCIO 19:13 41:12 45:1
MCIOs 24:1 35:4 51:16 71:20
McKinley 4:20
mean 60:5,20 83:8
means 19:4 34:14
meet 44:5
meeting 1:6 3:8,14,20 4:3 6:4,19 7:3,5 8:9 9:11 10:11 11:1,2 18:4 70:10,15 71:1 72:11,12 84:12
Meghan 1:18
member 18:15 60:3
members 3:13 4:4 5:5 5:11 7:16 8:20 9:5 10:12 12:20,21 13:20 13:21 14:3,4 57:17 59:16 64:19 71:22 73:13
memorandum 17:2,6
mentioned 11:15 81:14 82:15
menu 81:19
merged 48:6
met 1:10
methodology 6:10 9:21 17:14,17 20:15,18
methods 20:12
Mexican 22:7
military 5:14 6:7,12 9:15 10:7,14,16 11:17

11:21 12:15,21 13:1 13:16 14:20 15:3,10 15:14 16:4,10,18,22 17:10 18:21 19:13 24:2 35:5 41:13 45:1 59:18 65:8 68:15
mind 43:4 70:16 72:7
minus 54:18
minutes 4:7 11:16
misconduct 5:5
misnomer 34:13
misspoke 45:14
mistake 53:21
mixed 29:4 30:7 34:11 34:11,12,13,19 42:14 46:8 58:18
moment 4:13 33:6
month 76:4
morning 3:3,12 8:7 11:14 21:2
motions 64:11
move 4:7
moves 78:13
moving 10:17
multiple 7:20 12:12 24:13 43:15 57:6,13 59:6,11
multivariate 13:14 25:5 59:21 80:4
murdering 82:12
mute 23:10
muted 3:22 4:5

N

N 48:9
Nalini 2:16 8:5 9:13 11:2,9,14 17:16 20:9 23:19 63:5
name 7:7,17 11:6
narrative 69:10
narrowly 67:17
national 4:22 5:16,17 8:13
Native 29:2 30:1,3,18 33:19,21 34:1 36:2 39:20 40:5 41:1 42:15 44:4 51:4 53:17,22 58:4,9
Natives 29:11 51:9
nature 11:20 67:1 76:20 77:18
Navy 14:6,10 32:8,14 39:12,13 40:2,12,13 41:19,22 43:20 44:1 46:19 47:12
Navy's 40:15
NDAA 6:22 8:15 16:14 16:18

necessarily 67:3
necessary 46:14
need 71:17 75:20 79:16
new 9:18 20:11 30:6,22
nine 42:19 43:3,12
noise 4:2
non- 76:21
non-DAC-IPAD 3:21
Non-Hispanic 53:18
non-judicial 19:6
non-profit 12:19
non-sexual 27:3
notable 17:6
note 3:21 11:2 67:7
noted 12:4 13:6 14:18 51:17
notes 66:11
notice 34:10
noticed 83:8
noting 14:14
November 6:19 10:18 11:1 70:15 71:2,10 72:11 75:1
number 7:7 14:18 21:16 27:11,21 28:5,17 37:1 42:12,22 45:13 52:22 63:21 76:12 80:1 81:6
numbering 26:7
numbers 25:16,19 27:20 28:7 36:21,22 37:4 38:11,21 42:18 46:15,20,21 50:16 51:13 52:14 56:13 78:9,22 79:2,5,13,14 79:15 80:5

O

observation 38:22 39:8 42:2 43:18 50:22 58:11 65:5
observations 6:21 10:13,22 49:21 52:12 55:7 62:2 70:21
observed 38:1,11 54:11
observing 52:16 69:1
obviously 65:20 75:18
occurrences 67:4
October 1:8 18:2
odds 13:16
offender/victim 82:10
offense 8:21 9:4,7 17:22 18:10,14,18,20 21:12,13 26:13,17,20 26:22 27:3 28:4,6,11 28:12 36:18,19,20 37:2,9,12,16 42:20 57:22 59:16 60:9
offenses 5:13 8:19 9:9

14:3,4 15:13 17:19
18:15 22:20 24:2,16
26:6,10 30:11 32:10
32:17 39:16 51:2 53:1
57:3,4,13 60:1,2 66:5
66:9 73:2
servicemen 12:3
services 6:13 10:1,7
13:5,8,22 14:6,14,20
15:17 16:7,12,19 17:3
17:8,20 18:6 19:8,20
20:7 21:1 23:5,16,17
25:17 30:11,14,19
31:14 35:14 40:4,8
47:2,4,10 49:7,10
53:13 54:18 57:6,13
63:14 65:22 66:2 68:3
73:16 78:9,11 79:10
79:22,22 84:6
services' 16:3 30:21
31:17
session 5:22 6:19
70:10
set 22:16,16 37:3 50:12
settle 40:4
settled 41:17
sex 56:21 59:9,9
sexual 1:3 3:6,16 5:4,5
5:13,21 7:1 8:19,21
9:4,6,9 17:22 18:10
18:14,18,20 19:22
21:12,13 26:13,17,20
26:22 28:4,6,12 36:18
36:19,20 37:2,8,12,15
42:20 57:22 60:9 61:6
62:15 72:6 73:14
82:14,15,17
sexually 82:21 83:2
share 65:20
sheets 28:14
short 19:17 50:5
show 33:11 36:8 45:18
49:6 50:9 55:3,4
79:21
showed 35:13 49:14
shown 41:3 70:11
shows 33:17 47:10
55:15 62:14 70:1
side 74:14
signal 7:16
significance 78:13 79:2
significant 13:6 14:8
79:8 80:2 82:4,11
similar 12:14 15:20
43:22
simply 75:16
single 59:5,5,6,7 64:5
73:12

