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RESPONSE SYSTEMS TO ADULT SEXUAL
ASSAULT CRIMES PANEL

COMPARING SYSTEMS FOR INVESTIGATION,
PROSECUTION, AND DEFENSE OF
SEXUAL ASSAULT CASES

WEDNESDAY
DECEMBER 11, 2013

The panel convened in the Multipurpose Room in San Jacinto Residence Hall at the University of Texas at Austin, 309 East 21st Street, Austin, Texas, at 8:00 a.m., The Honorable Barbara Jones, Panel Chair, presiding.

PANEL MEMBERS PRESENT

THE HONORABLE BARBARA JONES, Chair
THE HONORABLE ELIZABETH HOLTZMAN
VICE ADMIRAL (RETIRED) JAMES HOUCK
BRIGADIER GENERAL (RETIRED) COLLEEN McGUIRE
BRIGADIER GENERAL (RETIRED) MALINDA DUNN
COLONEL (RETIRED) HOLLY COOK
PROFESSOR ELIZABETH HILLMAN
HARVEY BRYANT
MAI FERNANDEZ
STAFF PRESENT
WILLIAM SPRANCE, Designated Federal Officer
COLONEL PATRICIA HAM, Staff Director

SPEAKERS

DEPUTY CHIEF KIRK ALBANESE, Chief of
Detectives, Detective Bureau, Los
Angeles Police

JOANNE ARCHAMBAULT, Executive Director,
End Violence Against Women
International, President and Training
Director, Sexual Assault Training and
Investigations

CAPTAIN JASON BROWN, Military Justice Officer,
Military Justice Branch (JAM), Judge
Advocate Division, Marine Corps
Headquarters, U.S. Marine Corps

DR. NO L BUSCH-ARMENDARIZ, Professor and
Associate Dean of Research, School
of Social Work at The University of
Texas at Austin

CAPTAIN ROBERT CROW, Director, Criminal Law
Division (Code 20), U.S. Navy

SERGEANT LIZ DONEGAN, Sex Offender
Apprehension and Registration Unit,
Austin Police Department

DEPUTY CHIEF COREY FALLS, Deputy Chief of
Police, Ashland (OR) Police Department

DARRELL GILLIARD, Deputy Assistant
Director, Naval Criminal Investigative
Service

DR. CARA J. KRULEWITCH, Director, Women's
Health, Medical Ethics and Patient
Advocacy Clinical and Policy Programs,
Office of the Assistant Secretary of
Defense (Health Affairs)

LIEUTENANT COLONEL MIKE LEWIS, Chief, Military
Justice Division, U.S. Air Force

DR. KIM LONSWAY, Director of Research, End
Violence Against Women International
NEAL MARZLOFF, Special Agent in Charge,
Central Region, U.S. Coast Guard
Criminal Investigative Service

COLONEL MICHAEL MULLIGAN, Chief,
Criminal Law Division, Office of The
Judge Advocate General, U.S. Army

MAJOR RYAN OAKLEY, Deputy Director, Office of
Legal Policy, Office of the
Undersecretary of Defense (Personnel &
Readiness), U.S. Air Force

KEVIN POORMAN, Associate Director for
Criminal Investigations, Office of
Special Investigation, U.S. Air Force

RUSS STRAND, Chief, Behavioral Sciences
Education and Training Division, U.S.
Army Military Police School

GUY SURIAN, Deputy G-3, Investigative
Operations and Intelligence, U.S. Army
Criminal Investigation Command
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MR. SPRANCE: Good morning. I'm Bill Sprance, the Designated Federal Officer for the Response Systems Panel, and I'd like to open this meeting of the Panel. At this moment, I'd like to turn the meeting over to Colonel Patricia Ham, Staff Director for the Response Systems Panel. Colonel?

COL. HAM: Thank you, Mr. Sprance. Good morning and welcome to this public meeting of the Response Systems to Adult Sexual Assault Crimes Panel. I'm Colonel Patricia Ham, and I am the Staff Director for the Panel.

First, on behalf of the staff of the Panel, I want to thank the University of Texas for your hospitality and warm welcome here to Austin. Congress directed the Secretary of Defense to establish this Panel in the National Defense Authorization Act of 2013.

Secretary Hagel selected five
members of this nine-member Panel, and he designated the chair Honorable Barbara Jones; the House and Senate Armed Services Committee's ranking and minority members selected four additional members. So, the Panel has nine standing members.

This committee is a federal advisory committee, operating under the Federal Advisory Committee Act, known as FACA, which is a government in the sunshine law, that requires open public meetings and deliberations on the issues Congress has directed the Panel to examine.

Under FACA, members of the public have the right to submit public comments to the Panel and to request to address the Panel at these meetings. All the public comments and all the materials provided to the Panel, both in meetings and in preparation for the meetings is accessible to the public as well.

We received five public comments related to this meeting, and two of those who
submitted comments have requested to appear before the Panel, and address them. Those folks are Daniel B. Ross, who also requested to address the Panel today; Major Melissa Brown, who requested to address the Panel today as well, and written comments from Ms. Paula Bushon, Mr. William Finn and the Innocent Warrior Fund.

All five public comments are posted on the Panel's website, which is ResponseSystemsPanel.whs.mil. And the Panel members have also been provided hard copies of those public comments today. Without further delay, Madam Chair, are you ready to proceed?

CHAIR JONES: Yes, thank you. Good morning, everybody. Let me echo Colonel Ham's words and say thank you very much to the University of Texas for hosting us. I have to say that I've never been to Austin, and it's a truly beautiful city. So, this is a wonderful venue for us.

On behalf of the entire Panel, I
would also like to extend our appreciation to William Powers, Junior, the President of the University of Texas here at Austin, and for the great welcome that we've received and all the help that we've gotten from university personnel.

In particular, I'd like to thank Nancy Brazzil, who is Deputy to the President, Susan Lamborghini, who is assistant to Ms. Brazzil, Dr. Luis Zayas, the Dean of the School of Social Work, and Dr. Noel Bush-Armendariz -- excuse me if I've butchered your name -- who is the Associate Dean for Research at the School of Social Work and also the Director of the Institute on Domestic Violence and Sexual Assault, and her assistant Linda Solomon.

I also want to thank up front the -- all of the many presenters who will be here today from civilian police departments, district attorneys offices and public defender organizations.
The Panel knows the time you are
taking from your very busy lives to give us
this information that we need. It is an
extremely valuable contribution to our work.

This is our fourth public meeting,
and as Colonel Ham mentioned, we have been
given a lot of tasks by the Congress in the
that created us. Among them is the task to
review and assess the systems used to
investigate, prosecute and adjudicate crimes
involving adult sexual assault.

A big part of that job is also to
compare the military systems with our civilian
systems. So, today, we embark on that
undertaking.

In the National Defense
Authorization Act, Congress specifically
directed the Department of Defense to
establish what are called special victim
capabilities for the purposes of investigating
and prosecuting certain criminal offenses,
including, of course, sexual assault and victim capabilities -- special victim capabilities that would provide support for victims of those offenses.

Now, because of that requirement, today we explore the special victim capabilities and in particular any specialized training of law enforcement personnel in sexual assault cases. And in this regard, we will hear from civilian investigators and police departments including from Los Angeles, Oregon and here in Austin, Texas.

This will be followed by military investigators who will also describe their activities and capacities and will permit us to make some comparisons.

Lastly, we will have an academic panel discussion today, and that will deal with the police response to sexual assault reports, and the handling of those reports. This particular panel will include Dr. Noel Bush-Armendariz and Dr. Kim Lonsway, both from
the University of Texas.

Tomorrow's session, just to give you an idea, will begin with an overview of Article 120 of the Uniform Code of Military Justice, and that's the main statutory provision addressing sexual assault. We will also have an overview of some civilian sexual assault statutes again for the purpose of comparison.

Let me talk a little bit more specifically. We have learned that every unrestricted report of sexual assault in the military is required to be reported to the military criminal investigative organizations, which must in turn investigate every one of those reports.

Each of the military services in turn is required to track every report from its inception to its disposition. And tomorrow, we will hear what happens to those reported offenses: How many are prosecuted and the conviction rate.
Again, that fits into our efforts to analyze and compare the differences between our military justice efforts and those of our civilian system.

In this regard, we're very lucky tomorrow to have Dr. Cassia Spohn, who is an expert, an academic who specializes in analyzing the disposition of sexual assault cases in civilian jurisdictions.

She is going to be able to compare and contrast the military's disposition of offenses to the civilian jurisdictions that she has researched.

As I earlier mentioned, tomorrow afternoon is also dedicated to a comparison for the training and experience of military and civilian prosecutors, as well as defense counsel. In addition, we're going to examine the particular challenges that are common to prosecuting and defending sexual assault cases.

As we continue to do our analyses
and obtain our information, we're also looking for any best practices that have been developed in the civilian system, in the context of being able to make reports and recommendations.

Interestingly, there is one practice, which has already been instituted by the Department of Defense, and that is victims counsel. That is something that I think the -- many victims advocates in our civilian world would love to see happen universally for sexual assault victims in our civilian society.

The military has a pilot program going on that already, and in fact, I think it has actually been authorized as a permanent program. So, we're interested to continue to look at best practices in the military as well.

So, as you can tell, this is a very busy day for our Panel. The one thing that we are going to try to do after we get out of
here is go for a good steak. So, we hear it
is pretty good down here. Thank you very,
very much.

I think we'll now hear from our
first presenter. You're looking very lonely
there, Mr. Strand. Russell Strand, who is the
Chief of the Behavioral Sciences Education and
Training Division for the US Army Military
Police School. Okay, doctor. Thanks.

MR. STRAND: Thank you. I do feel
lonely so I'm going to stand up. Because the
way I present, I have a hard time sitting
down. So, with your indulgence --

CHAIR JONES: Good enough.

MR. STRAND: Well, it is a pleasure
and honor to be here. Thank you Panel Members
for taking your time also out of our busy
schedules to take on this -- this task of
helping us get better, not only in the
military but the civilian world.

I'd like to take some time this
morning to talk about some difficulties and
some challenges that we have investigating and
prosecuting sexual assaults, both in the
military and the civilian world.

I'll talk about some of the most
research that we're starting to understand a
little bit better, and some of the promising
best practices that we're looking to apply.

The first slide is for the lawyers.
I work for the Department of Defense, but my
opinions aren't necessarily those always in
line with the Department of Defense. So,
those are my own opinions. Plus, for the fair
use doctrine, I do use some materials from the
creative work of others. Blah, blah, blah.

So, the first thing I'd like to
start out with is talking about the sex
offenders. We see them as an insider threat.
Just like we see an insider threat in
Afghanistan or Iraq, those are threats that
hurt our formations. Those are threats that
hurt us.

In every community, organization,
school, neighborhood, sometimes families, that
insider threat is devastating. So, we need to
look at the insider threat because that is
really what we're talking about.

We wouldn't be here if somebody
wasn't hurting us. And so, we're going to
talk about the insider threat. Insider
threats are our enemies.

They are sometimes predators. Not
always predators. But they often hurt others.
So, pick out the one in this picture that
might hurt others. The first thing we look at
is the wolf, right? Because they're
predators.

We know they're going to hurt the
sheep. The other -- the other animal we might
look to is the sheepdog in the back. The
sheepdog is trained to protect the sheep.
Very specially trained. Lot of trust that the
shepherd gives the sheep dog, but that
sheepdog sometimes actually harms the sheep.

And so, even though we have well-
trained sheepdogs, they sometimes harm the sheep. But the people -- not the people, but the animals in this picture that I most concern myself with are really the sheep that look and act just like all the other sheep because they're bound to do more damage than the wolf or the sheepdog.

So, that's what we're going to start talking about. So, pick out the sex offender in this picture. It is very difficult.

It doesn't matter what gender because we have female offenders as well. We have male offenders. Doesn't matter what profession; whether they're in sports or not in sports. What age? Doesn't really matter.

The difficulty we have to begin with - the largest challenge that we have is understanding sex offenders and who they are and picking them out of our society and identifying them.

Now, many of us have been to a bar. I admit I've been to a bar before. And when
we go to a bar, there's a lot of people in the bar, and we make judgments on people whether in a bar or in church or in school.

Now, this particular bar is a special bar. So, we're going to enter this bar, and we're going to kind of look to see what is going on. So, everybody is going out to have a good time in this bar.

They're entering it. They're going to have a wonderful evening. So, the first person we meet, to check their judgment or character, is the bartender. It says right on his forehead, "No danger."

So, he's okay. We don't have to worry about him. The second person we meet is this guy drinking here. He is actually bankrupt but it doesn't look like it. His friend is very insecure, but he doesn't act like it.

Now, this guy here looks like an alcoholic, but it says, "Workaholic" on his forehead. So, he's a drama queen. We got to
be careful of him.

These two ladies; they're really
good friends and they're straight. This guy
here is from England. He's a boy racer. He
races little cars and things like that. Now,
the problem in this bar I'm most concerned
with is there's a young lady and a young man.
They meet each other, and she's making
judgments. She's making credibility
judgments.

It says, "Rapist" on his forehead.

She doesn't see it because this bar doesn't
exist. This bar does not exist at all. It's
a fake bar. Most people don't have "sex
offender" or anything on their forehead.

So, the good news is 95 percent of
any given male population will not commit a
sexual assault. That's really good news. The
vast majority of men are good people. And I
think we really need to understand that: being
a man is not a bad thing. The vast majority
of men are really good people.
The problem is that five percent of men in any given male population will commit a sexual assault either one time or many times. But who are they?

I'm going to walk you through a couple of things, but the first thing I'm going to walk you through is probably one of the biggest problems that we begin with to understanding sex offenders, and that's through the eyes of the victim.

So, if you're a sex offender, who would you select? A nun or a drug user, or a well respected college professor, or a student who got in trouble for cheating, or a sober woman or a drunk woman? Or, a service member everyone respects, or a service member everyone picks on?

The problem with this is that most sex offenders will pick the person on the right. Most sex offenders will pick the vulnerable ones. Most sex offenders will pick the ones they can easily exploit and work on
those vulnerabilities.

The biggest problem with that is which one of the victims are more believable? Generally, the victims that offenders select are the ones that in our society appear to be less credible.

That's a real, real problem; a very big issue that we're looking at. So, the first thing we're going to start off with, understanding there's more that we don't know than we do know. We're going to hear from academics. You've already heard from a lot of experts.

You're hearing from me right now, but there's still a lot of things we don't know. We're experts in a few things and -- and ignorant about most. And that's my research this year, it's up there and I'll change it next year.

Will Rogers puts it this way, "We're all ignorant, just about different stuff." So, there's only so much blame to go around.
When an offense is reported, we as a society look to find out who is to blame, whether it's really an offense or whether it is not.

And so, we have -- often times we start out with a victim or a suspect. Generally in almost every crime, we in the criminal justice system investigate and prosecute. We focus in homicides, attempted homicides, robberies, thefts. We focus on the behavior, responsibility, character, social expectations, morals and biases of who? The offender or the alleged offender.

We focus on those things in the investigation. We do offender-focused investigations. But what happens in a sexual assault case? Is that standard the same in our society? Is that standard the same often times in our criminal justice system?

I would say it is not. We often times start by focusing on the behavior and responsibility, character, social expectations, morals and biases of victims.
Often times, that then turns into victim blaming.

How does that look? Here is a video that kind of explains that.

(Video playing.)

I really like this commercial because it really does bring out some of the core issues. How do we view women who like to go out and dress nice? How do we view women who like to go out and have a good time? And then because somebody takes advantage of either their vulnerability or even no vulnerability, then we turn around and say, "Well, what did you expect to happen?" "What did you think was going to happen?" "Well, you were showing a little cleavage."

Well, if that's the case, we would have an epidemic of plumber rapes because they show their cleavage a lot, but they're not bending over and doing that because they want to be raped; that's just the way plumbers are sometimes.
I know the plumber's union is not
going to like that.

The problem is we focus immediately
on the behavior and the character of the
victim, which is important, but we
overemphasize it often times in sexual assault
cases.

What we should do is have different
expectations of the reported -- of the
reported offender. This is our expectation.
Should be our expectation of everyone.

(Video playing.)

That is the message we need to be
sending, but I'm not sure that's the message
that creeps into our criminal justice system
or our world view of this.

So, I'm going to walk really
quickly, very quickly, through a bunch of
research, and I know the academics are going
to kind of tease this out a little bit later,
but I just want to walk through the history of
what we know about prevalence, about sex
Gene Abel started back in the '80s about looking at sex offenders, and he did research on convicted sex offenders, and found that by their own admissions the chances of being caught is about three percent.

Then we have Russell who did this survey in '84 and again in 2000. It showed a vast majority of women, in fact almost half the women, have either been victims of rape or attempted rape by these surveys.

And then we have Abel doing -- on the sex offenders, he found that 561 sex offenders had 195,000 victims, which is tremendous. How does that look? 561 sex offenders according to self admitted acts by the offenders; that's what it looks like, 2.5 Superdomes. But most of them don't report it.

Then we have some information from Van Wyk on 23 offenders in an incarcerated treatment program admitted to about three victims each. Following polygraph, they had
about 175 victims each.

Now, this is the far end of the big scale. There's some other research that has come out. Anna Saulter says there's only about a five percent chance of rapists ever spending a day in jail.

Then there's other research that is actually newer that breaks it down. So, only 22 percent of women have been victims of sexual assault, and only 3.8 percent of men. That's still a tremendous problem.

On the other end, again, we look to see that some of the research shows that 1.3 forcible rapes occur every minute in the United States; 78 per hour, 1871 per day, 683,000 forcible rapes a year of women and 97,000 forcible rapes of men.

Now, that's on the far end of the scale. But what's really happening? There was a really good report that just came out in November, 19th of November. It was released by the National Research Council. They
basically said when you look at the numbers from just one year, 2010, the FBI and all the police agencies around the United States reported 85,593 rapes.

But the CDC's estimate that very year was 1.3 million, and the National Victims Crime Study found 188,380. So, why is there such a difference.

Well, often times it is the types of questions being asked. It is what you're looking at. There's a difference between prevalence and reports. So, what we know from a lot of the research is there's a huge problem.

We'll never know the actual incidence of sexual assault. Never. I don't believe. But we do know from Gelb in Australia, where they looked at their Australia statistics, which is very similar to ours, that in this particular survey he found 143,900 victims that met the criteria for hands-on completed sexual acts.
So, taking that number, only 18.9 percent reported it to the police. The police only recorded 12.6. They called some out because they didn't believe the victims for a variety of reasons. They didn't believe a crime occurred for a variety of reasons. 1.3 percent were adjudicated; 0.9 percent were proven guilty and 0.7 went to prison.

Now, let's come back to the United States, and we're going to look at Lonsway and Archambault, and they're going to explain this a little later this afternoon. They're going to break it down.

The big problem in our society is we view the problem of rape and sexual assault in our society as how many people do we have as registered sex offenders. Almost everybody looks at the register of sex offenders to see if there's any registered sex offenders in their neighborhood or our schools, things like that.

That's not the problem though. The
problem that Archambault and Lonsway found is
that of 100 rapes committed, and this is just
rapes in the United States, 5 to 20 are
reported to the police; 0.4 to 5.0 are
prosecuted; 0.2 to 0.52 result in a conviction
and 0.2 to 2.8 result in incarceration.

They'll explain this research and
their data a little bit later. What I'd like
to picture here is that people are worried
about the registered sex offenders. The
problem that we see with almost all the
research is the problem with unregistered sex
offenders.

The problem is those people who
never get caught. Now, working here almost
four decades I'm frustrated because the
prevalence rates for domestic violence/child
abuse/sexual assault that I've been engaged in
my entire career have not gone down.

So, for almost four decades we've
been doing things, and we've been trying the
same things over and over again. I went to a
Chinese restaurant one day, and I was just really frustrated about this, and I got this fortune cookie.

It was in the fortune cookie that said, "If we do not change our direction, we're likely to end up where we're headed."

I am so driven, and there are tens of thousands of people inside the military and outside the military that have the same belief that we've got to look for different things because what we're doing -- there's a vast portion of our society that's not being caught doing a great deal of damage.

Going back to Gene Abel there's a lot of crossover as well. We tend to look at adult sexual assault in one frame but it is not just adult sexual assault. It is also intimate partner sexual assault. It's also child sexual assault.

So, what Gene Abel did with incarcerated offenders is he found that 44 percent of these men who were convicted of
rape also had hands on little girls that they molest. 14 percent molested little boys. 24 percent molested their own daughters. Six percent their own sons. 28 percent committed exhibitionism and 18 percent were voyeurs, and 11 percent were for the purpose of sexual gratification.

Let's look at another segment of sex offenders. These are voyeurs in this particular study. 52 percent of the voyeurs said they had hands on victims of little girls not their own, sexual assault. 26 percent said they sexually assaulted little boys. 18 percent said they molested their own daughters. 10 percent their own sons.

37 percent raped adult women. This is significant because we're not hearing it from some anonymous survey. We're hearing it from the offenders themselves. So, what do we do with that?

We have to understand that perpetrators of interpersonal violence
typically do not specialize. It is kind of like the difference between a river and a swamp. A river has boundaries and it goes along. And you take away those boundaries and that becomes a swamp eventually. Often times, when people commit these crimes, and most offenders start when they're adolescents with bestiality. They start with incest. They start with some other acts and it just kind of ingrains in them some of these things that they do.

So, the crossover in research is significant for us to understand as we're looking at adult sexual assault. Multiple studies have shown that 33 percent to 66 percent of rapists also have sexual attacked children.

So, the ones we're looking at for these rapes or these sexual assaults are also the same ones, and Dr. David Lisak has also found this in his undetected research, undetected offender research, that 82 percent
of child molesters have also attacked adults.

50 to 66 percent of incest offenders have also sexually attacked children outside their homes. So, we have tried to compartmentalize and put people in little boxes. The problem is these boxes don't fit.

The problem is that's making us more dangerous when we look at all these profiles because what we've done typically is study the incarcerated offenders. But the vast majority of people are never caught and not incarcerated.

So, what Voller and Long and several other people are doing is they are starting to study the ones that aren't caught and the big problem, and that's what we want to do. We want to know why is there such a disparity between all those victims that said they were sexual assaulted and the small number of people we actually catch.

So, one of the studies that was done by Voller and Long in 2010, and this is a
college study where they found that 7.29 percent of the men in this particular study reported self reported behaviors that met the criteria for rape. 5.95 percent reported behaviors that met the criteria for sexual assault.

Then the vast majority of men did not report anything at all. So, then they look at the five big personality traits with these men, and they found some really important things.

CHAIR JONES: Let me understand what you're saying. Are these people reporting that they are victims or that they are perpetrators?

MR. STRAND: Great question, ma'am. Perpetrators. Well, actually, they're not seeing themselves as perpetrators. They're taking a survey and asked behaviors about "Have you forcibly done this? Have you done this to another person?"

CHAIR JONES: Okay.
MR. STRAND: So, these are self reports.

CHAIR JONES: Okay, but not -- these are not victims?

MR. STRAND: Correct, ma'am. Right. So, these are perpetrators, and what they found is that sexual assault perpetrators, which is actually the vast majority of offenders we have in the military and outside the military. Not rapists, but the vast majority of sexual assault perpetrators were more similar to us non-perpetrators than the rapists.

Rape perpetrators endure significantly lower levels of excitement seeking. This was important and I added this. Say what? Because I have been trained my entire career that rapists are into it because of excitement seeking, but the researchers are finding the ones that got caught are, but the ones that aren't caught aren't. The ones that are into excitement seeking, that is
oftentimes the reason they get caught because they make mistakes.

Perpetrators with sexual aggression, both the rapists and the sex offenders, did not reveal higher scores for hostility or impulsivity. Again, that breaks the paradigm that we think about that they are hostile people, they're impulsive.

Most of them are actually very nice and compulsive. Then the only difference found in the personality traits, the only difference found between sexual assault perpetrators and non-perpetrators was depression. Perpetrators had higher levels of depression than non-perpetrators.

Some additional differences: Craig Browne, Beech and Stringer in 2006 found that sex offenders presented significantly less hostility, depression, tension, psychopathy, impulsivity and aggression than non-sexual violent offenders.

Then individuals convicted for rape
and child sexual assault presented
significantly more neuroticism than non-
convicted sex offenders. So, they're also
finding a significant difference between
convicted sex offenders, those that were
captured, and those that have either not been
captured or not been convicted.

What does this boil down to? The
researchers say sexual assault is a complex
interaction with many individual factors.
What I say is that sex offenders are
individual.

Let me explain this through a
demonstration. Many people -- well, let me
ask you this. How many people like mint
chocolate chip ice cream? Okay, good people.
Good people. How many people don't like mint
chocolate chip ice cream?

Okay, not as good people in my
opinion because I happen to like mint
chocolate chip ice cream. Now, let's just say
those of us that like mint chocolate chip ice
cream, we really like it.

So, there's a law that says we're not going to eat mint chocolate chip ice cream for whatever reason. Maybe the haters, the mint chocolate chip ice cream haters don't like it. So, there's a law now.

How are we going to find those of us who like mint chocolate chip ice cream? Well, we have to wait until they catch us. But does that mean we're not going to eat mint chocolate chip ice cream? No, it doesn't mean. It might mean we will, but then how are we going to profile all of us that like mint chocolate chip ice cream and try to find this profile?

It's not possible because we're all individual, and I think that's the biggest mistake we've made is that we viewed sex offenders as a group, a homogenous group of people. But they're not. They're as individual as everybody else and they offend for a variety of reasons.
I think that's what we need to think through in a more sophisticated manner. Why do they do what they do? This is one wonderful representation. I'm not going to walk you through the whole thing, but bottom line is it is based on core issues.

The one on the left is common core issues for social beliefs and needs and things like that. On the other stuff, psychosocial on the left, psychosexual on the right. Meaning deviant sexual views, like paraphilias.

Paraphilias are things like golden showers, brown showers. There's some benign ones like being attracted to the touch of skin is a paraphilia. But another paraphilia is having sex with non-consenting persons. It is just meeting needs.

So, what needs are being met? When we ask why do they do what they do, what we're finding out after decades of research is it depends. It really depends. All behavior is
functional. All behavior meets a need. We do everything to meet needs.

So, what we're trying to do now in our investigations is instead of, "Well, you did it." "No, you didn't." "Yes, you did." We're trying to find out what needs are being met from their behaviors, and we're trying to find out their behaviors first before we start the accusations. This is really, really helpful.

Then we get into the thing about deception. You know we -- there's a couple of lies that hurt us in criminal justice. One is that we can believe -- that we can tell if somebody is lying. That is a huge lie because the vast majority of people are lied to on a regular basis, and the vast majority of people lie on a regular basis.

So, when we look at the research on deception, and we look at the size of deception detection, there really is very little science to that and here is an example.
(Video playing.)

Let me expound on that a little bit.

Sex offenders thrive in an environment where they are trusted. Sex offenders thrive in an environment they build. They have interpersonal skills far better than many people do.

And they develop -- well, we all develop the theory of what I call the third persona. We all have three personas. The first persona is who we are right now; who we are in the public, who we are around other general people. Whether at the bowling alley, at church, at work or whatever, we have this first persona that we want everybody to know us as. Our biographies are all in the first persona.

Then we have the second persona: who we are when we're around people that accept us, people that know us better, people -- or when we're by ourselves we might yell more or might scream more. We might cuss more.
That's a second persona.

Then there's that third persona.

That hidden persona. The persona every single person has. All of us has these personas.

Now, some personas, the first persona, might be right here next to the second persona, next to the third persona.

But some people, their third persona is way off in the yonder lands in the hinterlands, and the first persona is on the other end. It depends on the degree of where your personas are at. I call this the theory of the public, the uninhibited and the private. Let me give you an example of that, ma'am.

(Video playing.)

This is a chilling idea, that his wife has no idea what he is capable of. The neighbor has no idea of what he is capable of. He might've seen her through in window, gone to the door, knocked on the door, and said, "Hey, Sally, this is John. Can I talk to you
for a minute. My wife's birthday is coming up. Our anniversary is coming up. I just want to get your insights on what you think she might like."

Is she going to let him in? Of course she is. And when she does, something is going to happen, and she has no idea. We talk about stranger, non-stranger, sexual assaults. I believe every sexual assault, with few exceptions, is a stranger sexual assault. They're acquaintance sexual assaults. They're the person we think we know, but we really don't know anybody.

Here's the example. The person that was talking in the first video on deception was my best friend. He was my adult Sunday School teacher in Ft. Campbell Kentucky. He was an ear, nose and throat doctor. He was a full bird colonel on the general's list. He was my best friend. At that point in my life, he was the man in my life that I trusted the most, ever. That I respected the most, ever.
And he fooled me. He had 17 victims, and it blew me over because I thought -- because I was already an agent specializing in sexual assault. I was already an agent specializing in the things that he did, and I was already believing I could pick out one, and I could understand one. Totally blown over.

I was going to quit law enforcement because I thought that I had completely failed, as a law enforcement official because I couldn't keep up with any of the rules. I was totally fooled.

But then I realized it was he who fooled me, and he was the one that helped me understand this theory of the third persona. Actually created it, because of him. So, let me give you an example, ma'am, or Panel. I dress for success. I dress for respect, as you all do, and you look very nice today. But we dress this way because it brings respect.

MEMBER HOLTZMAN: Only today?

MR. STRAND: We're only focused on
now, ma'am. But no, everyday. But I don't see you everyday. So, we do that because it brings some credibility, because it brings something to the table. If you were up there in flip flops and shorts and t-shirts and things like that, it would have a different flavor. We would have a different opinion.

And so, what he did is, he dressed in the uniform. He dressed in his occupation. He dressed in his love for the bible. He dressed for all those things. But then what I didn't see, and what you don't see, is I've got something -- let me just take my -- I'm going to go from the first persona to the third persona.

I'm wearing a shirt that actually demonstrates this, probably better than anything else. I've got holes on my shirt. It's not ironed. It is only ironed on the parts you can see. I love wearing this shirt because it takes me less time to get ready.

I've got holes. It says "rapist,"
here. It says, "sex offender," here. It has, "Alcoholic," here. It says, "liar," here. On the back, it has "self blame, fear, broken heart." That's the third persona of the victim, because often times the embarrassing things that happen during sexual assault go into that third persona as well. It is not just the bad stuff.

Everyone has this shirt on.

Everyone here in this room and outside this room has a shirt like this. We have holes in our shirt. We have things we don't want anybody to see. And the problem is, we think we can see the shirt. The victim think you can see this shirt. The biggest problem is this: when the victim sees this shirt for the first time, it is too late. Then before the offender leaves the room, they're going to put their jacket back on. Going to make sure their sleeves are turned down and make sure nothing is showing, and they're going to walk out of that room.
That's what we're left with. That's what society is left with to try to figure out and judge. That's what the victim is left to try to explain, and nobody understands. When is the last time anybody has seen the news where a serial rapist or a murderer or somebody else, that there wasn't people that said, "My goodness. That's the last person I would've ever expected. I can't believe they did it."

Almost every case I've ever been involved with, I've had people come to me and say, "I can't believe that person is capable of doing that." The problem is we can't judge character, and that's the biggest challenge that we have is because we believe we can. Now, I understand it is very scary, because if we can't judge character, what do we have left? Well, we can judge character, but we can only judge what we're given to see.

In my case, my ego was preventing me from seeing some of the other things in
retrospect, and that happens also with us.

Let me go ahead. Sex offenders know what they
do is offensive. They know what they do is
offensive, and they're very good at hiding it.

(Video playing.)

Now, that is very offensive. Should
be very offensive to everyone. But who is
that person in our community? Who is that
person in our presence? Who is that person in
our church and our schools and our
organizations? Are they letting anything on
that they are that person? Of course not.
They're going to hide it very well and they're
going to do everything they can to completely
hide it when they are caught.

So, what we know is that they come
from all walks of life. They commit other
types of sex offenses. Many of them commit
other crimes and never get caught. They
offend for numerous reasons. Most are nice,
kind, empathetic and caring. In fact, I will
say that of the hundreds of sex offenders that
I personally talk to, they are some of the
nicest people I've ever met, and I mean that
sincerely.

They are genuinely nice people, and
that's what allows them often times to not
only get away with what they are doing, and
take advantage of vulnerabilities, but also to
escape it if they are reported. They're
masters of deceit. Most of them will never be
captured; most of them will reoffend again, and
they're 99 percent just like you and I.

So, now I'm going to quickly focus
on some other challenges. There's a lack of
physical resistance in most of these cases,
and we expect them to fight back. There's
tonic immobility that I'll explain in just a
moment. There's delayed reporting. The vast
majority of our cases are delayed, because
they don't know what to do. They don't know
how to explain it, and I'll explain that in
one moment as well.

We have this mantra that we believe
that inconsistent statements equals a lie, but
with trauma, it doesn't. In fact, with
trauma, if I have a trauma victim that is
consistent with everything, it is really a
problem, because why would they be consistent
about everything? I'm going to talk about
that in a moment as well.

Lack of victim cooperation: maybe
they don't trust the system. Maybe somebody
has hurt them in the system. Maybe they've
been ridiculed. Maybe they've been offended
against by somebody else that they trust.

Feelings of doubt or blame, tension reduction
behaviors, just like we see after traumatic
incidents, whether it be combat, whether it be
a traffic accident, whether it be a head
injury or whatever. People do things like
drink, use drugs, go shopping a lot, do other
things to reduce that tension.

Sexual assault victims do the same
and it puts them in a bad light, but if we
understand the meaning of that and where that
comes from, it helps us to understand them better. Past and present conduct, sexual or otherwise, and that whole he said-she said stuff. There has really never been a he said-she said case. These are all isolated crimes.

There is information. There is evidence before. There is evidence during, and there's certainly evidence after that we need to look after, and we're going to talk more about that in just a moment as well. But these are all the desired outcomes of the offender. This is what they want us to focus on, and we've done that for decades.

So, we also know that sexual assault is actually a stronger predictor of PTSD than combat trauma. This is significant, because of the personal nature of sexual assault, not to say that combat trauma -- and I'm not saying one is worse than the other. The personal nature, the intimate nature of sexual assault is so degrading and so inside.

We also know that students with a,
female students with a history of sexual assault are five times more likely to have attempted suicide in the past year. Male students ten times more likely in the past year.

So, we know this is a significant thing. We also know, and I want to be very clear on this, this is not a women's issue. It never has been. This is a men's issue as well. This is a human issue, because the vast majority of perpetrators are men, and the vast majority of -- so that makes it our issue, but also, there are so many male victims in the United States and in our military.

In fact, in the military we know from some of the research, that there are more male victims number-wise than there are female victims. Percentage wise there's more female victims but numbers-wise, this is a huge problem for all of us that we really need to understand.

We also need to understand that men
are gender socialized different than women. Women generally express a variety of emotions. Men are gender socialized to express generally one emotion, and that is anger. And often times, that anger turns inward because they can't express it outward because it is not acceptable, and often times men who are sexually assaulted either as boys, adolescents or men, seldom report it. Only about one percent ever report it, and that's really sad, because that's another untapped area that we're just now starting to look at and deal with in a constructive way.

We also know that when sexual assault occurs, for most it is either a highly stressful or traumatic event. We know that there's some really great neuroscience. I'm going to walk you through very quickly. Over the last five to ten years, there has been an explosion in neuroscience, and the neurobiology of trauma. Dr. Rebecca Campbell from Michigan State University, Dr. David
Lisak, formerly professor at Massachusetts University of Boston; Dr. Tim Hopper, I'm going to use a lot of his stuff from Harvard University, had looked at the neurobiology of trauma, and it has really helped us understand some things we didn't understand.

The first one is: we all have a prefrontal cortex, and that is a higher level of thinking. So, when an offender is committing their crimes, they've got their full prefrontal cortex intact without any exception. They're thinking things, and the questions we ask to who, what, where, why, when and how? Offenders can answer that really well. They can answer that extremely well.

But the problem with the victims is that when an assault occurs, whether it is wrongful sexual touching, whether it is penetration, that victim's brain, literally, the stress hormones in the brain, turn generally the prefrontal cortex off. It takes
it away, which leaves the victim with their primitive parts of the brain, and they have what's called an amygdala controlled response.

The amygdala is a little thing in our brains. It is about the size of an almond, and in fact it is Greek for almond-shaped. That controls our thoughts, our attentions and our memory. So, victims' memories of sexual assault are vastly different than the offenders' memories. We've been traditionally training on how to get the offender type memories of who, what, where, why, when and how, and we've been failing to understand that victims of trauma don't have those same memories in the same way.

Here is an example. If you don't like snakes, this is going to be a bad time for you. This is a huge boa constrictor. This is large. It is huge. Look really closely at this boa constrictor. See if that is wiggling around, because I'd like to see if maybe they ate something, and it is wiggling
around and maybe moving around, but this snake goes on and on and on forever.

It just goes on and on and on. Now, what I demonstrated was your amygdala. You had an amygdala controlled response. Many people had an amygdala controlled response. It doesn't make any sense. It can't hurt you. It can't do anything to you. It is a vision. It is a sound, but your amygdala doesn't know that. Your amygdala made you do something that now doesn't make any sense.

So, often times sexual assault victims respond and do things that don't make sense to us, and they certainly don't make sense to them. The Fort Hood shooting. Many people in that room during the Fort Hood shooting, and any other shooting, they often freeze. They often don't do the things they thought they would do, even combat veterans don't, given certain circumstances.

Why? The amygdala takes over, and they remember differently. They react
differently. They behave differently because of that. So, who had memories of the assault to make more sense? Generally the suspect. But inconsistent statements don't always equal a lie. I'm going to walk through that really quickly.

So, this is our concept of memory. From the time I was a little boy, all the way up through agent school and all those other things, I was taught that this is what memory is: that we have an original experience. We encode it in our brain, and it becomes a memory. And then there's a queue to get that out of our brain; that retrieval becomes a particular remembrance.

According to Dr. Hopper and the neuroscience that we now have, that's not what memory is. It is much more complicated than that, but actually much more simple. So, what we have is we have a bottom up trigger. Bottom up means from the primitive brain, or a top down effort, the prefrontal cortex, and
it activates images, sounds, body sensations, behaviors, thoughts.

When you remember the conference today, when you remember this Panel today, you will not remember a lot of the words. You'll not remember a lot of the text. But you're going to remember a lot of the feelings. You're going to remember a lot of those things. You might remember the snake because that's what is encoded more strongly. Now, some smells are coded more strongly than others. Some more weakly than others. Some sounds, same thing.

So, what we have done with this knowledge is we've understood that parts of the memory are experienced, are deeply burned into the memory. These are what we call traumatic emotions. They're sensations that also are processed as central details.

Now, the term central details is very important on the next slide. The problem is that most victims of sexual assault, or other
violent crimes do not have a sequence of events. They don't remember from start to finish. My brother-in-law was robbed in Rochester, New York. Two people attacked him with hammers, beat him really, really bad. And when he went to the hospital, this well-meaning police officer started asking him a series of questions.

"Well, what time was it? Where were you at? What did they look like? What were they wearing? How many times did they hit you with the hammers?" These are all questions that, "start from the beginning," my brother-in-law didn't have these answers. He only had one answer, and I'm going to explain that in just a moment.

They don't have a sequence of events. So, we need to stop asking them to start from the beginning and go because that's not the way memory works. That's not the way trauma memory works. There's generally no words, or narrative right away.
Again, we expect people to have a narrative right away. Then when they don't, or they do, and we take that narrative and that becomes the case the rest of the way, but the problem is that's not the way memory works. We also need to look at what seems most important to survival to that person, and that's the central details. Most of our police questions, and even in our direct examinations, are based on the peripheral information.

Central details are things most important to the victim. Central details we might think are, "What did they look like? How tall were they?" And things like that. But that's not central details to the victims. They don't have that information very well because those are peripheral. They have weapon focus, just like you focus on the snake, and it can depend on the nature of the assault, the victim's brain interpretation, and everything else.
So, the consequences are that central
details are deeply encoded. They're more
likely to be remembered accurately and over
time. Many of our trials, many of our
investigations, focus on some of the
peripheral details. "Well, the victim said
the car was dark blue and it was really
black." Or, "The victim said it was this
time, and it was really that time." Or, "The
victim said it lasted this amount of time and
it really didn't, because we've got the video
when they entered the room and when they
left."

These are things that that part of
the brain, the primitive part of the brain is
not capable of collecting, but when asked,
victims will often give those answers, which,
we're actually creating bad information that
way.

There is also, and I'll get back to
that in a moment, there's also what we call
tonic immobility. It is pronounced by verbal
immobility, trembling, muscular rigidity. So, why didn't she scream? Why didn't he scream? Why didn't they run? Why didn't they yell? Why did they do that? If we ask those questions to the victims, it is going to close them down because they don't know those answers either. Tonic immobility is the perception of the inability to escape.

I have rarely seen a case where the victim, with the prefrontal cortex, probably should've left but they didn't leave. And the vast majority of cases if they did leave, they wouldn't have, they wouldn't have been a victim of the sexual assault.

But that is not the part of the brain that tells them this. It is the amygdala controlled part that goes into that tonic immobility, and it happens in 44 percent of sexual assault cases.

So, that is another thing that we have now started to understand. So, what we're after in criminal investigations is not
to just believe every single victim that comes in and just railroad people through the system, because we're after the truth regardless of where it lies, and regardless of whether what the victims said happened happened, or whether it didn't happen or might've happened a different way.

What we're after is the truth, and the truth is often locked in by the trauma. So, we look at the sights, the sounds, the smells, the feelings, the thoughts, the impact. That then is in combination of understanding the experience, which is different than what happened. So, we have also identified the vast majority of elements of proof and sexual assault are really about fear, force, non-consent. Well, what is evidence of fear? What is evidence of force? What is evidence of non-consent?

What we're finding is these things, if they have terror or flashbacks, incapacitation, feelings, sounds, experience,
trembling, that is giving us better
information in trying to help understand these
cases.

So, what we've done, and largely
because of Fort Hood: When I was at Fort Hood,
I was asked to debrief a lot of our agents and
first responders who responded to that
horrible tragedy. While I was there, I was
asked to interview some of the victims who had
already been interviewed using traditional
techniques - who, what, why, when and how -
and I was asked to interview them, because
they weren't able to provide much information.

So, my first thought is, "Well, what
am I going to do? What am I going to do
differently?" Then it hit me, well, you know
the debrief is working really well. I'm
getting impact. I'm getting all kinds of
information from the agents and other people.
So, basically I visited the first victim here
in Austin, Texas. I drove up to interview one
of our victims in Austin, Texas, in a hospital
and this is the first time I used what we now call the FETI technique.

I started out by asking a series of questions. I'm going to get to those in a minute, but it is really a combination of the best of child forensic interview techniques, as far as open ended questions, making sure they're in an environment where they feel comfortable, where they're trusted, or where they trust, tied with the impact stuff that we get out of debriefings, tied with what we now know about memory and trauma memory, and how they really do remember.

So, what we've then done is, we've traditionally we've taken a three-dimensional experience, boiled it down to a one-dimensional investigation, a one-dimensional prosecution on who, what, where, why, when and how, and then presented it to a three-dimensional panel and expected them to get it.

What we're now doing is we're taking that three-dimensional experience, collecting
that three-dimensional experience, presenting
it as a three-dimensional experience in front
of a panel or jury, and they seem to be
going it a little better. Here is a little
thing on the FETI.

(Video playing.)

Now, we have trained this at many
civilian police departments, district
attorneys associations, colleges and
universities across the country. It is really
being understood. And I go back after
conferences and I do another conference, and
people are just really -- it is a very simple
process and very easy to understand, and it is
working in tremendous efforts and in
tremendous ways.

It seems to be creating a culture in
helping victims come forward. So, here are
some recommendations. Take all reports of
sexual assault behaviors seriously, regardless
of the perceived reputation or credibility of
either the victim or the accused, or the
suspect.

Investigate all reports of sexual assault as potential serial crimes. Now, let me tease that out a little bit. Not all sex offenders are serial sex offenders. And depending on the research you look at, most of them are, some of them are. But in all the research, a good part of sex offenders are serial. We have a mantra in criminal justice to approach every unattended death as a homicide until proven otherwise. We do that because if we approach it as an accident or a natural death, we're likely to miss important information, important evidence.

And by doing that, though it doesn't mean that every death we work is a homicide. It is not. It doesn't bias us that way. What it does is, it forces us to collect the evidence, and then decide at the end whether it is an accident, suicide, natural death or whatever.

The same thing is this: we know
there's a small group of people, primarily men, who are creating a vast victim pool in our society, both in the military and outside the military. We're not catching them. And most of them have other victims, and we're finding this because we're interviewing them in a far different way then we have traditionally, as well.

We're also never asking a victim why. We're not asking victims why. Why? Because that closes them down. There's better ways to get there. So, with my brother-in-law. When the police officer kept asking him, "Well, why didn't you do this? Why didn't you do that?" That just made him even more frustrated. When we ask sexual assault victims, "Why did you do this and why didn't you do that?" They are already frustrated because they've already asked that question themselves, and they don't know the answers. By us asking them actually really makes it worse for them. That's what we call re-victimizing. So, we're training
our folks never to ask a victim why.

Here is the question we need to ask instead: what were you thinking? What was your thought process? What was going through your mind then? That is far better information, far better evidence. We're training our investigators and prosecutors to use the FETI, even in direct examination from the prosecutors. "Help me understand what you're able to remember about your experience. Tell me more about that. Tell me more about that."

"What did it smell like at this particular time? What did it feel like at that particular time?" That's getting that three-dimensional experience out which is giving us better evidence for better elements of proof. Let me give you one example. We had a case in Germany where a young agent who hadn't been trained in these techniques was interviewing a sexual assault victim in the traditional way.
This was a woman who was a wife of a special forces NCO in Germany. They had a party at their house. They went -- one of the attendees at the party was too drunk to go home. So, they put him on the couch downstairs and they went upstairs to go to bed.

Well, some time during the middle of the night, this woman woke up and she realized that this man from downstairs was assaulting her vaginally with his finger. And she kind of didn't do anything. Then she didn't say anything for a couple days. Then she finally told a friend who told her, "You need to tell the police about this."

Well, then the agent, who was a very good agent, was interviewing her and said, "Well, tell me what happened who, what, where, why, when and how." And when it got to the point where, "I woke up and he started to do this," "Well, how long was he doing that?" And she said, "I don't know." She said,
"Well, you were there." And she said, "Well, I don't know, 5 -- 20 minutes. I don't know."

That became the defense case. So, we had a prosecutor that was specially trained in the technique that was just talking about, and on the stand -- of course doing preparatory work on the stand, but on the stand, "Help me understand everything you are able to remember."

In front of the panel, in front of the jury, this woman said, "Well, I remember waking up and he was doing this." And, "So, tell me more about what you were thinking when you realized that he was doing this." She said, "Oh, my goodness. I hope my husband doesn't wake up." "Well, tell me more about your husband not waking up." Instead of saying, "Why didn't your husband wake up?" or "Why didn't you want him to?" "Well, I thought if he woke up, he was going to kill the guy, and it would ruin my four-year-old son's life, in the next room, and his career.
and my life." "Well, tell me more about
that." Then she said, "Well, then I realized
I couldn't scream. I couldn't move. I
couldn't do anything."

"Well, tell me more about that." She
said, "Once I realized that, I started doing
algebra in my head." She said, "Well, tell me
more about the algebra." "Well, I was taking
a college course and I just zoned out, and I
couldn't think of anything, so I started
thinking about algebra problems." What she
described were three pieces of evidence that
helped with the elements of proof.

The first one is fear. She was in
fear because her husband was going to wake up.
Two, she went into tonic immobility, which in
some sense is incapacitation. Then the third
one she disassociated. She went in and zoned
out, and things like that, which helped the
finders of fact understand, maybe in a
different way, what her experience was as
opposed to, "Well, it doesn't make any sense.
You're laying next to your special forces husband and you didn't wake him up."

Well, she was incapable at that time, and we understand that more now with the neuroscience. All professionals have to recognize their own limitations in detecting deceit and judging character. We need to understand the principles of neuroscience and sexual trauma.

We need to require training and utilization of trauma, informed interviews in cross-examination techniques, or direct examination techniques, because this is really helping, not only victims come forward, but helping us understand the reality of the situation, and to take a closer look at what we're doing.

Not pet rocks. Not things that -- you know, traditional. I am not a traditionalist. I've taught a lot of the techniques now I'm teaching against. I've taught a lot of the things throughout my
years. Now that I don't believe them, because
of the neuroscience research and some of the
new information evidence that we have.

We need to do that to change
ourselves and change the world. And what
we're really talking about is culture change.
What we're really talking about is looking at
this totally differently. Not totally, but
significantly different. When we do, and we
follow maybe these and other recommendations
you're going to get, we're not going to look
the same way we do now in our society or in
the military. But culture change has to be
personal to everyone all the time.

I'm going to close with one example.
This is my daughter. This is personal to me.
It has always been personal to me, but my
daughter made it even more personal. I have
four children. She is my youngest. She is my
only girl, and she called me up one day and
said, "Dad." The way she said, "Dad," shook
my whole world, because I never heard her say
it like that, because not only are the victims impacted, but their friends and loved ones and family are impacted as well.

She said, "Dad, I have something to tell you and I've never told anyone, but I need help." And she really pleaded for help. She said, "Several years ago, I was at a party. I was in high school, and I was invited to a party, and I thought I'd go because it was with some of my friends and it was in a college area." She said, "I knew a lot of the people and I trusted them, and I drank some of the punch." She said, "I don't drink, Dad, and I didn't drink that night, but I started feeling funny. I started feeling nauseous."

"So, I went up to one of my other friends, and I asked them what I should do. You know, 'I don't feel well. Can I lay down?' He took me to a back room. He took me into that room and he closed the door, and he locked it."
"After he laid me down, he went and locked the door, and then he raped me." She didn't go into many details, and she had a hard time getting this out, because this was her first time disclosing it, years later. She said, "He raped me. Then after he got up, he left." She said, "I just laid there and cried, Dad."

I said, "Well, tell me more about that." She said, "I just didn't know what to do. So, I finally went out to the party, and I got my best friend who brought me to the party, and I told her." "Well, she looked at me. She could see I was crying, and she said, 'What's wrong?' And she said, "I was just raped." "By who?" "By him." And her best friend looked at him, and looked back at her, and said, "No. He would never do that. Stop lying."

From that moment on, she pushed it inside, and she felt she could deal with it, but she couldn't. The emotional impact and
the psychological impact really did affect her in a very adverse way. In another very adverse way, she told me, and I've been in the military since 1975. I joined in '74, delayed entry. Came in in 1975. I believe in the military. I believe in what the military is all about, and I believe we're not a bunch of rampant rapists running around, and allowing it to happen.

I believe we're part of our society, and we have the same problem everybody else does. But we have to deal with it, and we've been dealing with it in ways far different than I think anybody has ever attacked. She said, "I want to tell you now about something I'm really disappointed in." She wanted to join the military and she wanted to join the Air Force. I was excited. She was excited. She went up to the military processing station, military entrance processing station. She called me from the floor. She was going to join the military.
She got a good contract with the Air Force. They were going to give her a good career in the medical field. This was what she wanted to do. They were going to give her training. She was excited.

I called her back that night, and I said, "So, when are you leaving? What's going on?" She said, "I'm not going, Dad." I said, "What happened?" She said, "Well, I was about to sign the contract. I put the pen on the table and I ran out of the station." I said, "You ran out? Why?"

She said, "I don't know. Maybe I'm stupid, Dad." She couldn't tell me, because she wasn't ready to disclose. It is not because she didn't trust me. It isn't because she didn't believe in me. It's because she didn't think her peers, she didn't think her friends, she didn't think the police or anybody would believe her. But she said, "Dad, now I can tell you why I didn't join the Air Force. Why I ran out." She said,
"Because all I heard up until that time was rape, rape, rape. And I couldn't do that, Dad."

That hurt me more than anything because the way the military has been looked at, the way the military has been demonized, and I understand we have standards and we should be different than our society. You know, Congresswoman Sanchez spoke to a group of senior leaders in June, and she looked at every single one of them and pointed, and said, "When people see you, they see a uniform, and they see a hero." She said, "Heroes don't rape."

I absolutely believe that. Heroes don't rape. And it is offensive when our American people see time after time that another alleged hero raped. But the fact of the matter is that most of the people that wear that uniform are in fact heroes in every sense of the word. Heroes don't let other heroes rape, and heroes don't allow that to
happen, and that's part of the culture that we're trying to inculcate: that we're different. We have to be different.

We have to set a standard, and we do have a standard. We're all value based organizations. The number one value that I think all of us share, either in stated or unstated values, is respect. That is what the military is about. We build fences around people, about different racial groups of people, or different ethnic groups of people, and we don't allow them -- we don't allow anybody to say anything bad about them.

If a racial slur comes out in the military, I can guarantee, in any formation somebody would say something about that. Or sexual orientation, another fence. We're not allowing that. But where is the fence about women's sexuality? Where is the fence around how we perceive women who have sex, who have consensual sex? What is our offense around women who report rape, and come back and
sometimes are ostracized by their peers?

That's what we're working really hard at getting down that bystander intervention that begins long before the bar. Long before the incident. It begins in the conversation. So, we're working really hard, and making sure that everyone in the military understands that this is personal, because everyone in this room, everyone in the military knows somebody, loves somebody, is very close to somebody who is a victim of sexual assault.

Everyone. You may not know that person is a victim of sexual assault and you may not understand some of their behaviors, or some of their challenges, but every one of us knows a victim, or is a victim themselves, and every one of us knows a sex offender or at least one or two or three. We just don't know who they are.

So, this is a big problem for all of us. All of us. Our motto in the MP Corps is, "Assist, protect, defend." Many other police
departments have assist and protect, and

things like that. That's what we're all

about. The military has done so much. Our

report rates have significantly gone up, just

in the last year. Who has done that? Who has

raised reporting rates that high in such a

short period of time?

We've got a lot of work to do, but

we're already doing things that have never

happened in the history of the world. We are

set to do things that we need to do to make

sure that we continue, to make sure that every

single sexual assault victim that reports is

encouraged to report, and reports are taken,

not just by the systems but by their peers as

well.

We are doing that, and we're doing

that as fast and fierce as we can. We just

need the opportunity to continue on. The good

ideas from our civilian partners and military

partners, because we're all in this together

because every single person that comes in the
military, every single sex offender we have in the military, for the most part, started their offending before they came in.

So, it is a problem that we all share. We don't create or train sex offenders. They take advantage of us. They take advantage of our values-based organizations. So, those are some of the things I posit to consider, some promising best practices. If we understood the theory of the third persona, it helps victims tremendously to her that and understand, "Okay, I'm not going to blame myself for not being able to see it."

Sometimes they can; sometimes they can't. But most of the time it is too late. To look at how we interview victims, how we interview suspects, how we do everything, how we look for other offenses; we're using different interview techniques with our suspects than we have traditionally, and many of them are telling us about other offenses.
before they are military, other victims and
other offenses. That's a really good way to
get offender accountability and help -- help
define the problem. So, I'll get to your
questions. That's all I have. Thank you.

CHAIR JONES: Thank you very much,
Mr. Strand. Questions? I would like to know
is there any -- are there any programs or --
is there any thought being given right now to
the problem of sexual assaults of males? We
tend to hear tremendous amounts about sexual
assault of females, but this Panel is
responding to adult sexual assault. We have
precious little about male sexual assault.

MR. STRAND: Yes, ma'am. In our
investigative training, where we train our
criminal investigators and our lawyers, we are
addressing same-sex sexual assault, including
male and male and female and female, because
we have a few of those as well.

We're addressing that significantly
in our investigative training, with all the
services. We're also addressing that in our training: I think it has been late, but we're starting to do it in our massive formation -- not massive formation training, but in our training of the troops of all the services.

We're talking about it in senior leader conferences more and more now. We're having specific sets now on male on male sexual assault and the differences on gender socialization and the impact, and how few males actually report it, but what their reactions are.

We believe, we can't prove this because a lot of people that commit suicide don't write, "I was a sexual assault victim." But we know from some of the other anecdotal cases that we look at, where they were sexual assault victims that committed suicide and the research on that.

So, this is a problem that I think is just now -- I think it has always been a problem, but it is an emerging problem for us
because as we recognize that as a problem. And since June of this year, I have talked to almost 25,000 folks across our Army, and this is a significant portion of what we talked about.

The feedback that I get from the males in the audience, after every single one, there's never an exception, that several come up to me, just with tears in their eyes and say, "Thank you." They may not be ready to disclose yet, but I think this is something we really need to understand, because especially in our all-male formations they think that sexual assault is not their problem. It is a significant problem that we're helping them to understand now. So, we've done some. We need to do more.

CHAIR JONES: Well, thank you. If you have any additional information you can send us in writing, we'd appreciate it.

MR. STRAND: All right.

CHAIR JONES: Yes, Mr. Bryant?
MEMBER COOK: Thank you for coming today. Your presentation was informing. It was timely. Can you clarify for me briefly? You're doing this training. This is what you're going out and telling people.

Can you tell me, for how long have you been doing this training? You've already said you had increased reporting over the past year. And to whom are your audiences right now? Is it just the investigators? I got the sense it is the investigators. It's some of the prosecutors. Who else have you trained, and what else are you planning to train to get it out there?

You said 25,000 since June, but I don't know how long you've been doing this. If it's making a difference, that's great. Has it had a long opportunity to make that difference, or is it just something that's brand new and needs more time to develop?

MR. STRAND: Great question, ma'am. We've been, with a concerted effort, training
our agents. We started training our agents in
the Army and then expanded to the other
services in 2005, 2006, 2007. We created a
two-week course in 2009. Then we started
inviting prosecutors and training alongside
our agents around 2009 or 2010. So, that has
been a tremendously successful effort.

We've also been involved, from the MP
Schools, working with all the services
teaching at simulator conferences, teaching at their SARC and SHARP conferences, working with victim advocates, chaplains, commanders,
senior NCOs in all the services for the last five years. Made a significant effort.