sir 81:9
sit 80:7
six 35:22 53:4 58:17
sixth 58:1
skewing 51:13 52:14
slash 39:17 44:3
slide 31:4 32:19 39:1
45:11 46:11 49:13
51:10
slides 31:6
slight 45:20 50:4,8
slightly 48:20 63:9
small 25:15 42:18,22
63:21 64:13 78:10,22
smaller 25:19 79:2
snapshot 68:12
social 21:20
solely 35:15
solidify 6:20
somebody 34:16 54:21
somewhat 6:4
sorry 45:9
sort 53:14 78:12
source 19:8 23:6 41:10
South 22:7
space 51:3
Spanish 22:8
speak 7:17,20 11:9
speakers 7:22
speaking 4:5 7:19 22:6
23:10
special 14:5,9
specialized 77:5
specific 15:16,19 16:9
23:22 24:19 71:14
specifically 14:8 67:3
spectrum 25:9 58:12
split 39:19
Spohn 1:17 61:3,4,8
62:10,11 74:16 76:22
81:13,21
spouse 9:1
spreadsheet 18:13,16
54:7
spreadsheets 18:9
40:19
staff 2:9,12,13 4:4 5:8
7:15 36:12 74:2,7
75:17 76:5 80:7 84:7
stage 17:9
stages 41:14
standard 30:12,13 53:6
63:7 68:6,7 69:18
standardize 16:8
standardized 18:6
79:10
standards 15:9 16:3
69:16

start 25:19 32:12 39:14
59:19 60:19
started 63:6 71:8
starting 66:19
state 11:5
statement 23:12 52:20
STATES 1:1
stating 7:17
statistical 78:12 79:2
statistically 79:8 80:2
82:3
statistician 76:22
statutory 77:17
step 37:15 49:20
stood 65:9
story 79:15
straight 33:20
stratification 61:6
82:15
stress 81:2
stretch 53:3
stricter 21:16
strings 59:12
stripped 54:20 65:20
stronger 62:17 81:15
struggled 67:15
studies 6:6 9:14 11:10
12:13,17 23:14 25:22
71:14,19 72:1,2
study 6:9 13:5,11 16:16
20:3,14 22:18 51:22
57:18 70:13
studying 11:17
subdued 75:12
subject 13:21 21:11
26:16 36:14 37:13,16
38:4 39:2 42:1,4 43:8
44:16 45:10,14,15
46:12 49:19 51:11
55:17 56:2,15 57:7,16
58:5,7,14 59:5,6,7,10
59:15 60:15 61:19
62:18,20 72:17 83:6
subject's 24:12
subject/victim 57:11,21
subjects 10:8 26:12
37:8,10,14 46:9 50:1
50:3 51:2,8,17 52:4
55:18 60:22
submit 7:7
submitted 7:12
substantial 81:22
substantially 82:7
successfully 82:22
sudden 45:2
sufficiently 23:5 45:5
suggest 41:8
suggestions 78:1 81:1

Sullivan 2:14 3:3,4,12
78:2,2,5 80:21 84:2
84:10,12
summary 20:14
sums 78:17
supposed 48:18
suspect 82:18 83:6
swap 54:7
swapped 54:2
switched 54:13
system 9:16 10:17
11:18 12:7 15:4,15
22:12 24:2 26:7 28:15
40:22 41:6,9,11,13
44:20 45:1 54:3 68:15
systemic 76:13
systemically 74:13
systems 23:19 24:5,8
35:3 45:4 52:2 54:5
68:5

T

Tab 9:11 18:3 21:3 33:9
table 26:4,5 28:20
49:18
tables 26:4 29:1 49:5
55:6
tail-end 56:8
taken 13:2,17 19:7
takes 33:10
talk 11:16 64:4 66:12
talked 62:12 69:9
talking 31:1 35:15
42:18,19 43:12,14
task 12:1 14:13
tasked 16:15,18
tasking 6:22 8:12 9:7
team 8:4 72:22 73:16
74:20
technical 2:15 77:4
teleconference 1:10
3:20,22
tell 53:20 64:18 65:18
67:19 79:15
tells 44:19
term 32:2 40:17
terms 49:11 74:9
test 13:14
thank 3:11 4:16 8:1,6,8
11:13 17:15 63:3
72:21 73:1 75:17
80:21 83:14 84:15
thankful 72:16
thanks 17:16 70:8
72:20 84:14
then-Secretary 11:19
theory 56:5
things 13:18 49:20

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Public Meeting

Before: DAC-IPAD

Date: 10-23-20

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