All the services have done a great job in their victim advocate training, their SHARP training, depending on the service. I think what we're learning from the training is we're now starting to get feedback because they want different kinds of training. They want more impactful training.

They want more in your face
discussions. So, we're morphing more into that. And so, we're having input in all the services in trying to make sure that people are, the victim advocates, and the chaplains and the lawyers, and everyone else on the same sheet of music. So, we've had an extended effort on that for five years.

What has happened since June, is at the Army SARC conference, the Chief of Staff of the Army saw a portion of this presentation with some other things and decided that's what he wanted for all his two star commanders or above. So, that's what has kept us really busy since then. We intend to do that for the next several years. But we're also trying to build a bigger, better cadre and build more videos and train more people to do this the same way.

MEMBER COOK: Are you adequately resourced to continue to do this, or is this just a responsive technique right now? And I mean in terms of both money and personnel
going towards it.

MR. STRAND: We currently have sufficient funding. I'm not speaking for Department of Defense. I'm speaking for me. I've seen funding wane. When something is important, funding is there. Then as soon as the eye is off the ball, it kind of slips into something else. So, we have a significant challenge there as the military grapples with reductions, and significant reductions in funding. So, we have sufficient funding now.

It would be, in my opinion, better if it was centralized, as far as it comes down, what we call fenced funds, where other people can't touch it because some of the money we're getting right now is not fenced. It is not appropriate specifically for sexual assaults. It is appropriate into the operating budgets.

And so, that is a concern because it is more difficult to move it if it is fenced, if it is protected along the way. Then the other part is personnel. We're seeing drastic
reductions in civilian authorizations, drastic reductions, and this is going to impact sexual assault.

I mean, we can try to protect it as long as we can, and we've got some really good people fighting at it at very high levels, but as the rest of the military is significantly getting cut, how do we sit there and continue to justify that we've actually got increased positions? The other problem, is sometimes we're only allowed to hire temporary or term employees as opposed to permanent employees, and that becomes a real challenge, especially during those reductions.

MEMBER COOK: Thanks.

MR. STRAND: You're welcome.

MEMBER BRYANT: Did you say, Mr. Strand, that you have brought the FETI interviews to the defense side of the JAG Corps also? Are they hearing this? Because it seems to me, that this interview process is a major sea change in prosecution, whether it
is civilian or military. And it is going to require an educational process, it seems to me, for the judges, for the Panels, that this is now the accepted and proper way to interview.

Otherwise, you've got defense counsel saying, "Well, when did you first tell the investigators that?" "I never did." "Why is that?" "They never asked the question." And suddenly, the investigators look like idiots, unless everybody understands this is a new process. So, I guess my first question is is this being conveyed throughout the JAG Corps so that also the defense counsel are now getting some understanding of this?

MR. STRAND: That's a great question, sir. We've been training the trial counsels in all the services, and often times the prosecutors that we train go into defense and vice versa.

I have had opportunities in the past couple of years to train at least most of the
services defense counsel in the DCAP, Defense Counsel Assistance Programs. I've had some great opportunities with defense counsels to go over this stuff, and been received very well.

In fact, I think at least the defense counsels that have come up to me following the training. They've said, "This is better than what we traditionally get. And you're getting different information which helps us understand the experience better. It helps us understand our client better, and the behaviors that occurred. It helps us prepare our cases better."

So, we haven't had any significant pushback that I'm aware of from the legal community. Interestingly enough, there has been a lot of discussion in court about child forensic interviews.

Some states have a required, "You can only use this technique," that has been vetted and researched and everything else. We're at
the beginning phase of that research. So, a lot of it is anecdotal and everything else.

It is built on good solid research on neuroscience and child interviews and some of those other things in the techniques and what we do. Interestingly enough though, when we generally interview adult victims, if we use a traditional technique -- nobody ever questions us on our techniques.

Nobody has ever questioned us on the stand, "Well, why did you ask her who, what, where, why, when and how?" Nobody ever asked that. When we have something new, understandably, "Why are you using this? Why are you doing that?"

Well, because what we found from neuroscience and what we found from this, this works better. But really it is the quality of the information we're getting that speaks for itself, and it is the amount and type of information that we're getting to help examine those elements that are proving a far better
In fact, in the MP Corps, two years ago we changed our doctrine. Traditionally, we've had physical evidence and testimonial evidence from long-standing things. But in sexual assault cases, there are very few instances of where physical evidence can actually come in handy.

So, we've actually added another class of evidence called psycho physiological evidence. So, we're training attorneys on both sides as much as we can on what that is, what that means, and what that means to you, and what that means to the prosecution and defense.

MEMBER BRYANT: Obviously some specifics have to be asked, especially where it is a stranger assault because the goal of law enforcement is to identify the perpetrator and establish enough probable cause through the victims to make an arrest or a charging decision.
So, some of those you agree the
victims have to be asked some questions,
especially in a stranger rape --

MR. STRAND: Oh, absolutely. Even in
a non-stranger. So, we use the technique
initially, and then after we believe we've got
as much of the experience as we can, we go
back and get some of those specific questions.
So, we're not banning the questions. We're
just doing it in a reverse order.

So, we still need to get that
information as best we can, but in the
meantime, we've already gained the trust of
the victim. We've gained the victim's memory
in I believe a far superior way when you look
at the neuroscience.

So, by the time we get to that part,
it is going to be much better. One of the
questions I added to the FETI was after I
interviewed my brother-in-law on the phone.
He was so upset about that police interview.

He was so frustrated because, "He
kept asking me questions I couldn't remember.
I didn't know. I didn't know." Well, what is
it that you do remember? What is it that you
can't forget about your experience?

That's not one of the FETI questions.
And he just started hitting himself on the
head. He said, "I can't forget the sound of
the hammers hitting my skull. I can't sleep.
I can't."

That is such powerful evidence, far
superior to other things. Now, they
eventually caught the two men, but he was so
afraid to testify that he didn't want it to go
to trial. And they pled, and the plea was
accepted. But even after that time, he was so
afraid of them because that's an amygdala
controlled response as well.

So, we do have to get those other
answers. I don't see any reason, in any way,
shape or form, to ask a victim why on anything
because that question about, "Well, what were
you thinking at this time," or, "What was
going through your mind?" is far superior to those answers.

MEMBER BRYANT: Interestingly, police officer involved shootings, law enforcement has come to the same conclusion, and that is the statement should be taken from the officer maybe as much as 48 hours afterward because of the same focus that you mentioned about the victim. The focus is on the weapon.

Whether the general public understands it or not, every time a police officer has to shoot somebody, it is a traumatic event for that police officer. And they have tunnel vision.

It is usually a response to, "If I don't shoot, I'm going to be shot, or somebody else is." So, I just -- it was interesting that FETI is now being used for victims of sexual assault and child abuse because law enforcement just very recently has come to the same conclusion with officer involved shootings.
MR. STRAND: We also use it for
domestic violence and other traumatic events.
We even had one of our folks who is in a
hostage situation. That worked very well with
not the hostage taker or not the person that
was barricaded but the -- but his wife who was
outside, who was frantic and upset.
He used this technique, and he got
much more information in a ten-minute time
frame then the other detectives at the scene
had gotten in 20 minutes prior.

MEMBER BRYANT: Thank you very much.

MR. STRAND: Welcome, sir.

CHAIR JONES: Final question
Professor Hillman?

DR. HILLMAN: Two questions, but
first I have to thank you for the energy and
insight that you've brought to this. Your
work on this, just the brief presentation you
did for us is compelling, and to think about
the impact that you're having with the broad
swath that you're cutting through and all the
folks out there that you're talking to gives
me some hope for all these tough questions
that face us.

Two questions. First, you cited many
recent studies out there, and it makes me
aware of, in an even brighter sense than I was
in the past, of how much information is
changing. Truisms and beliefs that we held in
the past, and techniques as the one that you
outlined today, are changing in response to
that.

It makes me wonder about how dynamic
our training has to be in order to take
account of that, and somewhat -- the
conclusions we draw about the best ways to
approach this.

It makes me doubtful that we really
have the right information on which to base
these, and even going -- you have a really
holistic sense of how we need to approach this
ending on culture change. On your last slide
there, right down to the details of individual
interactions and what you just said in response to Mr. Bryant how you're getting better results immediately applying some of these techniques.

But I wonder if it is too early for us to make global conclusions about some of the ways to approach this problem, given how little we understand. Even about the neuroscience related to it compared to in the past.

My second question is just also about the holistic piece. Your investigators are now acting as counselors in some respects if they're asking these kinds of questions of the -- of the individuals who have had these experiences.

That's -- it strikes me that that compression, that blurring of roles, poses some additional challenges for the folks we're putting on the front line here too, and I wondered how you are managing that piece of it in your training.
MR. STRAND: Two great questions.
The first one is we are using -- as far as
introducing these promising best practices,
that's what we're calling them. We're calling
them promising best practices because we do
need to do some more research, and I think
they have to go longer.

But what we're learning is it causes
less harm, and we don't see any harm
currently. We know that the traditional
technique cause harm. I mean there's been
vast research under traditional techniques
that we're continuing to use.

So, I would say stop using those
because we know through good, solid research
they cause harm. Re-victimizing comes from
the types of questions we ask, the interview
questions. So, we know that it is harmful.

Is this the end-all be-all? I don't
think it is. It might be part of the
solution, and we're happy with the initial
results over the last couple years. But we
still have a lot more work to do to see.

The other point on as far as counselors, we're very direct and we're very clear. There's a difference between counseling and investigating.

These questions, I mean we've had police officers ask the vast majority of these questions in forensic interviews for a long time, child forensic interviews.

So, they're really not that much different, and we've got police officers trained to do that. So, through a lot of good national organizations.

We're very clear there is a difference. Some people will say, "Well, isn't that therapeutic? Isn't what you're doing therapy?"

I think that is kind of the real point here. Is it therapy? No. Is it therapeutic? Yes. Because what is the opposite of therapeutic? Causing harm.

So, the difference between what we're
doing and therapy is what a therapist would do, in my understanding. I'm not a therapist. My mom is a social worker and some of my best friends are social workers. But what we're not doing is the therapy bridge.

We tell them, "Never cross that bridge when they're sharing this information with you." Don't say, "Well, do you think there's something else you could do about that? Or, "How do you think you'd feel better about this? What can we do with this?"

That draws into that therapy part. All we're doing is collecting information. We're also training our folks to understand that as people are disclosing that we are very aware of how they are dealing with it, that we provide. We're usually doing this with victims' advocates, and we have victims' advocates close by, or social workers that we refer often times to make sure they get the help they need, and we do the warm hand off if we really feel there is a need.
We didn't do that with traditional techniques. I mean they could leave our office crying, weeping, upset. Some of them killed themselves because we asked them, "Well, why did you do this? Why did you do that?" And they feel so devastated that they leave and we never concerned ourselves with that.

I mean I'm not saying we never did, but traditionally we didn't. We've also convinced them then to do recantations later on because now, "I'm not being believed, and I missed up here," and they recant.

We are also training our folks to investigate recantations because that's another highly specific skill that we need to look at, because not all recantations are true. Some of them are. Some of them aren't.

So, we're very cognizant of that, and they're some great points, but we're really trying to be careful on not crossing that bridge from therapeutic to therapy.
CHAIR JONES: Thank you. Ms. Holtzman?

MEMBER HOLTZMAN: Thank you very much, sir, for your testimony and for your work. I have a question specifically about the extent to which these techniques are being adopted in the military.

How many people -- is the objective -- has the military made an objective to utilize your system in all sexual assault investigations or not?

MR. STRAND: Well, I can't speak for the whole military. We're working with the other services, and I think when you get a briefing from the military criminal investigative organizations, they'll kind of address that what they're using and what they prefer to use.

Not all of them are using it, but as far as the Army, we have literally changed our interview doctrine. So, our doctrine drives the training. The training drives that.
The policy is still being worked. It is right now an option. It is a technique that we encourage but for CID, the policy is that if you haven't been trained in this technique you are not going to videotape your interviews.

We want to videotape our interviews, so --

MEMBER HOLTZMAN: This raises too many questions. Let's just look at some statistics, and let me see if I can understand it. So, there's a policy in the Army now. We're not talking about the other services. That this technique should be used.

MR. STRAND: We're talking sexual assault victims.

MEMBER HOLTZMAN: Right. But it is not mandatory? Is it mandatory or discretionary?

MR. STRAND: Well, not all of our agents have been trained in it.

MEMBER HOLTZMAN: Okay. Those who
have been trained, is it mandatory?

MR. STRAND: No, not specifically.

MEMBER HOLTZMAN: How many people
have been trained? What is the percentage?
If you don't know the numbers, what is the
percentage? It could be an estimate, rough.

MR. STRAND: We've been training
since 2009. We've been working with this
technique probably since 2010. We train about
400 a year from 2010. So, I'd say about 1,200
people plus we've gone out on civilian
conferences --

MEMBER HOLTZMAN: I'm just focusing
on military. I just want to focus on
military.

MR. STRAND: I'd say 800 people.

MEMBER HOLTZMAN: Of the universe of?

MR. STRAND: Mostly CID, some JAGS --

MEMBER HOLTZMAN: No, no, no. What's
the total number of people in the universe to
be trained who do the questioning? What are
we talking about?
MR. STRAND: My best estimate would be in the neighborhood of about 4,000, maybe 5,000. Maybe higher, but not more than 10.

MEMBER HOLTZMAN: So, 20 percent at this point?

MR. STRAND: Right.

MEMBER HOLTZMAN: Is your program being evaluated for effectiveness?

MR. STRAND: We're working with some partners to collaborate to do that.

MEMBER HOLTZMAN: But that hasn't happened?

MR. STRAND: That has not happened. All we --

MEMBER HOLTZMAN: Do you have a time table for that?

MR. STRAND: Well, depending on funding. If we can find funding. We need research. It costs. We need partners.

We have worked with International Association of Chiefs of Police and they are incorporating part of the FETI into --
MEMBER HOLTZMAN: Let's focus on the military. Just have a laser beam for the moment. I like to think big thoughts, but I'm thinking really narrow right now. So, help me out. Okay, so, you don't have evaluation -- that has not yet been -- you don't actually have a time table? Maybe you don't actually have a proposal? Maybe you don't even have a plan.

I don't mean this to be critical. I just want to know where we stand because we have to make recommendations. If we think this is a good program, when we walk out of here we can't say, "Oh, gee, they have this great program." Only 20 percent of the people involved in investigations have been trained, and there is no program to evaluate.

What is your time table for training the total number? Do you have a time table? Is there a plan of action here?

MR. STRAND: Well, we're training about 500 a year, and we're stuck with our
resources at that right now.

MEMBER HOLTZMAN: So, there's no

money for additional training?

MR. STRAND: Not currently.

MEMBER HOLTZMAN: So, it's going to
be 500 people and that's it? The door is
shut?

MR. STRAND: That's what we're
currently tapped out on, ma'am. Yes, with the
funding we currently receive.

As far as evaluation, we do
evaluations in our training. We evaluate the
training and how well it took. We evaluate
them in the techniques during the courses. We
have them do the interviews, and we have the
facilitators reviewing the videos and
reviewing what's going on.

As far as the long-term research on
the effectiveness versus the traditional
techniques or these techniques, we currently
don't have a proposal. We're looking for
collaborators. We've got a couple
possibilities in some of the universities to help us with that.

We have also looked towards West Point and we're working with them on possibility of they've got a research part there.

MEMBER HOLTZMAN: Do you have any idea how much money it would cost to train the balance of the people in CID? The investigators?

MR. STRAND: Currently, we get 1.8 million a year to train 500. If we want to train 1,000 to 2,000 a year, we would just -- it would take that much more.

MEMBER HOLTZMAN: Got it. And by the way, the total will shift, won't it? Because some of the people leave the military who have been trained.

MR. STRAND: We've always got new people coming in.

MEMBER HOLTZMAN: Right. So, the universe actually is growing or changing.
MR. STRAND: Right. Now, the money
is one thing, but then having the people to do
it is another thing as well.

MEMBER HOLTZMAN: The trainers, the
people who can sufficiently train. Is there
anything else I'm not asking you about in
terms of the extent to which this new
technique can be adopted or should be adopted
in the Army? Just focus on the Army.

MR. STRAND: Well, we're also working
with our SANE nurses and training some of them
up on it. Some of our other first responders
in using the FETI to help design better
questions instead of that.

I am cognizant of the need for
research to make sure it is -- we've been
working with Dr. Hopper specifically on this,
and from Harvard. He talks about the
neuroscience and he believes it is a settled
science as far as the parts that we're using.

It is the hard science as opposed to
a soft science because they can in the lab
recreate how these memories work, and what parts of the brain are shut down and working.

So, we've been working very heavily with him and so we feel that we built it on a solid research foundation. It is just taking that and comparing that with traditional techniques, which by the way the only research that's been done on that is to find that it is faulty and harmful to victims.

So, we are thinking we know the research says that some of these other techniques are harmful. So, we're embarking on using this, and in the meantime we do need to get that research done but it is going to take a while.

MEMBER BRYANT: Were you finished, Ms. Holtzman?

MEMBER HOLTZMAN: I was going to ask a totally other subject.

MEMBER BRYANT: I'm following up on yours because you have trained agents from other services, such as the NCIS. It is not
exclusively Army.

MR. STRAND: Correct.

MEMBER BRYANT: I have actually talked to NCIS agents who have been through your training. So, I know that it includes more than just the Army.

MEMBER HOLTZMAN: We're very far from the whole universe of the military. That is I think the important point that I wasn't clear about before.

I just want to ask kind of another question that has intrigued me since I've started focusing on this, which is whether there's any way to identify the sex offender before. We talked about prevention. What can you say about that subject?

MR. STRAND: That's a great question. There's no test. There's no psychological test. So, it is really difficult to screen in any screening.

The way I think we need to become more sophisticated in identifying it is
identifying those preparatory behaviors such as sexual harassment.

Sexual harassment is grooming behavior. Sexual harassment is prepping. It's what we call in the military probing the enemy, trying to probe to find out where the weakness is and the -- and the vulnerabilities are.

And so, when we have to take those lower levels of sexual acts or sexual innuendos and sexual harassment more seriously and hold them accountable for that to hope to -- if we can hold them able for that, it may not prevent it but it may at least put the light on them that that's what's happening.

The problem is most sexual harassment, like most sexual assault, is never reported. But if it is reported we need to take that just as seriously because I think it is just like walking into a bank with a gun and a mask. I may not actually rob the bank at that point in time, or may not get the
If somebody sees me walk into a bank with a gun and a mask, somebody is going to do something to try to prevent it. Maybe a security guard. The same thing goes with the sexual assault behaviors and sex offender behaviors.

There are things they do to prepare almost in every case. So, if we look at those with a different eye instead of saying, "Well, a guy will be a guy, or a gal will be a gal," and dismiss it, I think we can take those behaviors more seriously as what I call pre-criminal acts; then we can hope to get ahead of them assaulting in some cases.

MEMBER HOLTZMAN: From the point of view of the victim, one of the statistics I heard, and I don't know if -- is that -- I think it is probably true, is that a substantial number of the victims have been victimized before.

MR. STRAND: Yes.
MEMBER HOLTZMAN: What kinds of programs -- what does that tell us in terms of ways of helping then to protect themselves in the future to reduce the likelihood of re-victimization?

MR. STRAND: That's a great question, a little bit outside of my league although I understand the question and I have seen the research and believe that it is a huge risk factor to be a previous victim, which creates additional vulnerabilities.

Either they are overcompensating, or under-compensating for some of their protective behaviors or protective things that they do or don't do. And it overwhelms them.

I'm not sure we know what to -- I don't know what the answer to that is. I know it is a problem, and I know we have to be compassionate whenever they report a sexual assault, and I know we also in some cases helping understand what happened to them before in their behaviors and that context
vice the behaviors that occurred during the 
context we're talking about like maybe 
childhood sexual assault.

    Maybe they reacted in a particular 
way, where they had to clean up afterwards or 
they had to apologize afterwards or something 
like that, and that happened as an adult case; 
that helps us understand it a little bit 
better if we find that out.

    But as far as protective factors, I 
think it is understanding that the previous 
assault creates those tension reductive 
behaviors in some cases. It creates 
depression. It creates other vulnerabilities, 
and if we help them deal with some of those 
other vulnerabilities either through 
counseling or just somebody saying something, 
or saying, "Hey, let's talk about this," I'm 
not sure what the whole answer is, but the 
impact is great in previous victimization.

    MEMBER HOLTZMAN: Okay, thank you.

    CHAIR JONES: Thank you very much,
Mr. Strand. We really appreciate your discussion and presentation. I'm going to take a ten minute break, and then we'll return for our panel on special victim capability.

(Whereupon, the above-entitled matter went off the record at 10:28 a.m. and resumed at 10:40 a.m.)

COLONEL HAM: If everyone could please take your seats. We're about to get started again.

CHAIR JONES: All right, good afternoon, or no, I guess it's still morning. It seems later.

We'll now have our Panel on Special Victim Capability, and Major Ryan Oakley, who will be our first presenter, is Air Force Deputy Director, Office of Legal Policy, Office of the Under Secretary of Defense, and our second presenter, Dr. Cara J. Krulewitch is the Director of Women's Health, Medical Ethics and Patient Advocacy, Clinical and Policy Programs, Office of the Assistant
Secretary of Defense.

I am expecting that each of those presenters will give us an overview from the perspective of the Department of Defense, and then we have Captain Jason Brown from the Marine Corps, Captain Robert Crow, U.S. Navy, Lieutenant Colonel Mike Lewis from the Air Force and Colonel Michael Mulligan from the U.S. Army, to whom we would like to put some additional questions, after we've heard from Major Oakley and Dr. Krulewitch.

Major Oakley, and I want to thank everybody for your patience too. I know we're running behind this morning.

MAJOR OAKLEY: Well, good morning, Madam Chair and distinguished Members of the Panel. It's an honor to appear before you today, to discuss the Department's development of policy for establishing a Special Victim Capability or SVC, in order to enhance the overall quality and cumulative effect of our investigative, legal and victim support
programs in combating sexual assault and family violence.

Today I will provide the Panel with an overview of the Department's approach to SVC and how SVC builds upon best practices in the fields of criminal investigation and Military justice, and also, to provide a greater unity of effort, skillful collaboration and expert oversight in the handling of special victim cases.

At the outset, I will cover the essential legal requirements for SVC under the National Defense Authorization Act for FY2013 and explain how we developed this policy and through team work to meet these requirements, our plans and time lines for organizing and fielding the SVC in each Military service, and our methodology for evaluating the effectiveness of SVC across our department, and in addition to providing this overview, I will also be talking on the substance of our SVC policy for legal personnel.
To start, on October 29, 2012, the Under Secretary of Defense for Personnel and Readiness tasked the DoD Sexual Assault Prevention and Response Office or SAPRO to convene a working group to develop plans for the implementation of a department-wide SVC.

This working group included representatives of each Military department, the National Guard Bureau, the Office of General Counsel, the DoD Inspector General and other components within the Office of U.S. DPR, to include Health Affairs, Reserve Affairs and the Office of Legal Policy, as well the Family Advocacy Program.

Shortly after our working group convened under the FY2013 NDA was enacted, which required the establishment of SVC.

Under Section 573 of the Act, the SVC is defined as a distinct, recognizable group of appropriately skilled personnel who will work collaboratively to investigate and prosecute allegations of child abuse, serious
domestic violence and sexual assault.

At a minimum, this capability must be established at each Military department and provide timely, effective and worldwide support.

The SVC is not, however, required to be a separate Military unit or a chain of command.

Since each Military currently has regionally based senior prosecutors who are capable of handling complex criminal cases, including sexual assault, this enables us to move rapidly forward with a consistent implementation plan.

Furthermore, the law also requires the Department to prescribe investigative and legal policies to implement SVC.

The Department of Defense Inspector General has developed policy to establish SVC within the Military Criminal Investigative Organizations, which should be released shortly in a directive-type memorandum or DTM.
My office, the Office of Legal Policy, working with the services, has drafted the companion policy for prosecutorial and legal support. These policies are in the final stages of coordination and we will provide them to the Panel as soon as they are formally approved.

I will, of course, cover the substance here today.

Based on the specific requirements under the NDAA and reflected in our implementing policies, the Department's SVC plan is grounded on four key principles.

First, the SVC will be defined as a capability, not a team, to provide each of the Military services with flexibility and implementation based on their unique mission requirements.

There will, however, be standardization and consistency across the board in the delivery of SVC across the Department.
Secondly, SVC will be available globally. It will exist everywhere, where our men and women serve and in all places where incidents will be investigated and prosecuted at all times.

Third, the SVC qualifying offenses are defined as child abuse involving sexual assault or grievous bodily harm, domestic violence involving sexual assault or aggravated assault with grievant's bodily harm and adult sexual assault offenses, providing clear standards for local investigators and Staff Judge Advocates.

Fourth, personnel detailed to the SVC will be Military criminal investigative organization investigators, Judge Advocates, victim witness assistance or VWAP personnel and paralegal support personnel, all who will receive specialized training for their roles in the SVC.

SVC personnel will also continue to work closely with existing service provided
victim support services, as well as local law enforcement agencies, medical, mental health care providers, Chaplains, Unit Commanding Officers and other organizations, as necessary to provide a continuum of care.

This collaboration is geared towards providing seamless support in every stage of the Military justice process, from investigation to post-trial.

The SVC will be activated upon an unrestricted report for a qualifying offense and during the initial investigative response, Military criminal investigative organizations will notify SVC legal representatives within 24 hours after determining that an allegation meets the criteria of a special victim offense.

The SVC legal representative will promptly meet or consult with the investigators within 48 hours after this designation.

SVC legal personnel will subsequently
meet at least monthly or as often as necessary with investigators for periodic case reviews to ensure victim needs are met.

Now, I would like to provide a brief overview of how we plan to implement this policy specifically for legal and prosecutorial support.

Working with criminal law experts, we crafted an overarching policy and the hallmark of our legal support programs will be the establishment of teams of experienced Judge Advocates to prosecute special victim cases supported by paralegal case managers and certified victim witness liaisons, resulting in enhanced and dedicated support for investigators, Commanders and victims.

Legal personnel comprise three of the four required elements of SVC, and we will work collaboratively with specially trained MCO investigators to provide timely advice, expert guidance and enduring support in all identified SVC cases.
Each Military service will ensure
that qualified personnel receive comprehensive
training on victims' rights, issues unique to
sexual assault, some that were discussed
earlier with the Panel, aggravated domestic
violence and child abuse cases and best
practices for navigating victims through the
Military justice system.

As far as our policy for personnel,
the minimum selection certification and
training standards have been identified and
will include common criteria for measuring the
effectiveness and impact of SVC, particularly
from the victim's perspective.

The Judge Advocate General or TJAGS
of the Military services and the SJA to the
Commandant on the Marine Corps will establish
and maintain these standards, which are
focused on five key areas.

First, the Military services are
responsible for ensuring the selection of SVC
trial counsel to competently prosecute SVC
cases and victim witness assistance program coordinators, to effectively shepherd these cases to trial, while supporting victims every step of the way.

Selected SVC prosecutors will be capable of supervising and administering training to junior trial counsel, while providing expert prosecutorial support to responsible legal offices, and this will include both direct litigation support in the Courtroom, as well as advisory assistance to local investigators and trial counsel at all stages of the Military justice process.

Second, SVC will support Staff Judge Advocates in the provision of candid legal advice and independent advice to Commanders and convening authorities in special victim cases.

Third, each service will establish and require training for all SVC legal personnel, to provide victims with a comprehensive understanding of their rights.
and notification of key decisions in the Military justice process, and they will answer victims' questions in a competent and sensitive manner.

These comprehensive training programs and integrated training programs will include both in-residence distance learning, trial advocacy courses and workshops, as well as on the job training and periodic refresher training.

In particular, training programs for SVC prosecutors will focus on the unique dynamics of sexual assault, domestic violence and child abuse cases. This advanced training at a minimum will cover the elements of proof for SVC offenses, effective interviewing techniques, the impact of trauma on memory and legal issues and sensitivities associated with these cases.

All training initiatives will promote methods of interacting with and supporting victims, to ensure their rights are respected,
preserved and build on advanced litigation case management and technical skills.

Fourth, the services will ensure SVC legal personnel continue to collaborate effectively with their sexual assault response coordinators and victim advocates to facilitate a victim's welfare, security and recovery from these crimes, as well as our family advocacy program managers and domestic abuse victim advocates in cases involving domestic violence and child abuse.

Fifth, the services will provide dedicated, investigative and trial support resources, such as civilian highly qualified experts to further augment consultation resources on SVC cases.

Based on these consistent standards, the Military justice TJAGS and the SJA to the CMC or Commandant to the Marine Corps, will be responsible for providing and selecting and certifying that all trial counsel under SVC possess the skills, professionalism and
leadership to provide the highest quality of legal representation.

SVC is intended to build and strengthen our -- upon our legacy victim support services, and for example, legal representatives will collaborate with victim advocacy personnel in case reviews of child abuse and domestic violence cases, and SVC prosecution teams will continue to work with all appropriate support organizations.

I would like to last discuss the measures of performance and effectiveness or metrics, which will be used as common criteria for measuring the effectiveness and impact of SVC, particularly from a victim’s perspective.

In accordance with the NDAA for FY2013, the Secretaries of the Military departments will collect and report on this data.

These metrics are intended to be meaningful and not simply duplicative of service information collection requirements.
that are already in place.

Our overarching goal through these measures is to ensure that SVC cases are prosecuted and that all victims have a clear voice in the process, that they are treated with dignity and respect at all times and have their specific needs addressed in a competent, sensitive and timely manner by SVC personnel.

To accomplish this, we are selecting our very best people to serve as SVC legal personnel and we will further verify that they are well trained, fully prepared and readily available to support -- provide support whenever needed.

Most of all, we want to be sure that SVC is having a positive impact on making this process more collaborative, cohesive and responsive and also identifying what additional improvements can continue to be made.

In closing, we recognize that our investigators, Judge Advocates, paralegals,
victim witness liaisons and other key personnel involved in special victim cases play critical and interconnected roles in the pursuit of justice, offender accountability and ensuring the rights of victims are protected.

Therefore, we believe this policy advances our shared goal of providing a distinct, recognizable group of skilled personnel to expertly address the most challenging of cases in our Military justice system, while ensuring that all victims receive the care they need. Thank you.

CHAIR JONES: Thank you. Dr.

DR. KRULEWITCH: Good morning. I am Dr. Cara Krulewitch and part of my portfolio includes all of the DoD-wide health policy for sexual assault.

I am going to discuss the role the healthcare provider in the SVC -- the department-wide SVC and the policies that
guide this collaboration.

Prior to the 28th of March in 2013, there -- healthcare was guided by the DoD instruction that is titled 'Sexual Assault Prevention and Response Program Procedures'. On the 28th of March, it was updated and it includes procedures for medical treatment for sexual assault and the sexual assault forensic examinations and training for healthcare providers.

These updates were developed by a multi-disciplinary team that included both DoD and service members.

The services have been working to implement the updates and they are making policy changes and enhancements, both to their training program and the care provided is ongoing, but there -- they're doing many of the same things they have been doing.

Victims have received and will continue to receive comprehensive gender-responsive emergency care and follow up.
Trained sexual assault forensic examiners who collect evidence and also provide testimony in part of their training is how to testify in Court when needed, and are connected with sexual assault response coordinators or SAPRO victim advocates, who then will keep them linked in to the legal system.

The medical portion of the SVC response assures that the victims receive a sexual assault forensic examiner-safe examine from a trained provider.

Sometimes these providers are Military within the medical system or there are contracts with civilian providers in areas where there are not. They're working more to get higher numbers of them within the Military treatment facilities.

Really, that is about all that I had to include, is a very important part, but has a very small piece of information for you.

CHAIR JONES: All right, thank you very much. I wonder if I could go back to
you, Major Oakley, and just ask this.

Where does the providing of counsel
to each victim come in to your program or is
it a totally separate piece of DoD policy?

MAJOR OAKLEY: That is a separate
piece, ma'am, through the victim counsel
program, first through, of course, the pilot
program that was established by the Air Force
and that the other services are moving
forward.

So, that is a separate piece and of
course, victims counsel will certainly be
working through our specially trained
prosecutors and our victim witness assistance
personnel, to provide that overall continuum
of care.

But it is a separate program with a
specific purpose of providing confidential and
independent assistance to a victim of sexual
assault.

CHAIR JONES: All right, so, you
wouldn't have any knowledge about necessary
resources for that program?

MAJOR OAKLEY: Correct, ma'am. I would defer to the -- our Military service partners.

CHAIR JONES: Okay, I have another question and that relates to the Defense function. That is also not a part of your program, is that right? You're only talking about investigation and prosecution?

MAJOR OAKLEY: Correct, ma'am.

CHAIR JONES: Even within investigation and prosecution, do you have the -- have you done some examinations, with respect to what it's going to cost and whether you have the resources?

Are you increasing personnel? You're increasing training, certainly.

MAJOR OAKLEY: Well, ma'am, as far as Defense counsel, it is correct that they are not part of the SVC.

Our working group, at the very initial stages, did discuss the role of the
Defense counsel, but ultimately, since Defense counsel were not one of the listed elements under the NDAA for FY2013, they are not included in our policy.

We, of course, want to be sure that Defense counsel are fully equipped and have access to similar training, to go forward.

I would defer to the services, as far as on personnel because really, where this policy is being executed is with the Military -- within each Military service, in particular, that's overseen by their leadership.

CHAIR JONES: Do you happen to know if anyone is looking at the needs for the Defense counsel component?

MAJOR OAKLEY: I can certainly take that for the record. I know that is a -- it is an issue, ma'am, and I certainly can take that for the record, to get the -- to get fuller information for the Panel on that.

CHAIR JONES: All right, thanks.
Yes, go ahead, Colonel.

MEMBER COOK: Just to follow up on a question, Major Oakley.

So, just to be clear, at the OSD level, for the special victims prosecutors, there has been no additional manpower or structure given to any of the individual services and no additional money?

They're supposed to execute this program and implement it within existing resources of their service and they, across the board, get to decide how best to do that?

MAJOR OAKLEY: That is correct, ma'am.

MEMBER COOK: So, you may have some services that may put more effort into it than others, but there is nothing that is mandated from OSD, even though you're writing the policy that just says, "You will have a program."

MAJOR OAKLEY: Correct, ma'am. The services again, as I mentioned for -- have had
long-standing programs of a centralized
specially trained prosecutors to process
complex cases.

The goal of the policy is to make
sure that there is consistent policy across
the board for ensuring that cases that are --
involves sexual assault, serious domestic
violence and serious child abuse, that those
receive the advice and assistance of a
specially trained prosecutor.

So, the services will be executing
that through their programs for their best
counsel.

CHAIR JONES: One of the problems
with training and growing special victims
counsel or special -- for these cases, these
particular types of cases is keeping the trial
lawyer there, the prosecutor there long enough
at one station, if you will.

Are there any policies to try to stop
switching trial counsel around as much as they
have been in the past?
MAJOR OAKLEY: Not at all -- not at the OSD level, ma'am.

CHAIR JONES: Okay.

MEMBER FERNANDEZ: Judge Jones?

CHAIR JONES: Yes.

MEMBER FERNANDEZ: I have a question for the Doctor, I'm going to not be able to say your name.

We were in Fort Hood yesterday and we talked to several of the SARRT's that were there, and they said that they didn't have a SANE nurse located on the facility and so, that they would regularly have to travel with a victim 40 minutes, in order to get a SANE test done, and often, there was no vehicles available and they would have to travel in their own vehicles if they had one.

Do you know of what kinds of policies there are to have a SANE nurse present on particularly major facilities like Fort Hood and what resources are being made, to make sure that happens, so that there is greater
availability and there does not need to be, you know -- having to take somebody 40 minutes away from where they are stationed is really adding to their trauma.

DR. KRULEWITCH: I personally don't have information on that.

Just to clarify too, not all Military facilities are using the SANE nurses. They're using sexual assault medical forensic examiners, and they're training them. They're not going to be certified by the International Forensic Nurses Association.

However, they are doing certifications that meet that standard, which is the national protocol, or even more.

As far as the availability, I think they're working. That is being implemented within the services, and my understanding is they are working to try and increase the availability throughout the whole service.

But I don't know the exact numbers or the exact implementation of that at this time.
I can try and find out and get more information for you.

MEMBER FERNANDEZ: Thank you. That would be terrific.

CHAIR JONES: Well, I guess an overall concern that I have is that, and as someone mentioned earlier, reporting rates from sexual assault victims are going up, as we're all aware, which is a good thing because victim advocates clearly, have the goal of encouraging victims to feel safe, to report, to have confidence to report.

That's going to mean that whatever programs are ongoing, are in pilot, are being thought of, are going to have quite a demand, if that rate continues.

So, I just wonder, and maybe we'll go to each of the services, what your experience has been, how you see it. Tell us a little bit about your programs and how you see them going and about the demand, and whether you have the resources necessary.
Captain Brown?

CPT. BROWN: Yes, ma'am. The Commandant of the Marine Corps has been thinking about this problem for --

CHAIR JONES: You want to move that microphone a little closer? Thanks.

CPT. BROWN: Yes, ma'am. The Commandant of the Marine Corps has been thinking about this problem for a long time.

About 18 months ago, he published his 2012 cyber-campaign plan, and within the campaign plan, he directed a complete reorganization of the Marine Corps legal community.

The centerpiece of that reorganization was the Marine Corps complex trial teams, which are located regionally and contain an 05 experience Lieutenant Colonel litigator, two other Military prosecutors, CID, Marine CID agent who had a tour as an NCIS investigator, a Chief Warrant Officer to handle administrative matters and some
paralegal personnel.

So, while we haven't increased the numbers of people who are prosecuting these cases, we've definitely improved the way that we do business.

So, within this regional construct these personnel can reach down, prosecute cases, mentor, counsel who are prosecuting these cases and just provide better support for these extremely important complex cases.

CHAIR JONES: And any provision for additional support or a reorganization for the Defense counsel?

CPT. BROWN: The Defense counsel actually did it about a year before the prosecutors did.

So, they have a centralized office, as well. They're organized under the Chief Defense Counsel of the Marine Corps and are organized very similarly, and I believe you'll hear from our DCAP tomorrow, who can provide some better insight into that, how the defense
is organized and funded.

CHAIR JONES: Captain Crow?

CPT. CROW: Yes, ma'am. Ma'am, for

the Navy, we also do it geographically. We

have nine region legal service officers that

are prosecution shops. They're managed by 06

CO's, 05 XO's and then senior trial counsel

are our core special victim capability

prosecutors, and those range in different pay

grades.

One thing we are doing is for our

three biggest, Norfolk, San Diego,

Jacksonville, looking to increase the level

from 04 to 05 of the senior trial counsel

there, for that has not historically been the

case.

But within the -- that realm, so that

geographic construct, the core capability of

both prosecution and defense for the Navy,

comes from our Military justice career

litigation track.

This is something that was
implemented in the Navy back in 2007, and so, it's a -- just kind of historically, we didn't do as many tours in litigation. You'd go in, go out on occasion. So, a couple here and there over a course of a career.

We changed that with now, if you apply for this board and you're selected for it, it's a selection process.

There is three different tiers within it, specialist one, specialist two and expert qualifications.

If you go into the track, then you're going to spend the majority of your career in litigation, where in the past, we would go operational, administrative law and others.

So, that is really where all of our senior trial counsel are in JLQ, military justice litigation qualified. Most of our defense counsel are the same way.

So, we very much -- what we do on the prosecution side, we do the same thing on the defense side, and then the other component --
and then within that, for example on training on the prosecution side, for the last several years, we've done a course called 'Prosecuting Alcohol Facilitated Sexual Assault Cases'. We actually contract that out with AEquitas.

So, some civilian prosecutors come in. We do the same thing on the defense side. It's a defending sexual assault cases.

Most recently in the last year or so, we've sent all of our senior trial counsel and most, if not all of our trial counsel, to the course that Mr. Strand was discussing earlier, with investigators.

We also have a separate NCIS course that does the same thing.

So, I think a lot more -- we've been moving in this collaboration mode lately, to do what really, this capability is now specifying and defining.

CHAIR JONES: Could I ask you a little bit more about your military justice career litigation track?
CPT. CROW: Yes, ma'am.

CHAIR JONES: So, who is -- these are lawyers and obviously, there is certainly most staff, which they require there.

But these are lawyers who are trial counsel, as well as defenders, is that right?

CPT. CROW: Within the litigation track, it's trial counsel, defense counsel, Judges. We have Judges that are in it mostly 06, but some 05.

CHAIR JONES: Right.

CPT. CROW: So, appellate judges and trial judges, as well as, for example, I'm in the litigation track. I'm in a policy role right now.

So, it's not exclusive to the Courtroom, and we do still have personnel do what we call a -- within this community, a disassociated tour.

For example, go onboard a carrier for the professional development --

CHAIR JONES: Is it all criminal?
CPT. CROW: It is, yes, ma'am.

CHAIR JONES: Okay, and I assume that what happens with these officers is that they would generally not go out and become a staff advocate, if that is the correct way to describe it.

CPT. CROW: Well, with the exception of, we do -- the way we've kind of got it mapped out, and there is no actual, you know, this is the only way that it will work.

But we do encourage what we call a disassociated tour, to be a Staff Judge Advocate, for example, onboard a carrier as the legal officer onboard.

You know, for me, I did a carrier strike route tour, an operational tour, also did a year in Iraq, as a Staff Judge Advocate.

So, you can go in and out, but the majority of your career is going to be in litigation, including back to back litigation tours, which is -- over time, we've really not kept people in that back to back tour.
CHAIR JONES: When you say back to back, what do you mean?

CPT. CROW: Three years prosecuting cases, for example. Usually, that person would then maybe go out and be a Staff Judge Advocate or go to headquarters.

Now, within -- if you're in this track, chances are for most of the people, you're going to do three years litigation and then you may still move geographically, so, go from like Norfolk to San Diego and go from trial to defense, but you're going back in to a litigation billet.

That could be as a Military Judge, when you become -- for us, we don't have -- our Judges are 05's and 06's, but it is more of these litigation billets.

CHAIR JONES: And what benefits have you seen from that in the Navy?

CPT. CROW: I think because in the past, it just was not career-enhancing to stick in Military justice and promote, is the
best way to put it.

So, for those of us that really love litigation, it took some risk, if you wanted to do that and keep asking to go back in to Court.

So, with that now, a lot of attention is focused on this. It's no longer a negative to be able to go be a Military Judge or to go into litigation.

So, I think our training is much better. Our experience levels are increased, because we've got fewer people doing it and so, that experience over time, because it is a perishable skill. If you go out for, you know, several years and then come back in.

So, I think it's been a great improvement and we focus on those personnel and put them in the right spots, to continue developing that experience.

CHAIR JONES: Colonel Cook?

MEMBER COOK: Just a clarification, because not everyone here is from a Military
When you say put somebody at risk, if you stay in the criminal arena, at risk meant you may not be selected for promotion in your career.

I mean, ultimately, you try to come in for a career. If you don't get selected for promotion at some point, you can be let go and not have a job, not have a pension.

By changing this, you've allowed them to progress and to get promoted and your promotion rates back it up.

CPT. CROW: Yes, yes, ma'am, and we actually have what we call pre-set language within our promotion boards, our statutory promotion boards, that specify that we do need to have this capability of military justice practitioners.

So, not going to do what may be characterized as the operational law jobs that, you know, where you're working for the senior Commanders, Three Stars, Four Star
Admirals, that is not a limitation. Thank you.

CHAIR JONES: Yes.

MEMBER HOLTZMAN: You mentioned something, Captain, about training your investigators in accordance with what Mr. Strand had been talking about.

Could you elaborate on that? Would you mind elaborating on that and telling me how many people have been trained, what your objective is in completing the training, any evaluation you've done of that program?

CPT. CROW: We, and Your Honor, I think we can -- tomorrow, we can probably give a little bit more of that detail when TCAP comes.

But we -- the prosecutors have -- all of our senior prosecutors, senior trial counsel have gone through Russ Strand's two-week course up at Fort Leonard Wood, and then along with many agents, and then NCIS built their own course where Mr. Strand comes down
to Glynco, as well.

So, from the prosecution perspective, all of our senior trial counsel, and I want to say many, if not most of our actual trial counsel, we just started doing that over the last year, year and a half, but putting them in that same course, which is more investigator oriented, but actually is a benefit for prosecutors and investigators, and that is separate from the other lawyer-specific course, like prosecuting alcohol facilitated sexual assault and other courses that we teach at the Naval Justice School.

MEMBER HOLTZMAN: I was asking about investigators too, not counsel.

CPT. CROW: And I'll have to get that from NCIS.

MEMBER HOLTZMAN: Okay, thank you.

CHAIR JONES: All right, Colonel Lewis?

LT. COLONEL LEWIS: Thank you, Judge Jones.
The Air Force has had a program to have its most complex cases tried by senior prosecutors for more than 40 years. The program started in 1971.

What is new for us is designating this group of folks who we call senior trial counsel, and setting a group of them aside to be senior trial counsel special victims unit prosecutors.

So, we have 16 senior trial counsel in the Air Force now, set up -- set across the world, and 10 of those are designated as STC-SVU's.

Those are the folks who are going to be bringing the special victims capability into the Courtroom and working with investigators, in making sure that the investigations up front are done in an appropriate manner.

What is really new about this is making sure that those individuals are trained specially, attending a number of courses.
You've heard some about already, and the Air Force has some courses that are unique to just our service.

But also, making sure that they come into the Courtroom as a senior trial counsel, typically for about a year, before they receive an STC-SVU designation.

So, we get to watch them in the Courtroom going out and doing those cases in a centrally managed organization within the Air Force legal operations agency, and then make sure we're only picking the best and brightest of our senior trial counsel to perform this role.

I want to highlight one other point, and we -- one of our senior trial counsel SVU's, she is actually set up to perform a reach-back capability for the field, and her official title is Special Victims Unit Chief of Policy and Coordination.

Her role is to be paired up with an Air Force OSI agent who provides the same
reach-back capability for the investigators, and so, the two of them --

MEMBER HOLTZMAN: Could you explain what reach-back means?

LT. COLONEL LEWIS: Sure. Reach-back would just be if you are at a base in Germany, for instance, and you didn't have the particular capability right there in your office, you could call back to Washington, D.C., and these two folks would help you with your investigation.

What they're really there to do is monitor all of the reports that are coming in for the Air Force, providing that initial advice to investigators, to more junior Judge Advocates, who might be out there at that particular location, and making sure that they understand all of the nuances of investigating, and perhaps prosecuting, this type of cases.

CHAIR JONES: Any questions? All right, Colonel Mulligan?
COLONEL MULLIGAN: Good morning, ma'am.

CHAIR JONES: Good morning.

COLONEL MULLIGAN: I want to succinctly, I think, address two questions that you asked. One was on special victim capability.

The Army, in 2009, adopted special victim prosecutors. What we did is internally selected. We were authorized to have 18. We did an internal scrub. We identified 15 of our most talented litigators across a spectrum of ranks, that would then allow for people to do multiple tours and not be ranked out, because you had been promoted.

They were fenced off for three years. They were specially trained. It was a pilot program. It was originally approved by Mr. Garin, when he was the Secretary, that proved highly effective, and from that we then went back and have now expanded that to 23.

They're regionally based. It is based
on the volume of court-martial to a specific base. For example, you would have two at a base like Fort Hood, two at a base like Fort Bragg, large troop units, a larger volume of courts-martial.

You'd have two for all of Europe, right now, based on the troop levels in Europe.

So, that is how we implemented and will continue to implement the special victim capability. We had it already, starting in 2009. We have expanded it, to ensure we can meet the capability we have now.

On your specific question regarding the defense, also in 2009, we were funded for seven highly qualified experts, and they were divided five and two. Those were civilians we hired or retired Judges we hired, to augment our expertise and give us some synergy with civilian populations.

Two were specifically allocated to the defense function. Three went to the
Army's trial function. One went to policy and one went to the school.

So, when you did the division, three went to the prosecutors, who carried the burden, and in my opinion, should be a little better funded. Two went to the defense. One went to the school and one went to policy, and that's how we've continued to do it.

Those jobs have just been re-validated and we're in the process of hiring some of the vacancies. They were four-year terms to generate, intentionally, some turnover and new ideas coming in to those, so you didn't stagnate and you could attract new people into them.

The Army, since 1981 has had something called the Trial Counsel Assistance Program.

I was lucky enough to have that assignment as the Chief of that, from 2005 to 2000 -- excuse me, 2003 to 2005, and the Army always had a training -- a trial counsel
training function out of TCAP and was by regulation, the unit you would go to for special high profile cases, special victim cases or capital cases, and we would then be allowed, again, using the Air Force model reach-backs.

So, if a Staff Judge Advocate at a particular base had a complete -- particularly difficult case, Fort Hood would come to mind, that trial -- that Staff Judge Advocate could ask for additional resources that would then be pushed to him. It was a pull capability and not a push.

In other words, that Staff Judge Advocate would ask for assistance, it would be granted and then it would go to him. It would not be pushed to him from higher headquarters.

Ma'am, does that address your question?

CHAIR JONES: It does, and I gather, when you said they are fenced for three years, you mean your special victims -- I'm sorry,
cases, prosecutors can't be touched for three years, in terms of being moved around?

COLONEL MULLIGAN: Yes, ma'am, and to address one of -- with the fencing, now, there are exceptions for career opportunities.

For example, we had one special victims counsel was selected for promotion. Her next job would be to attend the grad course. She was an exception to the policy and moved.

But with each of those movements, we ensure that the cases that they are currently working, they can either be brought back to finish those cases or that the transition -- there was some -- another prosecutor involved in that case from the inception, so those cases don't get dropped.

CHAIR JONES: Do any of the other services do anything like that, you know, just basically, protect transfer for special victims counsel or anything of that sort?

CPT. BROWN: Yes, ma'am.
CHAIR JONES: Captain Brown.

CPT. BROWN: The Marine Corps does, especially in our senior litigation billets. The senior trial counsel, especially the complex trial team, trial counsel, they're fenced off for a period of 18 to 24 months.

CHAIR JONES: Eighteen to 24?

CPT. BROWN: Yes, ma'am.

CPT. CROW: Ma'am?

CHAIR JONES: Captain Crow, if you know.

CPT. CROW: For the Navy, we've moved to -- used to probably to a two-year term and then move.

We're now moving that. It's not a hard and fast rule, but more of three years within a given tour.

So, I think that will --

CHAIR JONES: It's a trend?

CPT. CROW: Yes, ma'am.

CHAIR JONES: Colonel?

LT. COLONEL LEWIS: For the Air
Force, subject to the Judge Advocate General having assignment authority to move somebody for professional development reasons, we ask for a commitment of up to three years for our senior trial counsel SVU prosecutors.

CHAIR JONES: Go ahead, Colonel.

MEMBER COOK: Colonel Mulligan, Captain Crow had mentioned in the Navy, that the Navy has taken steps to ensure career advancement and minimize the risk of being a specialist within the service.

You know, if you become a criminal law specialist in each of the services, at some point it would say you're not destined for leadership at the top, and it became a risk.

Did the Army take any steps to help minimize that risk as well, so that all this effort, in terms of training that we've done to invest into these officers, what efforts to retain them? What efforts to make it still career advancement possible? Can you talk
about that?

       COLONEL MULLIGAN: We have -- the
Army implemented something we call the ASI,
the Additional Skill Identifier, that based on
your level of experience, you can apply for an
additional skill identifier as a litigator.
       It then is added to your resume, your
ORB, and we track you through that.

       The Army by size, we're a little
different than my colleagues sitting at the
table. We try more cases. We're a bigger JAG
Corps.
       I smile, and I hope you didn't think
it was disrespectful. When Captain Crow talks
about career risk, I sit before you, a Judge
Advocate who has tried a case at every rank
from Lieutenant to Colonel.
       So, if risk is retiring as a Colonel,
then I've accepted that risk.
       I think we have a large enough
population in the Army to identify our
litigators and continue to have them go into
I left litigation, to address one of your earlier comments. I left criminal litigation after two years as an Assistant District Attorney, before I came on active duty. My first five years in the JAG Corps, I was either a prosecutor or defense counsel.

Then I left criminal litigation to go be an environmental litigator for two years, which rounded out my litigation skills.

I have also been a Staff Judge Advocate. I've been a Deputy Staff Judge Advocate.

So, I floated in and out of the criminal justice world, and yet, twice as a Lieutenant Colonel and once as a Colonel, I was asked to come back and prosecute some fairly high profile cases.

So, I think the Army is a little different, based on our size, but specifically to answer Colonel Cook's question, we developed a program to track and identify our
talented litigators. To advance through the levels requires more experience, more training that can be validated, and then we have a list now of the 1,800+ Judge Advocates in the Army. We have a list of those people we consider our most experienced litigators.

MEMBER COOK: When we had a skill -- when the Army had a skill identifier in the past for acquisition, to help keep contractors in the military, it was something that could be considered during promotion boards, and it was up to the officer, to elect whether they wanted it considered or not.

Has the skill identifier in the criminal law arena been used for that purpose?

COLONEL MULLIGAN: I can't answer that question. We didn't develop it for --

MEMBER COOK: For that purpose, right.

COLONEL MULLIGAN: -- promotions. We developed it to track training and identify talented officers, and I'm not prepared to
answer your question, although I can try and get back to you.

I think as of right now, the additional skill identifier has not been either a specific instruction to the Board or a negative, as it was with the contract law.

MEMBER COOK: And if you did --

MEMBER HOUCK: This is Jim Houck.

I've been listening to all of this, but I wanted to add a comment on the issue of identifying skills and the issue of risk and promotion.

I was involved in the creation of the military justice career track six or seven years ago in the Navy, and we went through a long and pretty robust debate about this within the Navy, about what specialities would be required.

We finally decided it was, and that risk meant that people weren't getting promoted beyond the rank of Lieutenant and Lieutenant Commander, in some cases, and that
we've made it a distinct part of our system, which is admittedly, all the services are a little bit different.

But in our case, we felt that we needed to be explicit about it and that we needed to make sure that the selection board had objective evidence that a person was qualified for the program and that, as Captain Crow mentioned, we tied that to guidance in the selection, about how many of these -- with the need to be sensitive to pick people with expertise, you know, in this area.

So, in the service, I speak with a lot of experience as being the identification and special assistance for the system.

CHAIR JONES: Professor?

MEMBER HILLMAN: I have a question for all of you.

The special victims capability is an effort to try to put into really, many small -- although the Army is not a small system. None of you -- you're not -- but small
compared to many civilian jurisdictions, that also work, some of the civilian jurisdictions are quite large that manage this.

We heard from some prosecutors from some larger jurisdictions in our last set of hearings, and one of the recommendations of very senior folks who are prosecutors is that, it should have specially trained prosecutors do this, because of the complexities that Mr. Stand's presentation, which was not only compelling, but dense. I was struggling to keep up at times, because of the number of different factors that affect this type of investigation and prosecution.

So, in the Military, because of the transiency, and because of the movement and because of the emphasis, not withstanding efforts that Admiral Houck just pointed out in the Navy and that Captain Crow talked about and that Colonel Mulligan talked about, and the rest of you are aware of, to make sure we value our litigators with experience.
Three years does not sound like very long to get experience in these very complicated sorts of investigations and prosecutions, and even the career track with at 20 years, the prosecutors we talked to had done this for upwards of 30 years, at least some of them had, and they recommended that this should be a specialized -- this should be a specialized capability, that maybe the Military is actually not the right place to try to build and perhaps tenuously fund the creation of this very thing that you described the policies for system-wide, that special victims capability.

So, I wondered if you could just respond to that, that this is a singularly complex and -- if this is correct, if it's a singularly complex arena in which to prosecute, is it -- is it reasonable to think that in a time of scarce resources, right on the horizon in front of us now, that we can actually maintain this kind of capability in
each of the different services and the -- with the global and standardization process that the SVC capability and the NDAA is trying to find? Could you just speak to that?

CPT. BROWN: Sure. In the Marine Corps, of course, it's a little more difficult because we're the only service who has unrestricted officers who are Judge Advocates.

So, you know, we do have Judge Advocates who are identified and they go to school. We have increased a lot of this for criminal law, master of law, education.

But you know, if you're good in the Marine Corps, you're probably going to get command selection at some point, and you're going to have to go to something else.

But we do have the organization with the reach-back capability, where we can draw on experience and if there is a junior prosecutor who needs help, he can reach back to their highly qualified expert, who is that 20 or 30 year civilian prosecutor.
In fact, before any prosecutor tries a sexual assault case, they have to confer with their HQE, do case strategy and analysis, before they can even step in the Courtroom.

As well, trial counsel in the Marine Corps can't even prosecute a sexual assault case until they have second-chaired a sexual assault case and until they've gotten the requisite training to do that.

So, where in the Marine Corps system it would be difficult to have 10 year, 20 year prosecutors, we have the structure and the capability to provide expertise for sexual assault cases.

CPT. CROW: Ma'am, speaking from my own personal experience, I am -- I was a much better prosecutor, having been a defense counsel and I was a much better defense counsel, having been a prosecutor.

I've gone across both sides and done the operational jobs, as well.

So, I think it works well. I
personally do. I am not a fan of just
building a straight-up career prosecutor track
or a straight-up defense track, kind of like
the public defenders and District Attorney's
Offices.

I love going back and forth and I've
actually prosecuted cases -- prosecuted and
defended cases in all the different services,
as well.

So, with that, I think we do have the
capability. I know three years doesn't sound
like a long time to like a 20 or 30 year
prosecutor, but we also have that reach-back
expertise.

We also have hired HQE's. We have
civilian former prosecutors --

MEMBER HOLTZMAN: What is an HQE,
please?

CPT. CROW: Highly qualified expert,
ma'am.

MEMBER HOLTZMAN: Okay.

CPT. CROW: So, similar to what
Colonel Mulligan spoke to.

We just created a trial counsel assistance program stood up in 2010, with that reach-back capability.

So, I don't see -- and I've done state cases and special assistant U.S. Attorney work. I just -- I think we have it right.

LT. COLONEL LEWIS: I am going to echo Captain Crow's comments and just add a little bit, that I think I was a better Military Judge for having been a Staff Judge Advocate overseeing the process of selection of Court members, working with convening authorities directly on cases, and working with overseeing the Military justice process at my installation.

So, there is value to seeing different pieces and parts of the Military justice system, regardless of whether you are just a prosecutor or a defense counsel.

The additional comment. We are
obviously very cognizant of the tracks that
civilian prosecutors take.

The Air Force recently just went out
to Boulder, Colorado, to take a look and spend
some time with the civilian prosecutors there,
watch how they were doing business.

So we are studying that and those
recommendations have been presented to the
Judge Advocate General, so that we can look at
what options would work within the Military.

But having observed civilian defense
counsel, military defense counsel in Court, as
two years as a trial judge, and I would match
the Air Force litigators and the members of
the civilian Bar with experience in the
military justice system defending cases
against anyone that is out there.

CHAIR JONES: Thank you. Colonel?

COLONEL MULLIGAN: Ma'am, my
experience is a little different. I spent two
years as a civilian prosecutor before I came
on active duty.
I know in the civilian office in Tulsa, Oklahoma where I was, you started in misdemeanor or traffic. You worked your way up to felony.

So, we have a similar process in the Army, in that they're not taking your special victim prosecutors out of the basic course. These are people that have already done a tour as either a defense counsel or a prosecutor. They're at the three to five year mark, where we then send them for special training and fence them off.

I would assume in most District Attorney's offices, based on my experience, there is a lot of turnover, between the three and five year mark.

People come, get trial experience and leave, and then you have the career hard-liners. I see Mr. Bryant smiling and nodding his head, and then have the career hard-liners who stay, and they are your team chiefs.

Those are the people that taught me,
when I first went to the district attorney's office.

We have a similar structure in the Army, and we use TCAP, the Trial Counsel Assistance Program, I think Lieutenant Colonel Morris has appeared in front of this Panel. He'll appear in front of this Panel again. I held that position in 2003 to 2005. Those are your hard-liners, your team chiefs that are similar in District Attorney's offices, that you go to for experience. You're not alone and unafraid, out there on your own. You know, you're not trying a sex assault case as your first case. And the Army, with its size and ability to flow resources, to reinforce what needs to be reinforced, has the ability to do that. I think our current system allows us to do that, and I think we're certainly funded for it. If we're going to expand the capability, we would require additional funding, but I hope that answers your
1 question.

CHAIR JONES: It does. Thanks. Ms. Holtzman?

MEMBER HOLTZMAN: I just had a question for Colonel Lewis about -- I think you mentioned it, if I heard correctly, that you contract out alcoholism related -- or was it -- you weren't the right person or it was Captain Crow?

Who contracts out the prosecution of alcohol related --

CPT. CROW: It is --

MEMBER HOLTZMAN: -- prosecutions?

CPT. CROW: -- the Navy, through the Naval Justice School. We -- and we do a lot of different courses, not just that, but that one is one. It's a week long course that we've been doing --

MEMBER HOLTZMAN: It's just a course? You don't prosecute -- you don't contract out the prosecution of these cases?

CPT. CROW: No, no, prosecution is
all --

MEMBER HOLTZMAN: I misunderstood.

CPT. CROW: -- officer driven.

CHAIR JONES: Any other questions?

Thank you very, very much. Dr. Krulewitch, gentlemen, thank you.

All right, I think we'd like to move right on to our next Panel then, Military Criminal Investigative Organizations.

Is Mr. Poorman -- all right, we now have representatives from the Naval Criminal Investigative Service, the U.S. Coast Guard Criminal Investigative Service, U.S. Air Force Office of Special Investigation and U.S. Army Criminal Investigation Command.

So, I'd like to start with you. Is it Mr. Gilliard?

MR. GILLIARD: Yes, ma'am.

CHAIR JONES: Great, and to hear from you. You're the Assistant Director Naval Criminal Investigative Service?

MR. GILLIARD: Yes, ma'am. I'm the
Deputy Assistant Director. Good morning,

Madam Chair.

CHAIR JONES: Good morning.

MR. GILLIARD: Panel Members. My

name is Darrell Gilliard. I am the Deputy

Assistant Director for Criminal Investigations

and Operations for NCIS.

My duties include overseeing the

quality of our criminal investigations and

operations and providing oversight on

investigations we deem director special

interest.

Additionally, I review investigative

policy and ensure NCIS policy is aligned with

any major changes from the Department of

Defense or the Department of the Navy.

There are three divisions under my

charge, Family Sexual Violence, Violent Crimes

Cold Case and Special Operations Trans-

National Crime.

SECNAV instruction 5430.107, the

missions and functions of the Naval Criminal
Investigative Service, sets forth NCIS's authority and responsibilities. It establishes NCIS's responsibility to investigate major criminal offenses within the Department of the Navy.

Major criminal offenses are defined as those punishable under the UCMJ or similarly framed Federal, State or local statute by confinement of a term of more than one year, commonly referred to as felonies.

NCIS has a cadre of approximately 1,000 trained special agents spread across 140 offices in 60 countries.

These agents are located in areas of fleet concentration and in areas where Marine and Navy forces transit.

All NCIS special agents go through 56 days of basic criminal investigations training and another 46 days of NCIS specific training.

Once completed, NCIS agents are subject to a 24 month probationary period, that includes a 90 day observation or
mentoring period by certified field special
agents -- training agent, excuse me.

Since the mid to late 1990's, NCIS
has devoted special teams to investigate
sexual assaults. As of the summer of 2013,
NCIS had 65 family and sexual assault billets,
or FNSV, as we call them, dedicated to
addressing adult sexual assault, child assault
and physical abuse and domestic violence.

Since then, NCIS has re-programmed
over 50 additional billets to the FNSV program
to meet our demand signal. So, right now, we
have a cadre of about 120 special agents in
FNSV.

These billets came from reactive
general crimes, special operations, and port
visit support.

To better address the quality and
timeliness of sexual assault investigations,
NCIS established adult sexual assault program
teams, otherwise known as ASAP.

ASAP team members are dedicated
solely to adult sexual assault investigations. Each member is required to attend U.S. Army sponsored training in advanced adult sexual violence, advanced family and sexual violence and trial component training.

The ASAP team concept is to provide a surge response to complete investigative activity expeditiously, as well as provide a thorough, high quality investigation to the convening authority, early engagement with legal and victim advocacy personnel central to our concept.

Currently, ASAP teams -- excuse me, currently ASAP teams are located in areas of large fleet concentration. Right now, we have teams in Norfolk, Virginia, Camp Lejeune, North Carolina, Camp Pendleton in California, San Diego, California, Bangor, Washington, Yokosuka, Japan, Okinawa, Japan and the national capital region.

However, NCIS maintains a surge capability in our smaller, more remote
offices. As a result of this team approach, NCIS field offices have experienced a significant increase in the timeliness of investigative actions under NCIS control.

NCIS will continue to monitor the timeliness of our investigations as a measure of effectiveness in combating sexual assaults in the Department of the Navy.

Some of our -- just real quick, some of our innovations, the text tip hotline.

NCIS has initiated what we call the text tip hotline. Text tip allows persons to report crime to NCIS anonymously without fear of reprisal. A tipster can use a cell phone to text NCIS by addressing their text to 274637 and type NCIS prior to entering the tip.

There is also a smartphone app called Tip Submit, in which a tipster can download on their smart-phone, and send information to NCIS.

Finally, tipsters can use our web-
based form on the NCIS website to forward information.

Upon receipt of a tip, the appropriate field office is contacted, to address the issue. Agents at the field office then can correspond with the tipster to glean more information on the alleged offense.

To date, we have received about 84 tips on sexual assault or pertaining to sexual assault in about the last 24 months.

We have our crime reduction programs. In 2008, NCIS introduced the crime reduction campaign, a community outreach initiative designed to address criminal threats effecting the Department of the Navy.

On a quarterly basis, the CRP, crime reduction program, dedicates its efforts to increase education and awareness of Military members and their dependents, to deter precursors of crime and victimization.

The CRP is led by NCIS and includes both law enforcement and community service
partners within the Navy and the Marine Corps, specifically Commander Naval Installations Command and Marine Corps community services.

Beginning in January through March of 2014, NCIS representatives will visit commands to provide sexual assault awareness briefings.

Some of our challenges. The combination of the changes to Article 120 which elevated formerly misdemeanor offenses such as groping over clothes to felony level, in the DoD instruction 5505.18, which requires NCIS to investigate all instances of sexual assault have increased NCIS case load, approximately 50 percent since 2012.

These factors force NCIS to reassign criminal investigations billets from other areas, such as reactive general crimes, special operations support and business support, to FNSV units.

We have reached -- we have received some billet enhancements from the USN to place towards FNSV; however, budgetary issues and
increased case loads jeopardize our ability to respond to criminal threats posed by narcotics, property crime, procurement fraud, and violent crime.

We're still capable of meeting our mission requirements. However, the DoD instruction does not allow us the flexibility to leverage all the capabilities of our law enforcement partners, as we did in the past.

Another area of concern is training. The availability of funds for advanced FNSV training is limited. Our U.S. Army partners were awarded funding for that training through 2017; however, the course is taught once a month with a certain amount of seats available per service, which makes it very difficult to train our field agent corp.

Attrition, PCS cycles, manning levels and other important investigations add to this difficulty.

This concludes my comments and I thank you for your time.
CHAIR JONES: Thank you very much, Mr. Gilliard.

Mr. Marzloff?

MR. MARZLOFF: Yes, good morning, Judge Jones, and distinguished members on the Panel.

I am Neal Marzloff, Special Agent in Charge of the Coast Guard Investigative Services Central Region based on Cleveland, Ohio.

I served in this position since November 2007, and have been a credentialed CGI special agent for 20 years, serving in both as an active duty Military member and now, as a civilian employee.

I thank you for allowing me to -- the opportunity to speak before this Panel today, regarding Coast Guard investigative services, while in responding to reports of sexual assault.

Coast Guard investigative services is the criminal investigative arm of the Coast
Guard and is organized as an independent centralized investigative agency under Coast Guard Headquarters. CGIS is led and managed by an OPM Series 1811 senior executive service director.

CGIS supports Coast Guard commanders by providing investigative support to operations, force protection, intelligence collection and the maintenance of good order and discipline.

CGIS special agents are neutral fact finders, committed to providing fair and impartial investigative products for use by the appropriate command and legal office.

CGIS special agents are prohibited from offering recommendations or opinions on matters concerning guilt, innocence or punishment, in order to preserve the objectivity of the criminal investigative process to the maximum extent possible.

CGIS currently has 105 active duty, 148 reserve and 106 civilian special agents,
serving in seven regional offices, three field
offices and 39 resident agent offices.

Most reserve special agents are
active law enforcement officers or Federal
agents in their civilian capacities, and are
fully integrated into operations at their
respective CGIS offices.

CGIS is committed to aggressively
investigating all unrestricted reports of
sexual assault involving Coast Guard
personnel.

To accomplish this, we work in close
collaboration with Coast Guard sexual assault
response coordinators, victim advocates,
special victim counsels, the Coast Guard Staff
Judge Advocates, the commands of both the
victim and the accused and state and local law
enforcement agencies.

Every CGIS agent -- special agent
possesses the skills necessary to investigate
a reported sexual assault.

Upon entering into CGIS, special
agents receive eight weeks of entry level training followed by eight weeks of agency specific training, or that equivalent at the Federal Law Enforcement Training Center in Glynco, Georgia.

In terms of sexual assault investigation, 15 CGIS special agents have been qualified as FSVI investigators, who act as specialists for those reports involving family and sexual violence received in their areas of responsibility.

Additionally, to date 50 CGIS special agents have completed the Army's special victim unit investigator course at Fort Leonard Wood, Missouri, and an additional six are currently attending SVUIC training and an additional 56 are scheduled to attend in fiscal year 2014.

Special agents for this advanced training are available for consultation or as an additional resource when needed during an investigation.
Because the above-mentioned initiatives incur significant training costs, for example, FSVI training costs about $105,000 to send 22 agents through the recurring training, CGIS is also pursuing lower cost training initiatives, focusing on victim centric approach, such as enacting -- interactive web-based training and victim interviewing and embedding special agents with special victim units of the Boston, Philadelphia, Phoenix and very appropriate to today's venue, Austin Police Department.

This affords additional practical experience in an emerging style setting and the ability to collaborate with seasoned investigators, victim advocates and prosecutors in a high volume of sensitive crime investigations.

CGIS agents are also regularly participating in sexual assault prevention response workshops, along with sexual assault response coordinators, victim advocates and
Staff Judge Advocates.

These four-hour presentations are presented in two distinct phases, the full crew and then a gender-specific session.

The primary goals for each session are to enable the members to be able to identify sexual assault, be able to intervene and be able to report.

This candid all-hands engagement with attendees provides a unique opportunity for CGIS special agents to describe common misconceptions, as well as the realities for sexual assault to the attendees.

These workshops have been received very well by attendees and have also resulted in the victims coming forward during and after the training, to report incidents of sexual assault.

Because state-side Coast Guard units are widely dispersed and sometimes located in isolated areas, expediting CGIS resources to a victim or crime scene is sometimes hindered
by distance or weather.

In those cases, CGIS agents seek assistance from local law enforcement agencies to provide an initial response.

In the last year, CGIS has also begun surging teams to the agency in response to reports of sexual assault involving underway cutters, other deployed units, incidents of foreign ports and other situations where there is expected high volume of investigative leads or special circumstances.

I hope I was able to provide the Panel a brief description of the Coast Guard Investigative Service, our agents and the work we do. I will do my best to answer any questions you have for me.

CHAIR JONES: Thank you, Mr. Marzloff. Mr. Poorman?

MR. POORMAN: Yes, Madame Chair and distinguished Panel. My name is Kevin Poorman. I am the Associate Director of Criminal Investigations for Air Force OSI and
in that capacity, I oversee our policy, our training and the resources needed to conduct our criminal investigative mission.

Mindful of the limited time we have in the session, I've provided the Panel with materials that give a wider overview of OSI policy, agent strength, missions, organizational structure, as well as some of the additional case statistics that pertain to sexual assault.

In these comments, I'll briefly highlight some of more significant policy, discuss agent resources dedicated to developing Air Force special victim capabilities and provide an overview of our basic advanced training for investigating adult victim sex offenses.

To handle the sex offense case load, for some of our busiest locations, the Secretary of the Air Force approved the hiring of 24 additional civilian special agents, 23 to work sexual assault investigations and
receive additional training and to the core,  
if you will, of our special victim capability,  
and one agent assigned to our training academy  
to oversee the development and the delivery of  
our sexual assault training to our students.

This special victim capability, we  
work closely with our Air Force JAG  
colleagues. In fact, through an OSI and JAG  
working group, the Air Force, OSI and the  
Judge Advocates codified in respective  
policies the requirement for investigators and  
Judge Advocates to meet early after initial  
allegations, and then periodically, in most  
instances, on a weekly basis throughout the  
course of the investigation, to assess not  
only what the violation may be, or may be for  
a particular matter, but then to discuss and  
assess and develop proof analyses, as the case  
moves forward, so that that process can best  
prepare a decision on weighing the evidence  
versus the elements, in deciding whether a  
case is appropriate for prosecution.
As you heard earlier, we do partner
at our senior special victim capability lead.
It's stationed at Andrews Air Force Base and
this agent, who has 17 years of experience,
works on a regular basis with the JAG Corps
special victim unit chief of policy and
coordination.

So, they serve as the reach-back
capability for the folks in the field, who are
trained and prepared to handle most instances,
but where they need some additional
deliberation discussion about cases, they have
the reach-back to these two individuals, who
then can collaborate quickly and regularly to
assist them in working through any additional
difficulties they're having.

Turning to training, our basic
academy, like NCIS, is at the Federal Law
Enforcement Training Center. The initial 11
week course is called CITP. That's a criminal
investigations training program.

This is the training that all Federal
criminal investigators go through, and so, it's a baseline. It's largely Title 18 centric criminal code, in which they obtain information on how to work criminal policies and procedures in the Federal law enforcement arena.

In addition to that though, we have an eight week follow on course, and that follow on course is geared to provide in addition to what they obtain from Title 18, if you will, the processes and the procedures associated with the use of the Manual for Courts-Martial, the punitive articles, the UCMJ.

That is, we have a Military criminal justice system that we have to teach our investigators on top of the Federal Criminal Code.

In addition, we provide a lot of additional training on the working of violent crimes, and many Federal agencies do not work so many violent crimes, in that many of the
violent crimes, that is inter-personal crime in our communities is handled by your state and local police agencies.

But at Air Force and Military installations, we have populations where there are commissions of rapes and robberies and sexual assaults, and we have to train investigators in greater depth and understanding how to handle the evidence, how to conduct the interviews, what the violation sets to these types of violations are.

So, that is why we have an eight week follow on training to the regular 11 week basic training.

In discussing sexual assault training at our -- from an advanced standpoint, we, in 2012, in the August of 2012, established our pilot training program. It's called the Sex Crimes Investigations Training Program at FLETC, and to date, we have run five classes of sexual assault training academy, or sex crimes investigative program, 24 students
each, and this -- the complement of our course consists of 18 investigators and six Air Force attorneys.

They work collaboratively together on case examples, case studies, but they also train on a variety of techniques that frankly, we've been informed as a result of going through Russ Strand's course and learning from much of what they've learned, to provide agents training on cognitive biases, for example.

Agents filter information when they start hearing information from victims, and so, we have to sensitize them to what those biases are and how they need to set those aside in the interest of just hearing what a victim has to offer.

We do cognitive interviewing, which again, is an open-ended questioning that you've heard about FETI. We use cognitive interview, very similar at the core of what these techniques involve.
But this has to do with a more open-ended questioning style.

We've been working with cognitive interviewing for some time. We integrated it into child interviewing many, many years ago, mostly to try to avoid suggest-ability to victims, young folks who would otherwise perhaps be influenced by the kinds of questions that are asked.

But it's a much more open-ended interviewing style, and it's kind of counter-intuitive to what law enforcement investigators are trained to do.

But we think it's very important and we've moved forward in making it the technique utilized to conduct interviews of not just sexual assault victims, but victims of violent crime.

That's a very brief overview. I appreciate the opportunity to provide it and I look forward to answering more questions in depth regarding any of these topics.
CHAIR JONES: Thanks, Mr. Poorman.

Mr. Surian?

MR. SURIAN: Thank you, ma'am. Guy Surian, the Army criminal investigation command, commonly known as CID. If it pleases the Chair, I've provided a copy of my statement and slides to Ms. Chayt. I'm sure they're available to you all.

I spent yesterday fighting my way out of D.C., down here. Apparently, one of the hundreds of close friends I made yesterday, gave me a cold. So, if it's okay, with you, I'll just cut to the bottom line here, and I won't read the statement. I'm prepared to read it, if you want, ma'am, Madame Chair, into the record, but I'll just cut to the bottom line and give you some brief thoughts of what we do.

CID, from like last year and the fiscal year, we did over 12,500 felony criminal investigations for the Army. Out of that total number, 2,500-some-odd were sexual
Out of that number, DoD determined that 1,830-some-odd are reportable to Congress. They don't want to hear about the other 700-some-odd for whatever reasons.

In any case, I've got about 747 field agents, to answer somebody else's previous question given to Russ, I've got about 747 field agents authorized on the books to handle felony crime.

They're spread out in 71 field offices across the world, from Korea, Japan, Okinawa, across the United States, Germany, Italy, Kuwait, Afghanistan, Iraq, when we were there and other home places of interest.

We run our agents, basically, we get them in. They're usually Military police officers or Military policemen that come to us. We train them through a 15 week school at the United States Army Military Police School, USAMPS.

They get 16 hours specific in the
basic course to sexual assault. They get another 120-some-odd hours of crime scene processing training. They get another 200 hours in criminalistics and death investigations, and that all ties into how you can process a sexual assault crime scene very well.

In about 2009, actually earlier than that, well, yes, about 2008, we looked at our cases. We had some highly qualified experts come in. They reviewed our cases. We realized we were missing a lot of things.

We were bringing in cultural biases, like Mr. Poorman was saying. The agents were filtering the stuff. We needed -- we knew we needed to do a better job at training the agents.

So, we got together with USAMPS, specifically Russ Strand out there, and we designed a two week course on sexual assault, special victim unit training on that thing, and we've been sending our agents to that ever
since, to get them up there, to change the

cultural bias.

We found that a five week -- a five
day course, rather, was too short. It didn't
affect them. We found that it needed at least
two weeks, in order to train the agents and
have them recognize what their biases were,
and have them recognize what the things --
what they were bringing to the table and what
they were dragging with them, as baggage
behind them.

Obviously, the key -- the landmark,
the hallmark of the two week course is the
FETI and investigative interview technique
that Russ teaches. It's great. I've had tons
of agents give me anecdotal stories about how
they got more information from the victims
than the ever had before, how the victims are
more responsive to them, how everybody is able
to get along a lot better, to gel and become
a team on it.

We think it's very good. We
encourage the use of it. No, we don't have it in policy that mandates you have to use FETI on every base, but the only people I've got generally doing sexual assaults are the ones that have been trained by Russ Strand.

So, generally speaking, I've got a FETI trained agent doing it.

The Commanding General has determined that we're going to have 100 percent. We've made this -- the SVU course a core competency course.

The idea is to have 100 percent of our agents trained at Russ Stand's course.

Right now, I've got, out of the 747 authorized I've got, I've got about 300 that have been through Russ Stand's course. So, I've got about half the force trained.

I can't -- as Colonel Mulligan pointed out, the Army is a little bit different than the other services, to some degree, is I'm spread out around the world too far, and so, to wait for somebody to surge
agents in to me or to reach -- or to do reach-back capability for a sexual assault victim is not going to cut it, when she shows up at two o'clock in the morning.

I've got to have an agent there on the site, who has been trained and knows how to do it.

So, what we've taken is Russ Strand's course and we've made that a basic course for our SVU agents, and we give them an ASI, and additional skill identifier, so I can manage them and make sure that I've got one at every place that I have a CID office.

In addition to that, we've added some more courses to that basic course and made it another ASI for a senior SVU agent, and those additional courses would be another two week course in advanced crime scene processing, about a one week course, 60-some-odd hours on child abuse, another course about 60 hours on domestic violence.

Once an agent goes through all four
courses, he then gets an ASI that makes him a
senior SVU agent, and the goal is to have
those agents, ideally, combined with the 22 or
30, if I get any money, the 22 or 30 civilian
sexual assault investigators that we've hired
from -- under Mr. Garin's rule, as the
Secretary of the Army, to be the senior guys
to run SVU teams at every CID office, at every
place that we've got a CID office.

So, we're moving down that path.

We're -- we'll get there. We're not there
today, but we will be there soon, I believe,
as we continue on the training.

Some of our challenges, I have to
tell you, some of the challenges are internal,
having to do with the Army, you know, pre-text
phone call approval is one of the examples
that is a challenge every day.

Some are legal issue challenges,
where we have to advise victims of their
rights for collateral misconduct, which tends
to chill a relationship between the
investigator and the victim, and others are --
others are new challenges where victims are
able to move relatively quickly after
reporting a sexual assault, which then,
whatever relationship was established
initially between the investigator and victim,
now has to be re-established between another
investigator and a victim at some other
location.

Some of the promising things we've
tried in the last year, I think you went to
Fort Hood here this week. You probably saw
that we have both the SVU team and the
prosecutors in the same location. That
obviously helps a lot for coordination and
expertise and passing back and forth, to make
sure the cases gather all the evidence needed
for prosecution.

I think you may be going to Joint
Base Lewis-McChord in the near future, where
we've established like a multi-discipline team
up there at one location, where you'll have
lawyers, investigators, victim advocates,
medical and legal folks, all there to help the
victim make sure that if she wants it
unrestricted, it comes over to the
investigators. If she wants it restricted, it
just stays on the other side of the aisle, and
they're all working together, all to help out
with the victims and do things like that.

Then on Germany, we've got -- we've
been helping the medics. We've got our agents
-- our civilian sexual assault investigators
over there. They've been teaching the medical
folks over there forensic evidence and what to
look for, when they do sexual assault
examinations and things like that.

I'm sorry it took so long. I thank
you for your time, ma'am.

CHAIR JONES: Thank you very much.

Questions? Sorry, Colonel, go ahead.

MEMBER COOK: Mr. Surian, can you
elaborate, you just -- first, clarify for me,
at what point -- you just talked about the
victims and in some cases, it complicates the process if you have to read the victim their rights for collateral offenses that might be there, for people that are not within the Military.

You can correct me if I am wrong, but in the Military, you read somebody their rights when they are suspected of an offense, as opposed to under Miranda, where there is a custodial interrogation. Is that --

MR. SURIAN: Yes, ma'am --

MEMBER COOK: So, we read more rights as --

MR. SURIAN: -- I'm sure there is several lawyers behind me, the services that could tell you but --

MEMBER COOK: But the facilities that --

MR. SURIAN: But Article -- as I understand it, Article 31 of the UCMJ requires me to advise a service member of his or her rights, whenever I suspect that they may have
committed a crime, whether they're in custody or not.

MEMBER COOK: Okay.

MR. SURIAN: And that is a big difference from the civilian side of the house, where I only have to advise a person of his rights when they're in custody --

MEMBER COOK: And --

MR. SURIAN: -- and so, if you're under age and you've been drinking, and now, you've been -- and then you were sexually assaulted, I have to do a -- or my investigators, have to do a fine tap dance around getting information about the sexual assault, but not asking any incriminating questions about drinking or how drunk were you, or anything else that would prove -- make the elements of proof, because as soon as we start doing that, I have to advise the victim of her rights.

MEMBER COOK: Okay, and I understand that, for the investigation, you've got no
latitude on that.

We're now hearing testimony that we've heard over several of the public hearings for the Panel, we've heard about the special victims counsel.

At what point are they being appointed? Would it be before the potential interview by CID, so that at least there is somebody there to help the victims understand why that is out there or -- you know, you listen to Mr. Strand this morning and what he is saying, tell me about your experiences, tell me this. It seems like a very -- you're not re-victimizing a victim.

MR. SURIAN: Correct.

MEMBER COOK: They walk in there and you're reading them their rights. It sounds like you are, but not out of choice.

Is there a special victim -- when does the special victim counsel come into the process?

MR. SURIAN: As I understand it the
-- of course, the Army is a little bit late on this. The Air Force led the way.

So, as I understand it, the sexual assault response coordinator, the victim advocate is supposed to advise the victim that she has the right to request a special victim counsel.

So, if the -- if the victim at that time says she wants a special victim counsel, then of course, she'll get one before we interview her.

MEMBER COOK: Have you seen that?

That started about November 1st, which is pretty new. You're only talking about a month. Have you seen that in the field yet or not really?

MR. SURIAN: It's in the field yet.

As I under -- and I could be -- Colonel Mulligan or one of the others may be able to correct this.

The implementing instructions for the Army of the -- if they've been published, they
were just published.

So, there has been a little bit of a lag between what they were doing in the field and what -- and what they were supposed to do.

So, we had maybe 71 or 100 different interpretations of what a special victim counsel is supposed to do for a victim.

I have one case at Fort Leavenworth, where an inmate was allegedly sexually assaulted. The closest special victim counsel was at Fort Riley, which is about halfway across the state, and he was using the legal assistance view of whether the victim was authorized a special victim counsel or not, because there was some question about whether he had a 214, a discharge paper or not, at the time that he was sexually assaulted.

We had to work through that, and so, there was a delay between the time that it was reported and between the time an investigator could actually get to the victim to say, "What happened?"
But we're working through it. It's a work in progress, like you say, ma'am, it just got initiated on 1 November for the Army, so, there is always bumps on the first start of a drive.

MEMBER COOK: And as you say, the Air Force has had this for a little while. Are you facing the same issue or -- and if so, how are you handling it, or for all of you, if there some suggestion on how getting around, how do you not re-victimize a victim, and continue to balance that sensitive balance between not wanting to re-victimize somebody, but having to investigate an allegation and a presumption of innocence on the opposite, and you know, from the outside, your job is to find out what happened, with some constraints imposed on you legally?

MR. POORMAN: Well, it is a balance. We've had the special victim counsel now, since early 2013, and it's worked remarkably well for us.
We do. We have codified in our policies for investigators, how they'll integrate that availability of counsel and it includes SARRT's, the first contact, advising the victim of the availability of this service, and if they elect the service, then we integrate that as quickly as we can into the process.

There are some exceptions, where say a sexual assault happened last night, and the victim is at the hospital and we have to have kind of an emergency situation, where we're trying to obtain initial information.

But as soon as we can integrate the special victim counsel into the process, we think that is the right thing to do. We think it's helping victims and it's -- in some instances, in many instances, I think relieving investigators of what before, they felt compelled to do, and as explained, the larger process, it goes on in the Military justice system.
We have someone there now that can explain how this is going to all unfold from their perspective. Investigators can take that and concentrate more on what they need to do as investigators.

The balance is always going to be -- is always going to be part of what we do, and investigators are comfortable with the need to obtain information, and sometimes that information is beneficial to one party and sometimes it's beneficial to another party, and if they do their job, they merely collect the evidence and they report it and it sorts itself out at some point in the future.

MR. GILLIARD: As far as the Navy is concerned, it's new to us, as well. I believe we published direction in October of this year. However, we're still getting questions on it.

I don't have any information on how it's working at this time, but it's still -- we're still working through the process of
As far as -- however, when we -- when we talk to victims, as far as whether or not we need to read them their rights on certain issues, on certain collateral issues, we don't -- we actually don't deal with that.

We're looking at the felony level offense. We investigate that and we let it -- we let it go from there.

If there is under-age drinking or what not, all of that will be documented in the report of the interview, or in her statement, and command will have that to deal with.

CHAIR JONES: So, as a practical matter, if I could ask you this, all of you or each of you.

What happens when a victim does discuss the collateral conduct? Is it usually deferred? Is it -- is there an immunity agreement, once counsel gets involved, because I mean, it's usually the prosecutor who has to
make that decision. You guys are stuck. You can't promise them that.

But as a practical matter, could you give us some idea of how it actually is working? Since like you're interviewing your victims, Mr. Gilliard, and getting the information and then as things go forward, it just gets worked out.

MR. GILLIARD: Yes.

CHAIR JONES: But do you have a sense of how it's getting worked out?

MR. GILLIARD: No, ma'am, I can't address that.

CHAIR JONES: Okay, anybody else?

Mr. Poorman?

MR. POORMAN: Well, for us, I think it's one of the benefits of special victims counsel.

Now, when we know that we're going to have to address the issue of drinking, and if they're under-age, which in a sexual assault with the issue of impairment, we're going to
get very quickly to the need to discuss the level of alcohol consumption.

If we know that, then this is when we're engaging with the special victim counsel, to explain the fact that the investigators are going to need to deal with this issue, very soon in the investigation, and then once it's established and frequently is, that others who were witnesses to the act or witnesses to the drinking at least, are aware of that, that the -- that their counsel can explain it, investigators are compelled to ask questions about this, that they may have to do and advisement on it, that this information is probably going to come out anyway, quite aside from what you have to offer, and give them some input as to whether they want to proceed when those questions are asked of the -- by the investigators, in conjunction with the case.

So, I think that has been very helpful, otherwise we leave to investigators,
the need to explain why the advisement is necessary and then try to move beyond that as quickly as possible.

We have had discussions with our JAG community and others on the immunity issues, just trying to get that in a timely way, early in the -- at the front end of an -- is very difficult, it would be almost impossible to do, because usually we're going to want to do that, the interview --

MEMBER COOK: You don't have one assigned at that point do you, or do you, a trial counsel who is going to be working with you?

MR. POORMAN: We are going to -- our policy and our procedures are to work with the trial counsel very soon, usually within 24 to 48 hours, we're going to have that kind of a discussion.

So, while the discussion could begin, trying to actually get the immunity --

CHAIR JONES: Right.
MR. POORMAN: -- in a timely fashion
would be very difficult.

MR. POORMAN: You would have to --

MEMBER COOK: Just to clarify too,
for people not familiar with the system, the
-- even if you got involved with the
prosecutors in any of your services, it's not
the prosecutor who has got the authority to
provide the immunity. That would be something
that you, working with the prosecutor, they'd
put up a request and go back to the commander
to make that decision.

MR. SURIAN: Yes, it goes to the
convening authority, you're right, ma'am.

MEMBER COOK: The convening
authority.

MR. SURIAN: Yes, I'd like to echo
Kevin's comments, is normally, we try to work
with the prosecutors as early as possible.
There is usually a Duty SJA roster floating
around, immediately, so if it comes up, we can
do it that way.
The special victim counsel, I believe will, in fact, help us a lot to explain to the victim, what is going on and why things are happening and what the process works out as.

Then eventually, if immunity is needed, then a -- the request will go up to the convening authority to see if we can -- a grant can be given to get more testimony.

CHAIR JONES: Have you lost a lot of victims' willingness to cooperate because of the collateral conduct issue? Any sense of that? Half of them? A few of them?

MR. POORMAN: I have no -- we don't have any data on that, but anecdotally, we've heard it has complicated some of the interviews. There were poor building process largely, in working with them.

I have not heard where we've actually lost a victim's participation because of that specific issue.

MR. SURIAN: It's sometimes delayed it.
MR. POORMAN: Probably has

complicated it.

CHAIR JONES: Delayed, yes.

MR. SURIAN: Complicated and the --

MR. POORMAN: Until they obtain
counsel and all that.

CHAIR JONES: Mr. Bryant?

MEMBER BRYANT: Thank you. Is there

a time frame between when that information is

revealed or the questions are asked and the

advice is given, and when the victim finds out

whether or not there is going to be a non-

judicial or judicial punishment that you can

relate --

MR. SURIAN: Army policy --

MEMBER BRYANT: -- and the correlate
to that is, is it -- isn't there -- is there

some discretion involved there, because

obviously, there is relative amounts of

conduct.

They're drinking alcohol, where it

all started out, if we lit up a joint, or it
all started after we snorted a line of cocaine, or it all started right after the bank robbery, which is a -- you know, a whole different story.

MR. SURIAN: There would be policy to defer any action against the victim until the action has been taken against the offender first.

MEMBER BRYANT: So, she goes through -- he or she goes through the entire potentially court-martial process, not knowing whether or not he or she is going to be prosecuted at the end of all of that?

MR. SURIAN: Well, I guess their Commander could make a decision before that, if he's not going to prosecute or not bring any charges against her.

But if he is going to do it, then he has to defer it until the end.

CHAIR JONES: Professor Hillman?

MEMBER HILLMAN: Just small questions here, nothing grandiose.
I don't know if you have -- know this, but do you know the -- related to gender demographics and then gender specific training, in which some of you gestured that and it's mentioned in the materials you submitted.

Do you what the number of agents, the percentage of agents who are women in your force?

MR. POORMAN: Ours is about 15 to 20 percent. It fluctuates, but about 15 to 20.

MEMBER HILLMAN: Okay.

MR. SURIAN: I can get it for you, and get it back to you, ma'am. I used to know it. I don't know what it is today though.

MEMBER HILLMAN: Thank you. So, it is --

MR. SURIAN: I can't remember.

MEMBER HILLMAN: Does it -- it roughly echoes the larger force structure or is it lower? I mean --
MR. POORMAN: Yes, roughly.

MEMBER HILLMAN: Roughly?

MR. MARZLOFF: Maybe lower for the Coast Guard.

MEMBER HILLMAN: Okay.

MR. SURIAN: I'd have to get back to you on that.

MEMBER HILLMAN: Okay, and then second, I think you do know this, the gender specific elements of training and the way that you manage this, especially with respect to the issue of male sexual assault, which we're recognizing is yet more under-reported and which may require additional specialized resources and we've had some victims come to us and say they struggled with the report -- the response to their report.

I just wondered, do you -- do you take -- are there opportunities -- how do you reckon with that challenge in the investigative process? Do specialize training?
MR. GILLIARD: You mean male on male?

MEMBER HILLMAN: Yes.

MR. GILLIARD: Use the same processes that we use for any other sexual assault. Nothing different.

MEMBER HILLMAN: If a victim wanted to talk to -- you have a procedure where a victim could talk to a man, if he wanted to rather than talk to a woman?

MR. GILLIARD: Sure, yes.

MEMBER HILLMAN: Is that -- that is one example that a victim brought before us, at some point.

MR. GILLIARD: Yes.

MR. POORMAN: Yes, we -- for Air Force, we have a policy to offer, at this point, is gender to the female -- to offer female victims. We've not expanded that to offering male victims, in most instances, from a sheer probability standpoint, it's probably going to be a male, but we have that.

We do do additional training on that
topic, because it is -- and it's a relatively
-- I think, a relatively recently realizing
the extent to which that problem may exist out
there, and we're still developing a way ahead
for how we work that.

MR. SURIAN: Russ teaches males on
male with sexual assault. One of his blocks
of instruction is an SVU course.

MR. MARZLOFF: We have not
encountered that, but it would be a hardship
for us to try to assign a female investigator,
if one was specifically asked for, because we
just don't have that many.

MR. POORMAN: And I will have to say
that sometimes, even making a female available
to do an interview of a female victim, that's
going to get a little complicated sometimes.

Some of the training -- some of our
-- what our clinical psychologists are telling
us and those that understand victimization,
some victims -- some female victims may feel
more comfortable explaining the circumstances
to a male victim, may encounter a little less judgmental kinds of behavior on the part of the interviewer.

Some of our female investigators, in working through our training that we're doing, we're finding are a little tougher sometimes and have more cognitive biases in place than some of the male investigators do.

So, it's a complicate dynamic to try to work through, yes.

MR. GILLIARD: Outside of the training and -- when we talked about with Russ, it's up to the discretion of the SSA, if the victim asks for a gender specific investigator, we could try to accommodate that.

There is nothing codified in our regulation about that.

CHAIR JONES: Yes, sure.

MEMBER HOLTZMAN: I just want to go into the issue that I started earlier on with the first presenter, which is the training in
this more open-ended kind of questioning.

All of you seem to think that this is a good thing, it's encouraged, has helped in the investigation of cases, has helped victims in their responses, it's helped them in getting these cases prosecuted.

But just to quote one of the last presenters.

"We're going to get there, in terms of training, but we're not there yet." Can you give me a time frame?

I mean, number one, do each of your agencies have a policy that you want to get everyone trained in this technique and secondly, what is your time frame for doing that?

MR. SURIAN: We have a policy -- we have a policy to have all our agents trained in the SVU course.

We'll never get there because agents quit, retire, leave us --

MEMBER HOLTZMAN: I understand.
MR. SURIAN: -- and I got new guys in
every day.

So, I'm always in a -- always be in
the training mode, ma'am.

MEMBER HOLTZMAN: Correct.

MR. SURIAN: So, I have no -- and I
can't give you an end date, when I'll be
there.

Obviously, if I can get somewhere
around 75 percent of the force trained, I'll
be real happy.

MEMBER HOLTZMAN: Okay, when is that
going to happen?

MR. SURIAN: If we keep going at the
rate we're going, it will be probably be three
more years.

MEMBER HOLTZMAN: And what would you
need to speed that up?

MR. SURIAN: I probably won't need --

MEMBER HOLTZMAN: Some solid line --

MR. SURIAN: -- anything but DoD IG,
who funds Russ Strand's course or DoD SAPRO,
the funds Russ Strand's course, probably needs
more money, so he can do more classes of --
than just one a month, which is what he's
basically doing right now.

So, he needs to hire more trainers,
more instructors, so he can put on more than
just one class a month.

MR. POORMAN: Plus, Russ has a
different -- well, our first goal is to get
our special victim unit trained, and all 24 of
those have been trained, and then our order of
prioritization, how we're going to training is
then to get an agent in each of our primarily,
70 to 75 -- 70 to 75 locations where we have
major Air Force installations.

That is a return on that investment,
getting it working for us as quickly as we
can. So, we've rolled that out.

By the end of this year, we'll have
trained 126 agents and 42 attorneys on
cognitive interview in this.

Where does it go? That is a question
we're still struggling with. We're relatively new to cognitive -- to using cognitive interview in sexual assault investigations, about a year and a half, two years.

We believe it's the right thing to do and the future for that, I believe, isn't in an advanced environment.

We've had the discussions about, at what point do we begin to back these promising best methods, validate that they are in fact best methods, and we think cognitive is validated. It's got 25 years of peer review research behind it. We're quite comfortable with it delivering what it -- the research would suggest it does, 30 to 50 percent more information than you would otherwise get.

So the real challenge to us is taking it from being an advanced technique and skill and making it a basic technique and skill, and that is backing cognitive bias, cognitive interviewing back into our basic course, so that we begin to use it as the protocol for
how to do that, and then --

   MEMBER HOLTZMAN: Okay, well,

whatever --

   MR. POORMAN: -- when we are --

   MEMBER HOLTZMAN: -- your objective

is --

   MR. POORMAN: When will we --

   MEMBER HOLTZMAN: -- when are you

going to achieve it and what is your plan for

that?

   MR. POORMAN: I think that for us,

we'll have cognitive interviewing as part of

our basic course, within the next couple of

years.

   The Federal Law Enforcement Training

Center had embraced cognitive interviewing and

they've began to train it at the advanced

level. They have not put it into CIT as

basic, but I'd say within a couple of year, we

should be able to -- we've already worked

cognitive bias training and put it into basic.

We did that in the last few months.
Cognitive interviewing training is more problematic, because it just involves a lot more time and classroom and some of the practical exercises that are needed, and time is a premium in basic training.

So, my guess is, a couple of years.

MEMBER HOLTZMAN: And my -- but is your branch of the service --

MR. POORMAN: Air Force.

MEMBER HOLTZMAN: -- Air Force committed to doing this? Are you committed to doing this? Is this an objective?

MR. POORMAN: Yes.

MEMBER HOLTZMAN: To articulate --

MR. POORMAN: It's an objective because we, I think collectively in our leadership and those who decide whether it becomes part of that, have decided that this is promising and it needs to continue and we need to make this a basic score -- basic score.

MEMBER HOLTZMAN: One of my questions
also, that is raised by what you just testified to is, if it's -- if the bias training was adopted and made part of the basic training, people have gone through basic training, have missed that.

How do you get those people as part of the --

MR. POORMAN: Well, I think we'll continue to have to do that, through advanced training for some period of time, and over time then, we'll grow folks from basic. Otherwise, we'll have to do this as a gap --

MEMBER HOLTZMAN: Okay, so --

MR. POORMAN: -- a gap that exists and we have to fix it.

MEMBER HOLTZMAN: So, at the present rate, we're talking several years to get people cognitive --

MR. POORMAN: No, I don't think that it takes several years to get it into the -- into the heads and the hearts of those that are actually running the investigations.
We have -- of our total agents corp, about 300 investigators that are actually responding to and handling sexual assault investigations.

So, we can quickly, we believe, get most of that into their tool kits. It's the supervisors and the leadership that is going to take some time to work through, and we do through a variety of forums, in the cognitive bias area, in particular.

MEMBER HOLTZMAN: Okay, and the Coast Guard --

MR. MARZLOFF: Five years, ma'am, five years.

MEMBER HOLTZMAN: Five years, all right, and --

MR. GILLIARD: Well, I agree with Mr. Surian. We believe in the product, but it's advanced training for us.

We have about 120 trained -- agents trained up in it now. I believe we started around 75 and we're up to the beginning of
this year, we're up to about 120.

But as Mr. Surian said, it's a constant turn. You're managing the training of your agent core, and you have to take into account, attrition, PCS, unlike our CID brother, we have a counter-intelligence mission, as well.

So, some of these agents, once they transfer from one position, like say if an agent is on an ASAP team in Norfolk, his next position may be in counter-intelligence in Rota, Spain.

So, you have a constant turn. Will we ever get everybody up to speed? Probably not, but we're trying to get 100 percent of our -- at least 100 percent of our FNSV billets at any one time, 80 to 100 percent of our FNSV billets up to speed at any one time on the adult sexual assault course.

Especially for those in the -- on the ASAP teams, those individuals in FNSV units outside of the ASAP teams, we would like to
get them even more advanced training.

So, it's sufficient to say that it will probably never been 100 percent, but that is something that we have to manage, and if I could put a plug in for my Army brother, that's the type of funding that they need. It helps us all out.

But this is a constant turn. You can't do this for three years and then say we're done. It's a constant turn.

MEMBER HOLTZMAN: I understand.

Thank you.

MEMBER McGUIRE: I have a question about the training that -- the felony level training curriculum development authorities that you have in each of your services.

And so, I know some of you use FLETC and some don't use FLETC to the same degree. So, what amount of influence do you have in the development or requiring this -- a kind of training that they receive, for example, cognitive type, you know, so, you can mandate
it, if in fact, you're held to a different
standard because you use a different
organization for your felony level
investigation training?

MR. POORMAN: Well, if I may, the
criminal investigation training program is a
basic entry level for Federal law enforcement.

Now, that is an 11 week course. That
is the only course that is centrally, if you
will. The partner agencies decide what that
curriculum consists of.

After that, we have full control.
So, that is why we have an eight week follow
on. We have full control, as follow on basic
training for our agents, as to what they get.

So, we have full control to introduce
any of that into our advanced training at
FLETC. FLETC merely provides the
infrastructure and the facilities to do that.

But the agencies, any of those
agencies develop their own advance and follow
on training to their basic courses. It's
fully within their control to decide what they train on. That's why we can decide that we're going to do cognitive, even in our basic course, we just have to make room for it in our follow on course to the basic training the FLETC provides.

MR. GILLIARD: We concur with that comment.

MR. SURIAN: We have fairly positive control over the United States Military Police School and what they train there and what they don't train there.

We have to comply with some United States Army training and doctrine command rules and procedures, in order to get instruction pieces put in there, but it's just a bureaucratic process, normally.

MR. MARZLOFF: We share our follow on course with the NCIS team down at FLETC and we've also sent agents out to LAPD to work with their instructors at their police academy, to see their standards and to bring
their standards back, with their permission, to influence some of the -- some of the course training in the follow on courses.

MEMBER McGUIRE: And quickly, just -- I know you've provided us the information, but again, just quickly let -- inform the Panel, what is the percentage of your agencies that is either an 1811 series and an active duty Military, roughly.

MR. GILLIARD: Within the agency.

MEMBER McGUIRE: Within NCIS, right.

MR. GILLIARD: Well, general -- probably 95 percent of our active 18 -- of our active agents are civilian 1811's. There is a very small percentage that are Military agents and they come from the Marine Corps, and those agents train at the Army School, and they do their add-on with us, their add-on training after CITP, as I described before. They do that with us, and then they get plugged in to -- into a field office. Usually, it will be at a Marine Corps -- an
office -- field office that services the Marine Corps.

MR. MARZLOFF: Our ratio is almost one-third, one-third active duty and one-third re-serviced and one-third civilian.

MR. POORMAN: About one-third of our agents are civilian and the other two-thirds are a mix of officer and enlisted investigators.

MR. SURIAN: Out of the 747 agents that do general crime cases on a day in and day basis, only about 30 are civilian 1811's. The vast majority are Military, either warrant officers or enlisted.

MEMBER McGUIRE: Thank you.

CHAIR JONES: The only other question I had was, Mr. Gilliard, I think you said that case loads were increasing.

I'm assuming that is the fact -- that is the case for all of you, that case loads are increasing, and we heard a lot of information in our visits to different
installations, and it seems as though case
loads are really straining each of these
investigative agencies, all four of them.

Look, I know police departments are
never big enough. If you ask them, they never
have enough resources, if you ask them, but I
think we have an expectation there is going to
be -- there are really going to be increasing
case loads here and they're going to be
difficult cases.

So, what expectation do you have or
what are the possibilities of your getting
more personnel?

MR. SURIAN: Probably zero, to be
honest.

CHAIR JONES: Okay.

MR. SURIAN: We're faced -- we're
probably going to face cuts within CID in
FY2014, which is fast approaching.

MR. GILLIARD: In NCIS, we are facing
cuts and our general crimes. We're separating
several funding streams, but the criminal
investigations, the general criminal
investigations, we're facing cuts there.

The reason why I brought that up is
because some of the -- the requirements of the
5505 requires the MCIO to conduct those
investigations.

We have a cadre of specially trained
enlisted agents, as I said before, from the
Marine Corps, that we could utilize.

I think we're all talking about how
to better address this issue of the increased
case loads and look at an enterprise approach.

But right now, our hands are kind of
tied. We need a little bit of flexibility to
use our enlisted brothers, as we did in the
past, because essentially, we've just assumed
their case load, the case load that we -- we
would normally give to them.

So, if we could look at that, as a
possible remedy to help the MCIO's, and
speaking for NCIS in particular, we could use
our Navy and Marine Corps brother with -- and
with our oversight, we can work out some ways
to have MCIO oversight.

We've had programs like that before.

Our regional investigating -- regional
investigations coordinator program that we've
had in the past, where you've had a special
agent oversee the investigations from the
installation investigators, we could look at
the program again.

But right now, based on the
instruction, we just don't have that
flexibility.

CHAIR JONES: Well, am I right, that
the MP's, the MP force are your police, your
patrolmen certainly, on an installation, and
obviously, they work together, I would assume,
with CID.

What are the possibilities, and they
may be stretched too thin, I don't know, but
what are the possibilities of that sort of
arrangement that Mr. Gilliard is discussing?

MR. SURIAN: We're exploring that
also. We currently use MP's on our drug suppression teams. It's possible we could use them on sexual assaults, special victim unit teams also.

But they're also facing some rather large reductions, and they -- I mean, they have a -- they have a Military operational priority too.

CHAIR JONES: Right.

MR. SURIAN: That they're supposed to be doing, as opposed to law enforcement.

CHAIR JONES: All right, no hope there.

MR. POORMAN: Well, I think to answer your question -- the question of whether we can get more resources, first requires us to come up with a real good argument in these fiscally constrained times.

So, the first stop is for us to look at our current portfolios and see what else we could perhaps re-purpose to this.

We're going to run sexual assault
investigations. The question is going to be
the extent to which it encumbers our ability
to work other kinds of crimes.

Our reactive case load is already
decreasing. We’ve only been opening on all --
as NCIS, since March of this year, when
5505.18 required us to open on all.

So, we only have six or eight months
of --

CHAIR JONES: I'm sorry, you're
required to open all?

MR. POORMAN: On all investigations
effective March 1st, or actually, January is
when the guidance came out. We implemented it
in March.

So, we're just now beginning to see
the repercussions of opening on all. What
it's doing immediately is --

MEMBER FERNANDEZ: Sorry, can you
explain opening on all?

MR. POORMAN: Yes, that is before --
before January of 2013, we had discretion on
whether we opened on all sexual assault investigations.

All sexual assault investigations were investigated, it's just that your abusive sexual contacts, what used to be wrongful sexual contacts, the touching cases, as opposed to the sex cases, were conducted by our security forces investigators.

Effective January, when DoD changed policy, NCIS and OSI followed what CID had been doing, and that is the requirement for the MCIO's, not security forces for us, to open investigations on those cases too.

So, we've acquired a lot of cases, as a result of us now opening on all sexual assault investigations.

The impact to us now is, we're seeing a reduction in reactive -- or in proactive crimes. That is drug investigations are going down for us because of the time constraints and the need to re-leverage those resources.

We've discussed with security forces,
picking up more of the drug investigations because of that, and that is re-purposing some of their capabilities to assist with that.

Just last week, we posed the issue to DoD IG on whether we could potentially utilize some of the security force investigators who used to conduct these cases, to work under our supervision. We still open the investigation. We're responsible for the sufficiency of the case, but they would assist us conducting certain limited investigative activities on certain types of sexual assault investigations, and our thoughts were the contact, not the sexual penetration cases, to assist us in doing it.

So, I think that's just the foundation of what Air Force would look to us, to see if we have actually tried to find an internal solution, before we come to them, and if we can't, then we'll have to have the numbers in our experiences in trying to work this and make an argument for that.
CHAIR JONES: Thank you very much, gentlemen. It's very helpful.

What time is it? We will resume at 1:10 p.m.

(Whereupon, the above-entitled matter went off the record at 12:41 p.m. and resumed at 1:37 p.m.)

CHAIR JONES: All right, good afternoon. We now are going to begin our afternoon with civilian police department representatives, and they include Deputy Chief Kirk Albanese from the LAPD, and you're the Chief of Detectives, is that right?

DEPUTY CHIEF ALBANESE: I am, that's correct.

CHAIR JONES: Thank you. Sergeant Liz Donegan, Austin Police Department, a sex offender apprehension and registration unit.

SERGEANT DONEGAN: Yes, ma'am.

CHAIR JONES: Is that right, ma'am?

SERGEANT DONEGAN: Yes.

CHAIR JONES: Okay, and Deputy Chief
Corey Falls from Ashland, Oregon.

DEPUTY CHIEF FALLS: Yes, ma'am.

CHAIR JONES: All right, and you're Deputy Chief of Police there, is that right?

DEPUTY CHIEF FALLS: Yes, ma'am.

CHAIR JONES: All right, great.

Could we start with you, Chief Albanese?

DEPUTY CHIEF ALBANESE: Yes, thank you, and thank you for having me.

I have two presentations, one a more comprehensive, I'll make available to the Panel, and one that I'll make my remarks from, which is an executive summary of the one I'll make available.

I think it's important to walk the Panel through what we do, although it may seem basic, if we don't do it right at the very beginning, we won't get the result that we need to get at the end.

And so, with that in mind, I'll walk through and answer any questions that you may have.
First, an immediate response from the police department, should we get a call for a sexual assault.

When we contact the victim, we start by believing, and that is a phrase that's been coined by sexual assault advocacy groups and it puts our people in the right frame of mind, in terms of not being cynical, regardless of what the circumstances are, because when we don't start right, we don't gather the evidence that we need to gather, and we don't get the result that we want to get.

Secure medical aid, if needed, depending on the circumstances, immediate medical aid, transport the victim for a sexual assault examination. We usually do that at a SART facility, a sexual assault examination team approach.

Secure the crime scene, locate witnesses, including fresh complaint witnesses, video, photos, prints and obviously, forensic evidence.
We offer a victim advocate. We offer a victim support person and we offer an officer of the same gender, should the victim want to speak to an officer of the same gender.

Victim confidentiality is foremost, in terms of ensuring that, as it relates to reporting and as it relates to everything we do, victim confidentiality is a centerpiece of making sure that protect the victim in that regard.

The issue of the new definition of rape, as you know, the uniform and crime reporting under the FBI, has updated the definition of rape.

We're in the process of recoding to capture that. It won't, for the LAPD, change the manner in which we investigate.

There are some that felt that because traditional rape was a Part 1 crime, and a crime say of sodomy was a Part 2 crime, that it got a different level of investigation it
never has.

We'll handle it with the same
intensity, but in terms of reporting, we'll be
able to capture the full breadth of sexual
assault --

CHAIR JONES: Could you just tell us
what the FBI definition of now includes?

DEPUTY CHIEF ALBANESE: Yes, the new
definition is as follows:

"Penetration, no matter how slight,
of the vagina or anus, with any body part or
object, or oral penetration by a sex organ of
another person, without the consent of the
victim." That will be the new definition.

CHAIR JONES: Thank you.

DEPUTY CHIEF ALBANESE: We work
closely from the onset with the District
Attorney's Office, and the District Attorney's
Office in Los Angeles vertically prosecutes
sexual assault.

So, it allows us for a better result
in terms of knowing what the District Attorney
wants from the very beginning, making sure
they're a part of the conversation, so that
again, we work towards success.

Consider investigative strategies.
We certainly do everything in terms of best
practices, as it relates to gathering
evidence, but sometimes that's not enough.

So, pre-text phone calls are a part
of our investigative strategy. When
appropriate, we work with the victim in that
regard. Polygraph examinations of suspects
and the post-polygraph interview, very
important to us. We solve a lot of cases in
that regard, and we conduct any re-interviews
as necessary.

The idea is to arrive at the truth of
the --

MEMBER HOLTZMAN: Who uses
polygraphing?

DEPUTY CHIEF ALBANESE: Who?

MEMBER HOLTZMAN: Yes.

DEPUTY CHIEF ALBANESE: Polygraphers
assigned to the LAPD who are accredited.

So, we have an accredited polygraph unit --

MEMBER HOLTZMAN: No, whom are you polygraphing?

DEPUTY CHIEF ALBANESE: The suspect.

MEMBER HOLTZMAN: The suspect?

DEPUTY CHIEF ALBANESE: The suspect.

MEMBER HOLTZMAN: Okay.

DEPUTY CHIEF ALBANESE: Yes, I'm sorry, I didn't hear the question. The suspect. Never the victim.

In terms of evidence, again, gather all evidence and work with the District Attorney.

I want to note, as it relates to employee versus employee within the police department, that would be handled by a separate chain of command. That would be handled by a Professional Standards Bureau, along with special assault section, which are detectives assigned out of downtown.
So, that would be separated from the employee's chain of command.

I want to talk a little about training. We have 83 detectives assigned to sexual assault, dedicated to sexual assault city-wide.

We have 21 police stations and each of those police stations who serve a community roughly of 250,000 to 300,000 people, they have dedicated sexual assault detectives.

Robbery Homicide Division is a centralized function that has about 25 detectives. They would handle the most serious sexual assault cases.

So, home invasion, a kidnaping, a sexual assault murder, a serial sexual assault case, that would be handled by Robbery Homicide Division sexual assault section, and the reason for that is they have the resources that they can dedicate to it, and overwhelm the case very early, to make sure we gather everything we need to gather, in terms of
Every one assigned to sexual assault investigations in the LAPD goes through a major assault crimes course of 40 hours, and a specific sexual assault course provided to detective personnel, before they're allowed to work the assignment.

They also attend quarterly training, a mandated conference once a year and enrichment training, as they do in terms of extra.

We give all victims a taking action booklet, which describes their rights and gives them information to put in context, the road that lies ahead for them, so they clearly understand, and a domestic violence pamphlet.

Year to date, the LAPD, year to date through November 30th has handled 591 reported sexual assaults. Last year on the same date, we were at 774. So, we've had a 23 percent decrease in sexual assaults.

Our filing rate is 55 percent our
city-wide clearance rate is 63 percent.

COLONEL HAM: Could you explain what a clearance rate is, please?

DEPUTY CHIEF ALBANESE: I'm sorry?

COLONEL HAM: Can you explain what a clearance rate is, please?

DEPUTY CHIEF ALBANESE: Yes, a clearance rate is when a crime is reported, in order for us to clear it, we either have to make an arrest or clear it other, which means we've solved it.

It may be that the suspect has died, has been arrested for some other charges and is in custody, but in terms of clearance, we've solved the crime.

In terms of filing, that is a case that is going to be -- that's been filed by the District Attorney and the suspect has been arraigned.

CHAIR JONES: And when you said 27 percent decrease, is that in reports of crime?

DEPUTY CHIEF ALBANESE: That is
reported sexual assaults in the City of Los Angeles through -- and it's 23 percent, ma'am.

CHAIR JONES: I'm sorry.

DEPUTY CHIEF ALBANESE: Through November 30th. So, we've had a decrease. We've noticed a decrease over the past several years, and in fact, I was asked in terms of, you know, what I would attribute that to.

I think it's a number of things, public education, the manner in which we do ABC and vice related enforcement in our areas of the city that are heavily populated with after-hours bars and those kinds of things.

Those environments where we tend to see these crimes emanate from, and in fact, 47 percent of all our reported sexual assaults have alcohol as a related factor.

MEMBER HILLMAN: May I just follow up on that? So, that means that the reports are decreasing and you think that means the incidents are decreasing?

DEPUTY CHIEF ALBANESE: No, not
necessarily. We know that sexual assault is largely under-reported, but we're comparing it year to year, and so, we are getting less reports. That's just a fact, but we don't --

MEMBER HILLMAN: Is that not a troubling fact, in terms of --

DEPUTY CHIEF ALBANESE: It could be.

MEMBER HILLMAN: -- the education?

DEPUTY CHIEF ALBANESE: It could be a troubling fact, if we believe that there is a reason why people aren't reporting, but that hasn't come to our attention, in terms of -- any different than any other year, in terms of the last two or three years that we've looked recently.

It could be a problem. You're absolutely right. We certainly haven't changed anything, in terms of making it more difficult to report. In fact, if anything, just the opposite, in terms of being accommodating.

California has a law now, in terms
of, victims don't have to cooperate with law enforcement. They can have a sexual assault exam. That evidence can be held, if the victim decides at a later time, they want to be cooperative with law enforcement, they can.

So, there's no pressure, in terms of the worry that they're going to have to speak to a police officer or a police detective.

So, there are some things that would suggest that reporting should increase, or may increase, but we've had a decrease.

MEMBER HOLTZMAN: Was that new law publicized?

DEPUTY CHIEF ALBANESE: Yes.

MEMBER HOLTZMAN: And when was that adopted?

DEPUTY CHIEF ALBANESE: Year before last.

MEMBER HOLTZMAN: Thank you.

DEPUTY CHIEF ALBANESE: Thank you.

CHAIR JONES: Sergeant Donegan?

SERGEANT DONEGAN: Good afternoon.
I took over the Austin Police Department Sex Crimes Unit back in 2002, where I spent almost 10 years prior to my current assignment, which is a sex offender apprehension and registration unit, and what I'd like to do this afternoon is walk you through the transformation of the APD sex crimes unit, because I think it's extremely relevant, because I would compare the way we responded to sex assault back in 2002, as to what you're seeing currently within the Military.

So, when I came into the unit in 2002, I was trained by the detectives in the unit, because there had been some issues with the previous supervisor, and the training that I received was specifically on stranger sexual assault and false reports. That was their primary focus was, we would respond appropriately to strange sex assaults. The non-stranger sex assaults are typically false report or they're not as egregious as the stranger sex assaults.
I thought, okay, that makes sense, when I was trained in the academy, it's all stranger sexual assault. Yes, victims to have, you know, the sense of responsibility not to drink, all of the things that we talk about, all of our bias. I was right there with them.

So, it wasn't until I saw Joanne Archambault of 'End Violence Against Women International', which is right around 2002/2003, that I had to take a very hard look at myself as a supervisor and say, "What are you doing in the APD sex crimes unit? You're not doing what you're supposed to be doing. What can you do to effect change?"

Because what we needed to do was spend the majority of our time and resources on the non-stranger cases, which make up about 90 percent in Austin, maybe 95 percent.

So, what I did was to go back and bring this change, this cultural change, to the detectives within the unit, and tell them,
"This is what we're going to do. This is our focus. We are going to change the way we respond to and investigate non-stranger sexual assault," because typically, you don't have a problem with stranger sex assault cases, in general.

So, I went back and immediately began effecting change in the way they responded to victims, the way they wrote their reports, and I had probably over the next couple of years, a pretty mass exodus, where either the detectives did not want to work those cases, didn't believe in the work, and that was fortunate for me, and I think fortunate for the community of Austin, because I was able to then pick or choose the detectives to come into that unit, that believed in the work, that were passionate about the work and that wanted to effect change, that we wanted to hold perpetrators accountable.

So, I made those changes, supported by my chain of command. Whatever I was doing,
if I could provide some rational response as to the changes, they were all for it.

So, then next big change within Austin was again, involving 'End Violence Against Women International', where Austin was chosen one of eight cities across the country, to participate in a project called the 'Making a Difference Project'.

What that project entailed was bringing these eight communities together in San Diego, from different disciplines, and we discussed with the police, what are you seeing happening across your community, the prosecutors, the advocates, the SANE's.

We got back together in our group in Austin and said, "Okay, we see the issues. How can we effect change? How can we make this work in Austin," and so, we made some really significant changes within our disciplines in Austin, so that we could improve our response to victims.

At the same time, I went and
completely revamped the cadet training. We took all of the stranger stuff out, went specifically to non-stranger and were educating these first responders on the importance of that initial interaction with victims, that they were going to make or break this case, not all of the time, but a significant portion of the time, if they did not respond appropriately to victims.

Training the detectives at the same time, we were dispelling the myths around sexual assault, the biases around sexual assault with these guys that were first responders, and we also put in place advocacy, which we had already in place in Austin, but what we did was to have -- they're called crisis counselors, and they respond to the acute cases on the street.

We had them respond to all sexual assault cases, instead of asking the victim, because we knew from speaking to victims, that this is just an additional question or how am
I -- you know, I don't know. I don't want to bother anybody else.

So, what we did was, we're like, we're sending the advocates out there, so, if there happened to be an issue with the first responder, we had an advocate right there.

One of the major changes as well was not to ask victims if they want to prosecute, because again, we're burdening them with trying to make a decision and we, in policing, have not yet even conducted our investigation.

So, why are we asking a victim if they want to prosecute, but if you think back to the ways things have been investigated historically within policing, what was a way to get rid of your case. You were done and then you're on to another case.

So, when a detective would respond to a crime scene, and it depended upon what was happening, that initial interview was audio taped, and we're just getting the basic information we need to make a determination,
where we can go.

So, following that, within 24 hours, we instructed our detectives that you're going to make contact with the victim. Our crisis -- our counselors who were assigned to the sex crimes unit were making that contact, as well.

So, we wanted the support system in place that not only do you have your advocate that you're going to be assigned to throughout your time with the police department, but you're having an officer that is right there, working with that advocate, and that's incredibly important to the success of these cases, is that you have advocacy for the moment that victim chooses to make that decision to place that phone call, to policing throughout the judicial process, because we often lose our victims in the system, because it's so difficult for them to maneuver and these cases can be drawn out for months or years, before they actually get into Court.

So, they need that support to keep them within
So, when we interview our victims, it's done typically 48 hours at the earliest, because we know from some of the -- the information from -- I can't recall, Greenspan, I think, and I got this through Joanne Archambault, that 48 hours is the earliest that you should be interviewing your victims, because a lot of that goes back to what Russ said, the neurobiology of trauma.

Victims are taking this information out. They're not able to recall it in a manner that the police want to see it, so you give them 48 hours to kind of get everything together and that helps with bringing back memories and it gives us a more complete picture of what transpired. Instead of trying to rush and get this case done quickly, you've got to give them the time to be able to assimilate everything that has happened to them, in order to give the police the information that we need.
Another huge change that we made was language, both written and spoken, that we no longer were going to be okay with utilizing consensual language.

You often hear that they had sex or she performed oral sex. That's consensual and it really -- it lends itself to making these types of crimes less heinous than they actually are.

So, we changed the way that we word our reports and the way that we spoke about our reports, because that has an incredible influence, not only on law enforcement, but prosecutors and our juries, who are hearing these cases.

The advocacy that we have in place in Austin --

MEMBER HOLTZMAN: Excuse me?

SERGEANT DONEGAN: Yes, ma'am?

MEMBER HOLTZMAN: Just give an example of what you're talking about, with regard to language.
SERGEANT DONEGAN: What you see to --
in most police reports were, "They had sex,"
or "He had sex with her," or, "She performed
oral sex on him," and what we did was to say
that, "He forced his penis into her vagina.
He forced her mouth on to his penis," because
it paints a very different picture, when you
hear the variance in consensual language
versus non-consensual language, and we thought
that was really a critical piece, not only for
investigators, but for everyone who is
involved in working sexual assault cases.

Our advocacy, as I said before, they
are just a tremendous asset to the PD. They
assist in providing additional resources for
victims of sexual assault, that are kind of
outside the bounds of law enforcement, that
keep them within the system, and when we are
conducting our video-taped interview, which we
video-tape all of our interviews, because we
believe that is a best practice, that way, we
can go back in and take out any snippets that
we might need to use for probable cause, or if there is questions later, we have it right there.

So, we're not sanitizing or wearing -- or picking and choosing what we think is important.

Previously, they would type out the reports, and I think it's really -- it's impersonal and you also miss a lot of information, but if you have it on video-tape, you have everything right then and there, that you can go back to, plus you see that interaction with the investigator and with the victim.

But we had advocates who would meet with our victim, once we've scheduled the appointment, kind of let them know this is what to expect. The detective would meet with them, and that is another critical piece.

You've got to really work with your victim, prior to conducting your interview, to help them understand, these are some of the
difficult questions that we might have to ask
you, so that they are well-prepared when we go
in, because many victims, we will know,
because of the bias and prejudice that they
incur, that society has really put upon them,
want to be better victims for us, for law
enforcement.

So, what you would see is victims
omitting, saying, "I only had two beers," when
in fact, I had five beers, or, "I took drugs,"
or, "I'm engaged in the sex industry,"
whatever it happened to be.

But if we could bridge that gap,
prior to that initial interview, we're getting
the most accurate information, but that takes
finesse, it takes experience, it takes rapport
with your investigators.

Some of the other changes we made as
a result of the 'Making a Difference Project',
through our SARRT, sexual assault response and
resource team, which is a group of
professionals within the -- the community,
that work within the realm of sexual assault.

It's your officers. It's your prosecutors, your SANE's, your systems and community based advocate, anybody who has a stake in seeing these cases move forward, and we would meet once a month, and we would have these really heartfelt discussions about what are we doing well? What are we not doing well and how can we work together as a team, to improve our response to sexual assault victims?

So, as a result of 'Making a Difference Project', we had an Assistant District Attorney who was assigned to the sex crimes unit, and the attorneys who were bringing the cases forward in Court, were no longer the most junior, which is what it had been prior to the 'Making a Difference Project'. They now were Chiefs. They were the most experienced prosecutors moving these cases forward.

The detectives were allowed to bring
their cases before the grand jury and present these cases.

So, they had a vested interest in seeing these cases move forward, and to myself, along with Gail Rice of Safe Place, would also present to the grand jury -- we have grand juries that sit every few months.

So, what we did is, we would go in and provide this educational piece for them, about what they were going to see, because what we knew was that they were expecting to see stranger cases, you know, where there is -- there is injury to the victim. There is the guy jumping out of the bushes, and what we presented to them was real life.

This is what you're going to see. It's going to be a non-stranger case. Alcohol is prevalent to many of these cases. The victim might not respond the way you believe they should, but this is the way -- this is why they respond the way that they do.

So, they were much well versed in
understanding the psychology of sexual assault victimization, why they might seeing things that were out of the ordinary or their expectations, and that was very helpful for us.

MEMBER HOLTZMAN: Were you experiencing cases in which grand juries were refusing to indict? Is that why you made this change?

SERGEANT DONEGAN: Well, I don't know, not necessarily. I mean, it was for -- I think -- that make sense.

No, I think we wanted to see more cases go forward, and if we had an investigator that was presenting this information along side the DA, you had a more fuller picture of what was transpiring, and we did see an increase in cases that were true-billed, than we had seen previous -- before the 'Making a Difference Project', because you have a prosecutor who is presenting a case that isn't necessarily involved in the manner
that an investigator is and doesn't know all
the nuances of these investigations, that we
need to know, to move these cases forward.

   So, we did see our no complaints,
which were cases that we sent over to the
prosecutor's office, that we couldn't make up
our mind. I stopped that. I'm like, you know
what? If we can't figure this out in the sex
crimes unit, how do we expect a group of
citizens that have limited understanding of
sexual assault, to make a decision?

   So, we made the decision in the sex
crimes unit, what cases we were going to go
move forward, with the assistance of the
prosecutor's office here in Travis County.

   Did that answer your question, ma'am?

MEMBER HOLTZMAN: Yes.

SERGEANT DONEGAN: So, our SANE
program also made some changes. The Austin
Travis County sexual assault nurse examiner's
program, as a result of these -- this project,
changed the number of days that a sexual
assault examination could be had and it -- we
moved that to 120 hours, and that was a direct
result of best practices with the
International Association of Forensic Nursing,
working with the PD, to say yes, this is okay.
We'll go ahead and make this change, because
we think it's important, if there is an
opportunity to gather evidence, then that's
what we should be doing, and they also did a
blood draw on all victims, because this was a
result of a case that we had worked in which
the defense said that our victim was in fact,
a drug user and she was under the influence of
drugs, and we didn't have any evidence to
refute this.

So, as a matter of best practice, we
decided this is what we're going to do, so if
we run into this issue again, we have an
answer for you.

But this is -- this is a result of
collaboration, of having these discussions
about what we were seeing, that was working
and that -- other things that weren't working well.

In Safe Place, which is our community based advocacy, was another group that assisted us in all facets and long-term counseling or bridging any issues that the victims might have had with their interaction with the police.

All of this came as a result of really having those difficult discussions and honest, heartfelt, just discussions surrounding sexual assault.

So, I have a couple of things that I wanted to show you, but I wanted to talk and kind of bring this all together as a best practice, and I do have some history, because I have trained out at Fort Hood and Sam Houston, Camp Mayberry, also trained up at Fort Leonard Wood with Russ, and that's why I think I'm able to speak to the fact that we were there, and there is a way to move the issues that they're seeing within the Military
forward.

It takes a lot of work. It takes passion. It takes commitment. It takes vision, but I think most importantly, it takes putting the right people in place, the right investigators, the right supervisors and the right management that understands the complexity of this crime.

All too often in policing, we see this hierarchy of crimes. It's homicide, they'll tell you it's rape, child abuse, domestic violence, and really when you get down to it and you look at these cases, you look at these units, the same resources are not afforded in your sex crimes unit that you see in these other units, and that's because we still have these very ingrained beliefs, deeply ingrained beliefs, about what real sexual assault is.

So, if you're looking at maybe five percent or ten percent of your cases, the stranger cases, and those are what's most
important to your community, that's what
you're going to afford for resources, right?

So, that's an issue that I think we
see across the country, is that we've got to
be able to afford the resources, the manpower
and everything else that is helpful in making
these cases successful to move them forward.

So, I think at this point, I just
wanted to end with the couple of pieces I'm
going to have Dale play, but also, an
understanding about victim centered
investigations. That's it. That's where it
needs to be. That's where you're going to be
successful. You have to victim centered
investigations and it can't be a bad word to
say that. That has to be what everyone
believes and that's how the work has to
happen.

If we're really going to hold
perpetrators accountable, that's where we need
to start.

So, Dale is going to play a piece
that we -- a PSA that we made back in 2009 or
2010, I think.

{video plays}

SERGEANT DONEGAN: The reason we made

that is because we knew that the number one
reason victims don't come forward is the fear
of not being believed, and we wanted to try to
encourage more victims to come and report and
that their case would be worked with, you
know, the utmost seriousness. They would be
treated with dignity and respect.

We would take that case at face

value, and we would investigate it as such,
until the evidence proved otherwise, you know,
you handle it accordingly, instead of looking
at your investigation to poke holes in it, to
get rid of it.

The investigators were instructed,

and the first responders, take that case at
face value and whatever path that takes us,
that is where we're going to go down.

So, you didn't have false reports,
you know, right up in your face, that I immediately are -- am suspicious about this case because it is outside my realm of understanding about sexual assault, and I think in that manner, we were successful in the way that we're responding to sexual assault, and this is the website of APD sex crimes, and it starts off at the beginning. Our motto is 'We Believe', and then it just kind of explains and there is a great FAQ, frequently asked questions, that you can click on, and it kind of answers the questions that lots of victims have, like, "Can I be raped by a coworker? If I was drunk, you know, can I -- you know, do I have some sort of culpability," all of those questions that we heard over and over again, that we hopefully answered, so we would encourage reporting.

MEMBER COOK: Sergeant Donegan, just to clarify though, when did you -- you started -- you said your changed your program back in 2005. When did you make that video and even
have this 'We Believe' concept, and from the point that you instituted that, do you have anecdotal evidence or statistics that show that you did see a change, based on that change in philosophy?

SERGEANT DONEGAN: I started in 2002, and this is 2009 or 2010, and I don't know whether we had -- I don't think we gather statistics to see if -- that this campaign had encouraged more reporting.

I don't think we saw anything, because there were those spikes, you know, like all of the sudden, we have an additional 50 cases that are being reported in Austin.

We didn't see that necessarily. I just -- I think that the content of the investigations was at a higher rate than it had been previously, if that makes sense.

We just did a better job at responding to victims of sexual assault and the detectives believed in the work and I think that was probably the largest change
that I saw, that we were seeing better investigations moving forward, and hopefully, you know, some sense of satisfaction or some sense of justice for victims of sexual assault, because the way they were treated, even if we couldn't move the case forward within the judicial system, that the way that they were treated by law enforcement was a positive experience, because we have such an awesome responsibility, in the way we respond to victims of sexual assault, that we can impact a life-long impact on these victims.

Anne Ream, the founder of 'The Voices and Faces Project' described her victimization and her survivorhood as the eternal wound, and that really just resonated with me, as to wow, we have this incredible responsibility and duty to victims of sexual assault. What can we do to ease their burden, to hopefully get them in a place that -- to a better a place, by the way that we respond.

MEMBER COOK: Thanks.
CHAIR JONES: I'm sorry if I missed this. Did you see an increase in reporting?

SERGEANT DONEGAN: I don't have --

CHAIR JONES: Or you don't have statistics?

SERGEANT DONEGAN: I don't have the stats, but I mean, nothing --

CHAIR JONES: That's what you're saying?

SERGEANT DONEGAN: -- that would have jumped out at me --

CHAIR JONES: Right.

SERGEANT DONEGAN: -- that we were able to look at, to say, we had this significant increase.

CHAIR JONES: And you don't take every report to the District Attorney? You pick -- you review them first, is that right?

SERGEANT DONEGAN: After the -- the investigation is complete?

CHAIR JONES: Yes.

SERGEANT DONEGAN: Yes, ma'am. If we
have enough probable cause, we staff that case
with the DA's Office, and they have a higher
burden of proof, and they will make a
determination, okay, this is something that we
can move forward, you know, through the Court
system or not.

But those cases, I read every case
that came in and every case that was closed,
and if there was questions, I went back and I
said, "Hey, we need to do this and we need to
do that."

It's a -- you have to be on all the
time, when you're working these cases. I
mean, there is no, "I don't feel like doing it
today." I mean, you have to be on. You have
to be on your investigators, to ensure that
they are providing the level of service that
victims deserve, and first responders, as a
matter of fact, for that as well.

CHAIR JONES: Thank you. Any other
questions?

MEMBER HOLTZMAN: You indicated at
the outset of your marks, that you see the Military as being where you were in 2002.

SERGEANT DONEGAN: Yes, ma'am.

MEMBER HOLTZMAN: So, just briefly, what would you change from your vantage point, from what you've heard here today and --

SERGEANT DONEGAN: What would I change in the Military?

MEMBER HOLTZMAN: Yes, ma'am.

SERGEANT DONEGAN: I think, you know, victim centered investigations. You have to have the right people in place to be investigating these cases. You have to believe in the cases and it has to -- you have to manage up.

If you're -- if the individual at the highest level doesn't believe in these cases, and I'm not talking about, I need to get into the minutiae of these cases and understand what transpired in this particular case, but understand the concept of sexual assault victimization, of non-stranger sex assault.
cases, and that is filtered down and it becomes part of the culture, then I think you can make a difference.

But it's not until all of those things are in place, that you're truly able to make a difference and you have to be able to maintain that.

I heard a lot of the prosecutors rotating out. When people rotate out, you've got to be able to keep that same level, but it has to be a cultural change.

MEMBER HOLTZMAN: And what do you think about the issue of training, of the people who are doing these investigations?

SERGEANT DONEGAN: Well, I know that I work with Russ on occasion, who is fantastic, and some of the other people that are here.

It's incredibly important, but again, if you don't believe in the work, all the training in the world isn't going to make a difference.
MEMBER FERNANDEZ: Can I have a follow up on that?

We've heard now various times that the SARCs that are assigned into these positions, the people who, often the victims, are disclosing their information to, are told that they have to be in these positions. They don't volunteer for them.

What do you think about that, and given that one of the issues is, there is not enough bodies to go around, to fill the positions?

SERGEANT DONEGAN: I think you're in a very difficult position, and especially when you're being forced to do something. I mean, that is the level of service that you're going to get, really.

I just -- I think it's not -- it's not a best practice. I don't know what the answer is, but I think that the SARCs need to feel valued in the work that they're doing and I don't know whether that is occurring within
the Military or not, that you know, what
you're doing is incredibly important, and this
why we need you in this position.

MEMBER FERNANDEZ: Can I hear from
the other two? Do you think that this a
position that you can train somebody in to?

DEPUTY CHIEF FALLS: Are you asking

--

MEMBER FERNANDEZ: Yes.

DEPUTY CHIEF FALLS: -- specifically
about the advocates?

MEMBER FERNANDEZ: Advocates, yes, or
investigators.

DEPUTY CHIEF ALBANESE: I'll start.

In terms of those that are assigned in the
LAPD, they have asked to be in that
assignment.

They're required to take additional
training, and we'd like to think that they
take ownership and quite honestly, that is the
case. I believe that most have taken
ownership, similar to what Liz is talking
about, in terms of being passionate, wanting
to be in those assignments, caring about the
victims, because they don't have to work that
type of an assignment, and it's difficult to
work that type of an assignment.

So, they have to raise their hand.

They have to go for the additional training
and then they have to work that case load.

So, it is critical that if you're
going to work these cases, it's like child
abuse cases. That was a prior responsibility
of mine. You don't work child abuse unless
you really want to work child abuse.

Those that get put into those
positions because they didn't want to ever --
didn't want to be there, they're asking to
leave right away. It's a very difficult
assignment.

It is a parallel to what we're
talking about here with sexual assault.

SERGEANT DONEGAN: I mean, I have to
agree with the Chief. I'm sorry, just one
second, is that what you see across the
country though, in some police departments is
that sex crimes can be, at times, a place
where you're forced to go and then you're
going to have that -- that response by this
investigator, because they don't want to work
these crime types.

They are, by far, the most complex
and difficult types of cases to work in all of
law enforcement hands down.

DEPUTY CHIEF FALLS: Yes, and I don't
think somebody should be forced into those
positions or trained, if they don't want to.

However, I do think a victim centered
philosophy should be imposed on the
organization, so everybody understands that
this is the philosophy we're going to;
however, whoever specifically investigates
those crimes, I think it should be somebody
that is willing to do that.

CHAIR JONES: All right, did you have
a question?
MEMBER HILLMAN: If I could, just one more question, before we leave Austin, figuratively, and go to Oregon.

About the University of Texas, and your relationship with the University and when assaults come up on campus, because one of the environments that has been compared to the military, especially training environments, are college campuses.

So, how does that work for you? Do you run into special problems with it? Do you -- what is your sense of that particular demographic and the challenges of investigating and prosecuting there?

SERGEANT DONEGAN: Well, UTPD sits on our sexual assault response resource team. So, we are familiar with their cases and how they work.

But we don't work their cases for them. I mean, I believe that they have the same philosophy that we have, as they sit on -- as a member of the SARRT team, so, we don't
cross over, unless we see a series, and then
we will work in collaboration with UTPD.

    MEMBER HILLMAN: So, it's handled
independently then?

    SERGEANT DONEGAN: Yes.

    MEMBER HILLMAN: So, their police
force handles it, essentially, the
University's?

    SERGEANT DONEGAN: That's right.

    DEPUTY CHIEF FALLS: I can add a
little bit to that, too, from Oregon.

    MEMBER HILLMAN: Great.

    DEPUTY CHIEF FALLS: Because we're in
a college town, also, and our issue is the
University has to deal with Title IX in their
Title IX investigations, which is different
than our philosophy because they certainly, as
a university, want to address their problems
immediately, when they find out that they have
a perpetrator or a victim.

    So, it's a partnership that we've
built with them. We'll take investigations in
a different direction often times, because we
don't have the restraints of Title IX, but
actually, that is a work in progress that
we're doing with our university right now, and
members of the university and our police
department just went to a Title IX training
over the summer, so we could get on the same
page as to what they're required to do and
what we're doing with our investigations.

MEMBER McGUIRE: I think we'd like
to, if you could share with us, what are those
nuances with Title IX, that you're having
issues with?

DEPUTY CHIEF FALLS: I don't know it
that well. From my understanding of Title IX
within a university system is, once they're
aware of a sexual assault or reported sexual
assault, if a victim reports to the
university, the university is obligated to
investigate that or contact the perpetrator
and determine if there is a policy violation
within the university and to address that.
That's a little different than our philosophy. So, I hope I didn't beat up Title IX too much, but I think that is the overall philosophy, as universities want to address those types of issues as they come up immediately.

CHAIR JONES: Do you see many students actually going to the police department, even though they may be in a university setting?

DEPUTY CHIEF FALLS: I think ours are increasing.

CHAIR JONES: Sergeant?

SERGEANT DONEGAN: We do have university students that report, but a lot of their sexual assaults take place off campus, and so, they do report to the PD. But there are services through UT, the Voices Against Violence -- I'm drawing a blank, project that they have at UT, which is their advocacy on campus, that is very supportive of students there.
But because they sit on the SARRT, I mean, we really do collaborate well with the PD and with the advocacy group that sits on the SARRT, as well.

So, I mean, we kind of know what's going on with campus issues involving sexual assault, but we're not directly involved with them.

MEMBER COOK: Does the campus employ a victim centered approach the same way you do?

SERGEANT DONEGAN: That's my belief, that they do. I mean, as being part of the SARRT, that is what, is really what the SARRT is about.

You know, that we would investigate these cases with a victim centered approach. We've signed memorandums of understanding that this is what each of our agencies have agreed upon to do, and it really is the focus, if you're going to sit on our SARRT, the expectation is you're going to share this
information, you're going to have the same goals as a representative of the community within Austin.

MEMBER HOLTZMAN: Can I just follow up on that? Are you saying that there is a serious sexual assault that takes place on the university campus, that the local police are out of that, so the whole decision about whether to investigate or not is completely made by the university?

SERGEANT DONEGAN: Not by the university --

MEMBER HOLTZMAN: And then --

SERGEANT DONEGAN: I'm sorry, go ahead, ma'am.

MEMBER HOLTZMAN: By the university and its police force?

SERGEANT DONEGAN: That's correct.

MEMBER HOLTZMAN: That's what I mean.

SERGEANT DONEGAN: Yes.

MEMBER HOLTZMAN: And then that goes where? To the prosecutor directly?
SERGEANT DONEGAN: Right.

MEMBER HOLTZMAN: So it doesn't go through you?

SERGEANT DONEGAN: No, it does not go through us. They have the same -- Travis County prosecutor's office, so they would vet their cases to them, as well.

MEMBER HOLTZMAN: Okay.

CHAIR JONES: Do you have any experience with this?

DEPUTY CHIEF ALBANESE: The only thing I would add, in terms of Los Angeles is, we handle sexual assaults that are reported at our universities, and so, we are responsible for those criminal investigations, to work with the District Attorney's Office in that regard in Los Angeles.

MEMBER HOLTZMAN: Yes, I would be really surprised if universities had the -- police forces had the experience in criminal investigations that normal police forces do have, but I could always learn.
SERGEANT DONEGAN: Well, we have a lot of the same supporting resources. Our sexual assault nurse examiner's program, they utilize them. The prosecutor's office. Safe Place.

So, there is a lot of the same agencies that are assisting, but not specifically within the investigation itself. That is solely UTPD.

MEMBER HOLTZMAN: So, even forensics, for instance?

SERGEANT DONEGAN: They could use our lab. We have our own lab and --

MEMBER HOLTZMAN: But I mean, collecting them in the first place?

SERGEANT DONEGAN: You know, they could call APD and I'm -- I don't want to say for sure, that's what happens, but if it was a crime scene that was significant, that they would utilize Austin PD crime scene unit.

MEMBER COOK: Chief Albanese, if you all -- if your office handles the crimes unit
at the university setting, are there any
different procedures that you would follow or
any lessons that you would think that a
military environment, where it is more non-
stranger offenses, that there may be some
lessons that we'd learn by the way you process
the cases, since your office does process it, 
even for the schools?

DEPUTY CHIEF ALBANESE: You know,
there are unique challenges, as it relates to
the universities, and they are cities within
themselves, in terms of population of
students.

But we approach in the same way as I
presented. As soon as we find out about it,
it's a victim centered approach, as you've
heard, but we do all the things we do early
on, to make sure that at the end of the
investigation, we are where we want to be,
which is at the truth of what occurred.

So, I'm not sure that that entirely
answered your question, but any of the -- any
crime of that nature is going to be handled by
the LAPD and the City of Los Angeles.

CHAIR JONES: Anyone else? Go ahead.

MEMBER BRYANT: I guess the issue
though is, you said when we find out about it,
and I think across the country, we're seeing
news reports, and I'm not attributing it to
any particular school. I won't name names,
unless you really want me to, that when the --
a student goes and reports that to the campus
police, he or she believes something is going
to be done about it, and in one east coast
college, they found that there were 60 of
reports of sexual assault that had never been
followed up by the campus police.

It wasn't until the city police were
notified, that the city police and the local
prosecutor came in and took over those cases.

So, I guess the question we're asking
is, it's possible, isn't it, that the campus
police department screen these out?

In other words, if the campus police
find the victim not credible, for whatever reason, are they still calling LAPD?

DEPUTY CHIEF ALBANESE: That is the --

MEMBER BRYANT: Unless you have an MOU. I understand some of the college campuses have an MOU with the local police department and yes, the answer is, yes, we automatically call the local police department.

DEPUTY CHIEF ALBANESE: We do have MOU's with major universities, but I -- but you're absolutely correct, there are instances of late reporting, which are very problematic, in terms of evidence recovery, and in terms of getting started with the victims.

So, you're absolutely correct, it isn't an exact science in that regard, and we're constantly working in terms of making sure that we know what is going on, when it relates to a crime like that.

MEMBER BRYANT: All right, thank you.
CHAIR JONES: Chief Falls, I don't think -- any other questions?

COLONEL HAM: May I ask --

CHAIR JONES: Yes, sure.

COLONEL HAM: -- a couple of quick ones?

CHAIR JONES: Go ahead.

COLONEL HAM: For all three of you, what do you count as a report of a sexual assault? Is it when you present it to the District Attorney or Assistant District Attorney? Is it when it comes into your office by a 911 call? Is it something else?

DEPUTY CHIEF FALLS: Ours is when it comes into our office, whether in person or 911. We consider that a report.

DEPUTY CHIEF ALBANESE: Same for us.

SERGEANT DONEGAN: Same for us and anything that is of sexual nature, a report is going to be written, and it is going to be followed up upon.

COLONEL HAM: For Sergeant Donegan,
have you worked military cases for -- Austin, of course is a popular place for the soldiers from at least Fort Hood, to come from, or to come to.

Have you worked joint investigations or has Austin turned over primary jurisdiction on cases and could you describe your experience in those cases?

SERGEANT DONEGAN: It's actually -- we've actually had both of those experiences, where we have worked cases involving Hood soldiers, in which we worked the case because it happened here in Austin, but it has been a collaboration with the military, and vice versa, where we could not move a case forward, just recently here in Austin, in which the military took ownership of it and they're going to handle it on their end.

So, we've had experiences in both areas.

COLONEL HAM: Was it a declination by your DA or just an arrangement where Fort Hood
would take it over or something else?

SERGEANT DONEGAN: No, it was after
speaking with the DA, that they decided to
decline prosecution, and Fort Hood said,
"We'll take it," and then went and ran with
it.

COLONEL HAM: LA, Detective Albanese,
you presented the -- or you told us the
percentage of cases that are presented to your
DA and followed.

Do the other jurisdictions have that
information, as well? What percentage of
cases go to the DA? What percentage are
indicted or criminal complaints filed?

DEPUTY CHIEF FALLS: I don't have
those statistics. I could probably come up
with them, but I don't have that right now.

SERGEANT DONEGAN: I don't either, I
don't have those numbers.

DEPUTY CHIEF ALBANESE: Can I just --
to your question, expound.

If we have a victim that has reported
a sexual assault, maybe to a hospital, but
doesn't want to have contact with the police,
we still respond. We still take an
undetermined sexual assault crime report, so
that we get a number. We can track it.

The evidence is recovered from the
hospital, and so, if the victim at a later
time, decides that he or she wants to
cooperate with law enforcement, we have -- we
have everything started, so that we're not
behind the curve.

COLONEL HAM: How long would you
retain that evidence and when the time is
running out, does anybody notify the victim
that time is running out to change his or her
mind?

DEPUTY CHIEF ALBANESE: There are
very strict laws that dictate when we destroy
evidence. I would say as a general comment,
we never destroy evidence, unless a suspect
were arrested, convicted, served his entire
sentence, has no appeals left, it has to be
extraordinary, and that is why we have a
number of rental trucks, refrigeration trucks
that drive our budget people crazy, because we
save everything, forever.

CHAIR JONES: Chief Falls, I don't
think you've had a chance to tell us about
your department.

DEPUTY CHIEF FALLS: Thank you,
Madame Chair and members of the Panel. It's
an honor to be here.

Well I'll talk about our sexual
assault program, and it came about based on a
series of sexual assaults that were reported
in our community.

We realized that we needed to change
the traditional law enforcement method of
responding to sexual assault, and basically,
what generated this was victims were telling
us what they thought we wanted to hear,
opposed to what really happened, and during
those investigations, we learned, by not
addressing the common barriers that sexual
assault victims face when reporting to law enforcement, that we were receiving inaccurate or incomplete information. Which is tough, because our goal in law enforcement, of course, is to keep people safe, give them the resources they need, keep predators from victimizing people in our society. We can't do that with inaccurate or incomplete information.

So, what we did and what I want to spend time talking about today with our program, you've all been given a brochure that talks a little bit about our sexual assault program.

But I specifically want to talk about our program, as it addresses the issues of under-reporting because we know sexual assault is one of the most unreported crimes in America. The barriers of reporting, because if you deal -- if you work with a victim of sexual assault the same way you would a victim of any other crime, it doesn't work because
the barriers are so drastically different.

And also, our program addresses the traditional law enforcement response, where most of the time, in a traditional law enforcement response, victims are willing to report and they want to see the perpetrator go through the criminal justice system.

That doesn't always happen with sexual assault victims because sometimes they're reluctant to report.

We realized we needed to do two things with our sexual assault program.

First, we wanted to increase reporting, and we wanted to foster an environment where people wanted to report to us.

The second thing we wanted to do was increase information about offenders, and that leads back to the first one. The only way we could gather more information about offenders was to get more -- more people to report, tell us what was going on.
So, let me tell you how our program accomplished this.

We utilize a victim centered offender focus response to each reported sexual assault, and what this means in our department, or what we do differently is, with a victim centered response, every victim controls how much or how little they participate in the investigative process and they're not pressured to do one thing or the other.

We also provide all our victims with options, and they have several options when it comes to our investigative process.

Three of our options are, they can give information only. The second option is, they can do a partial investigation and the third option is a complete investigation.

Now, if a victim wants to give information only, we would just document whatever they wanted to tell us in a report, and they can do that anonymously, they can
report online through our website, or a third-party can report for them.

A partial investigation, the victim would be provided with any medical and advocacy resources that they need. A victim statement, a victim statement would be taken and any evidence would be preserved.

Then the victim would be consulted regarding the suspect or witness contact.

Once again, the victim controls how much or how little they would be involved in this process in a no-pressure environment.

If a victim chose to do a complete investigation, this would be everything that was in a partial investigation, but it would include interviewing suspects and witnesses, and then the results of that investigation may be submitted to the District Attorney's Office or an arrest could be made, if probable cause existed.

So, with these options, all questions and concerns of the victim can be addressed
prior to them making any of these decisions or what they want to do. We'll sit down and talk with them about it.

The other things we do specifically for a victim centered response, and we do these unless there is a rare circumstance or there is a law that says we can't do it.

The victim controls who is contacted during the investigation. No person is told about the report until the victim is ready for that information to be known.

Victims are given the time they need to make the report, and we do it on their time, a time that is right for them and not necessarily what is always right for the police department.

A victim can disengage at any time during the process, if they -- before it goes to the District Attorney's Office or an arrest is made, they can disengage, and no arrest is made until a victim is ready to proceed with charges.
We also have our detectives use the interviewing method of the trauma informed manner that Mr. Strand spoke about earlier today.

So, that is our victim centered process when we are working with our victims.

The offender focused investigations, we do this, so we can try to increase information about who these offenders are and at a victim's request, we'll conduct an investigation and gather as much information as we can on the case, and evidence, regardless of whether the victim wants to go forward or not.

We will also take cases outside the statute of limitations, and the reason why we do these two things is to gather intelligence and to gather information on offenders, and we spend significant amount of investigative time and resources trying to identify these offenders in an attempt to identify serial perpetrators, because if you heard -- as you
heard earlier today, a lot of these offenders are serial perpetrators.

So, I want to talk a little bit about what we do investigative-wise, to do that.

We focus on how the suspect may have made the victim vulnerable or accessible, or appear to lack credibility during our investigation, and identify those who can corroborate that behavior.

We try to identify witnesses to the victim and suspect's behavior prior to and after the assault. We'll also investigate online networks, to identify potential locations of digital evidence or try to identify other witnesses.

We'll interview suspects' acquaintances, friends, coworkers, past relationships and others who may provide corroborative intelligence or motive for the investigation.

We also utilize information gathering strategies that focus on identifying suspects,
their current and former employees, residents and where they went to school, to see if there is any history there.

Our investigations also include locating additional witnesses and victims of the suspect, by obtaining records that reach beyond the traditional criminal history checks, which include NCIC offline searches, and we also collaborate with child advocacy centers, child welfare offices and sexual assault advocacy centers, to see if there is any other information out there that we can glean on the offender.

What an NCIC offline search is, is what we -- what our detectives do is, they'll email the NCIC database and ask if the named perpetrator that we have has been ran by any other police agency or popped up in any other agency, and if we get that information, then we'll send -- if say, University of Texas ran this subject for whatever reason, then we'll send information to the University of Texas,
asking them any information, as to why they
ran them or what information they have on
those investigations, because we'll try to
find prior incidence that is -- the only thing
criminal history shows is if you've been
arrested or if you've been in jail. We'll try
to glean other information that way.

We also use a serial sexual
perpetration profile questionnaire, during
interviews with those who have been in contact
with the suspect, and I think you -- I think
I may have sent that ahead of time, that lists
some of the questions that we ask.

So, this is our victim centered and
offender focus response, that we expect
everybody in our police department to follow,
and ma'am, you were asking can this be forced,
or what is the best way to train this.

We expect our -- everybody in our
police department to follow this philosophy.
However, we do have a set few detectives that
specifically will do these investigations, but
everybody -- in fact, we have a policy on it. We'll follow this victim centered philosophy. This program doesn't work without partnerships, and we work with our local advocates, our sexual assault response team members, our sexual assault nurse examiners, and other experts in the field, to make sure that our response is appropriate at all times, and we wouldn't be where we are today and we wouldn't have built this program without our working collaboratively with those other agencies and those other experts in the field.

So, does this work? Over the past three years, we have seen a significant increase in reporting, and I don't have -- I think it's about a 40 percent increase from 2009 to 2012.

But anecdotally, victims are getting the response they want, and since we have been doing this, the victims feel that they are supporting -- they feel supported and what we're seeing is victims who originally just
wanted to come in and give us information only
are moving to complete investigations.

The other positive thing is we've
already identified some serial perpetrators
with this program.

We've also identified previously
unreported victims that chose to come forward
and report.

The other interesting thing is, is
victims are reporting from outside our
jurisdiction to us, and unfortunately, we
can't take those cases, but we can certainly
get the information back to those agencies,
and victims are more confident and more
trusting of our process, and we've had victims
encourage other people to report to us, not
only crimes of sexual assault, but other
crimes, as well.

So, we feel positive about those
things.

This program has come with some
challenges, and one of the challenges, just in
our organization and if this were going to be implemented in any organization, there really has to be a command level support for this.

There has to be a support and -- command level should support that this program is universally implemented with all staff.

Another challenge is, there needs to be an education component of this program. There needs to be a component where you educate the community, educate your elected officials, educate the governing body, educate other agencies, why an increase in reporting is valuable and doesn't necessarily mean that more sexual assaults are occurring, but we're doing a better job of getting victims to report to us, and that is one of the first things we did, and it was tough.

But we went to our City Council and we said, "We're going to do this program and we're going to have a lot more sexual assaults coming." So, just be prepared -- excuse me, a lot more reported sexual assaults coming,
but it's imperative, because once our elected officials and governing body got onboard and we went to them up front, they were very supportive of this.

The final challenge is amongst others, I just wanted to keep three as, this type of response is time consuming. It takes a lot of time and it takes a lot of resources.

The things we ask our investigators to do with the work up on trying to identify serial perpetrators is much more time consuming, and the victim centered approach, where you're doing an investigation on the victim's time and what is best for the victim and not necessarily what is best for the police department takes time, and it's tough.

So, we asked, and part of the reason why we're here today is, why is this necessary?

Well, I think we all understand that responding to victims of sexual assault the same way you would to any other victims is
different because of those barriers that we've heard about today and talked about today, and some of those barriers being confidentiality and fear of not being believed, and just the shame or the guilt or embarrassment that comes with this, and what we have found is, our relationship with the advocates has really helped to -- helped with some of these barriers with the victims, because that is one of the first things we try to do.

The other thing that we feel is why this is necessary is, information obtained may be important for other criminal investigations, whether a victim -- when a victim doesn't want to proceed with charges.

What we have found is if a victim knows that there is a second victim out there, they'll often come forward then, and we feel that that is very valuable.

Increased reporting of sexual assaults provides the opportunity to identify and prosecute sexual predators in our
community, and most sexual predators are serial offenders.

Not only is this information being provided to victims, that they have options for reporting, we're sending a message to predators that if they commit a sexual assault in our community, there is a stronger chance that they will be identified.

So, thank you.

CHAIR JONES: Thank you.

MEMBER FERNANDEZ: Madame Chair? I want the three of you to be problem solvers for a moment.

One of the things that we heard yesterday at Fort Hood, as you all may know, you can proceed with a case in the Army, by either going restricted or unrestricted. Restricted means your Commander is not going to know, and unrestricted means they're going to know.

What we heard was that there is problems when a victim may decide to go
unrestricted, but then start the process and
be like, "You know what? I just can't do
this," but by that point, the cat is out of
the bag.

It's already gone to the Commander,
and you know, sometimes it's going to be
somebody that -- the perpetrator is going to
have to be somebody that they have to deal
with.

In a victim centered -- with a victim
centered philosophy, how do you deal with that
situation? How do you deal -- how do you keep
a victim centered philosophy when you can't --
when the cat is out of the bag already?

DEPUTY CHIEF FALLS: I would -- our
philosophy would be, then we would wait until
they were ready to come forward, even though
the cat is out of the bag, and I say that
because what we have seen with the
alternative, especially when the cat is out of
the bag, and the victim is told that they need
to go forward, it doesn't make your case as
strong and a lot of times, the only way you can get out of going forward, once the cat is out of the bag, is to recant.

So, and say it didn't happen, so our philosophy would be that we would let that victim wait, even though the cat is out of the bag, and come forward on their time.

Now, the tough thing about that, and I -- this might be your follow up is, what do you do if you have, you know, somebody out there that is a possible predator? What happens with them?

MEMBER FERNANDEZ: Right.

DEPUTY CHIEF FALLS: And I think that is -- that is the difficult question that you have to deal with, and these are the difficult decisions that have to be made, when you're talking about these types of cases, and I don't know the answer to that, but I do know that your cases, from what I've seen, our cases are better when we are patient with the victim and we get them the resources they need
and we're -- we allow them to do things on
their time, and what we're seeing is they're
coming back around and wanting to follow
through with those charges, even when they get
-- initially want to pull out.

SERGEANT DONEGAN: We have very
similar philosophy in Austin, as to what the
Chief just spoke about, but what we would do,
would -- to lend support services to that
victim, to help them make an informed choice.

We want to give them the power to
make decisions, but you have to give them the
information, but we would not force them to
move forward. We don't do that in Austin.

If a victim does not feel that they
want to move forward, we're okay, wherever we
are in that investigation, even if we know who
the perpetrator is, and it's a potential
serial rapist, because we want to do what is
best for the victim.

But when you -- and we have had
similar cases, where we have identified a
suspect and it -- they're not in the same
organization, but they're still in our
community, but we want to do what is best for
the victim, period.

DEPUTY CHIEF ALBANESE: Just to echo
the importance of the victims' advocacy
groups, we have strong groups in Los Angeles
and quite honestly, without them, our efforts
would be greatly diminished.

So, in terms of victims making an
informed decision, the police department plays
a role in that, but just one role, and those
victim advocacy groups play a very important
role in that, as well, in terms of giving
their perspective as to what they believe is
best for the victim and working with the
victim in that regard.

So, at least then, an informed
decision can be made, based on all of the
information.

CHAIR JONES: Colonel?

MEMBER COOK: Just so I'm not going
to misinterpret what all three of you are saying, with this victim centered approach, what is obvious is, you're resulting in increased reporting, but depending upon how much the victim wants to participate in that process, that doesn't necessarily mean that there is increased prosecutions of the cases, and that works across -- the victim gets a choice in what to prosecute, which would be different than what the Military does, where even if the victim wants this reported, then the victim -- it's not the victim's decision, it goes back to be a command decision, of whether or not that case is going to go to Court and whether the victim becomes recalcitrant and you use it as a statement that's made to law enforcement against them, they continue to prosecute.

What would be your view -- you know, if -- knowing the way you work, that it becomes increased reporting, not necessarily the prosecution, versus the Military's
approach of, once a Commander understands it, they've got the control of the system, and if it's originally unrestricted -- restricted, it goes unrestricted, we're still going to pursue it. What would be your -- any advice on that, for the way the Military currently does it is -- I mean, based on what you're doing, that is obviously not a way you would necessarily support, but what your views on that would be.

DEPUTY CHIEF FALLS: One thing we're seeing is with the options we have, is victims who initially want to -- well, first of all, I don't have our stats. I don't know if this will --

Our long term goal is to see if this -- if prosecution increases, to see if sexual perpetration decreases, and I think with our program, because it's so new, it's going to take, I don't know, three to five years to see that.

However, we are seeing victims who initially report and just want to give
information, come back to us and say, "Okay, I'm ready to do a complete investigation," because we haven't forced them to do anything.

DEPUTY CHIEF ALBANESE: In terms of adding, you know, it -- for us, it's -- we're driven by the evidence, and we start by believing. We start with a clean slate. We gather the evidence and we present that to the District Attorney.

The District Attorney has the same viewpoint and their decision, as to whether or not to prosecute and file the case is driven by the evidence.

So, it's a very pure process, in terms of what are the elements of rape? Have those elements been met? Is the evidence strong in that regard, and if it is, move forward and bring it before a jury and you know, the case is handled in that regard.

When somebody is going to make a decision for other than those reasons, that is problematic, in my view.
MEMBER COOK: Okay, but you say take -- depending on the evidence.

If the victim, after having presented that evidence and you've investigated the case, if that victim says they no longer want to participate, would your District Attorney continue to take that case forward, understanding the complexity that has just been added to the case? Would they put the day in Court?

DEPUTY CHIEF ALBANESE: You know, a rape is a crime against the State of California, when we're in California.

The District Attorney would make a decision as to whether or not to take that case forward, depending on the totality of facts.

MEMBER COOK: Okay.

DEPUTY CHIEF ALBANESE: I hear what you're saying and it would be hugely problematic for the victim not to want to cooperate.
But at the end of the day, it's a crime against the state, and so, it could move forward, but it would be a case by case basis, based on the totality of evidence and information available.

MEMBER COOK: Okay.

SERGEANT DONEGAN: In Austin, our prosecutor's office is not going to move forward with the case, if the victim does not wish to proceed, and I think if you're looking at forcing a victim to stay within the process, against their will, it's really detrimental to the whole mission of sexual assault.

I mean, what does that say to other potential victims, that want to report and then change their mind that regardless, you're not going to have any control over your situation, once again.

So, I think it's incredibly detrimental to the mission, to force a victim to stay within the system, when they don't
want to -- wish to proceed.

COLONEL HAM: I have to step in as a legal advisor to the Panel.

That is not correct, if the victim withdraws from participation, they do not go forward.

CHAIR JONES: I'm sorry, I didn't hear what you said, Colonel.

COLONEL HAM: If the victim withdraws her consent to participate any further, the case does not go forward.

MEMBER COOK: It does not go forward? Okay.

MEMBER HILLMAN: Except it's already been disclosed. I mean, it depends on what 'go forward' means, I guess, when you put it that way, because once there has been -- the information is out there, and all the sheep in Mr. Strand's picture are out there and we're worried about how they're going to respond, anyway, that disclosure of information has already happened, and things are moving
forward, in some way.

So, it does raise -- anyway, it's --

it depends on which vector you're sort of

looking.

MEMBER BRYANT: I have a comment on

that too.

MEMBER HILLMAN: Sure.

MEMBER BRYANT: Or a question. When

we say they're not going to go forward, and

this is for the civilian and the Military, are

there situations in which you know the victim

is not going to go forward, but the defendant

has already been arrested or charged, which

then, with the knowledge of the victim not

going to go forward, cannot the prosecutor

then offer a plea agreement that at least

those that have no prior record, so that

you've got this person at least identified and

eventually entered on NCIC?

I mean, haven't you had those

scenarios? You go to the Assistant DA that's

handling the case, that she says she's not
coming. He picks up the phone and calls the
defense attorney and says, "I'll give you
sexual battery, three years suspended."

I have to believe that happens in an
awful lot of jurisdictions, maybe not the
three years suspended, but I'm using that as
a hypothetical.

DEPUTY CHIEF ALBANESE: So, we're a
little out of our lane here, in terms of --

MEMBER BRYANT: No, I don't know, I'm
just --

DEPUTY CHIEF ALBANESE: Of law
enforcement officials, but --

MEMBER BRYANT: No, we're not out of
our lane at all, because in our jurisdiction,
and I would assume in yours, the protocol and
the ethics are that the prosecutor doesn't
make a deal like that until he runs it by the
investigator, or any kind of plea agreement.

DEPUTY CHIEF ALBANESE: I would
agree, in terms of that conversation, that is
an ongoing conversation, and if law
enforcement and prosecution think this is a predator, and for whatever reason, the victim now declines, I think the prosecutor is driven by what's going to be best for the community. To cut a deal like you talk about, I think is definitely one of the items on the table and law enforcement would support that.

MEMBER BRYANT: Okay.

DEPUTY CHIEF ALBANESE: We've got him arrested. We've got him uploaded into CODIS, but now, what is the outcome of the case? Do we throw the towel in completely, after pre-lim and release him or is there some deal cut, and I would offer that there is a good chance a deal could be cut.

MEMBER BRYANT: And so, I would want to ask Colonel Ham, because I -- that was new information at least to me, that if the victim withdraws, that is the end of the case, is that just -- a bright line situation or can -- is there a lesser alternative, such as we've discussed in the civilian world?
COLONEL HAM: I'd have to defer to the DoD policy people about -- folks who went to Hood yesterday, their initial briefing from the Chief of Justice highlighted that DoD policy. I wish I could quote it to you, but I don't have it in front of me.

So, I'll have to get it for you.

DEPUTY CHIEF FALLS: Sir, sir, part of our victim centered approach too is, to try to cut this off also before is -- we work with the victims and we let them know that once the case goes to the prosecutor and arrest is made, there is less we can do.

So, we try to give them that information up front, and when we're explaining exactly what a complete investigation entails, and we try to educate our victims that prior to it going to the DA or an arrest is made, do you still want to go through with this, and if yes, once it goes there, there is less control we have, once it's in the District Attorney's Office.
So, part of the victim centered approach is them knowing that, so they know up front.

MEMBER HOLTZMAN: I just make a small comment about the victim.

Generally, I agree with victim centered approach, but I'll tell you about a case, it wasn't rape, but domestic violence, involved a woman who had been severely, severely beaten, and she was also disabled.

For whatever reason, we had substantial evidence to prosecute the case, and she objected, objected, objected, called us, said it was a terrible thing to prosecute.

He was convicted. The minute he was convicted and went to jail, she called and she said, "Thank God." Just a story.

Anecdotal, did happen, Brooklyn DA's Office.

I want to go to some of the points that you made.

One is, do you use any special
techniques in the investigation of when there
is a male victim, in investigation? Or is --

DEPUTY CHIEF FALLS: I don't think
our investigators have to do anything
differently with a male --

MEMBER HOLTZMAN: Okay.

DEPUTY CHIEF FALLS: -- victim.

MEMBER HOLTZMAN: Just same answer?

DEPUTY CHIEF ALBANESE: No, we would
offer a person of the same gender, a victim
advocate, a support person. We would do the
same thing we would do for a female, just
reverse.

SERGEANT DONEGAN: And we know the
dynamics are slightly different and the
investigator is aware of that, but we wouldn't
do anything necessarily different with a male
victim.

MEMBER HOLTZMAN: Okay. Secondly,
given limited resources, I think that is
probably true in general, for even criminal
justice agencies, do you prioritize the cases
of sexual assault?

In other words, do you provide

exactly the same services if the case is a
touching, as you do for a case that involves
penetration or is it all handled the same way?

DEPUTY CHIEF FALLS: Ours are all
handled the same way. All our sexual assaults
are handled out of our detective unit, and
they would all be handled the same way.

SERGEANT DONEGAN: Ours is going to
be where does the evidence take us? What do
we have and what sources we would utilize,
depending upon the particular type of
investigation that we're working.

MEMBER HOLTZMAN: What does that
mean?

SERGEANT DONEGAN: I mean that if --
if you have a sex assault and you have a
perpetrator that is on scene, or you have a
crime scene, or you have an acute case, you're
going to utilize different resources in that
particular case, than you would in a case that
has a delay in reporting, or it's a case of assault by contact, where touching is just involved.

So, it would depend upon the complexity of the case, as to what resources we would utilize.

DEPUTY CHIEF ALBANESE: The individual, and we've had a recent case in Los Angeles, the individual that -- in a public place is touching women for sexual gratification, outside of the clothing, running by them, grabbing them, that is a precursor to other behaviors, and so, we need to find that individual and arrest and prosecute for the crimes that he's committed.

So, we would approach that in an aggressive way.

MEMBER HOLTZMAN: But if it were a single incident?

DEPUTY CHIEF ALBANESE: I'm sorry?

MEMBER HOLTZMAN: If it were not that kind of a case, but just --
DEPUTY CHIEF ALBANESE: Well, if we're talking about a sexual assault --

MEMBER HOLTZMAN: Touching.

DEPUTY CHIEF ALBANESE: Well,
touching --

MEMBER HOLTZMAN: No, I'm not saying
-- right, I'm just --

DEPUTY CHIEF ALBANESE: Right.

MEMBER HOLTZMAN: I'm trying to ask
whether you do prioritize in any way, in terms
of resources.

DEPUTY CHIEF ALBANESE: We would view
that as a serious matter.

MEMBER HOLTZMAN: Okay, finally, with regard to the issue of a case in which the victim does not want to go forward and you feel, or you have -- the evidence was strong enough to suggest that this was not only a defendant who perpetrated the crime, but that may have been involved in other crimes, do you in those cases, look for evidence to support another kind of prosecution outside of that
particular victim who came forward?

DEPUTY CHIEF FALLS: I'm not really

sure what you mean.

MEMBER HOLTZMAN: Well, let's just

say, the victim -- maybe my question was too

complicated.

The victim comes forward and

identifies John Doe, and she says, "No, I
don't want to do it. I'm not going forward."

But you believe, after having done an initial

investigation, that not only is John Doe

responsible for this assault, and you could

prove the case, but it's probably likely that

he may have been involved in other cases.

Do you start at that point, looking

at his -- even though you can't go forward in

this case, under your policy, do you start

looking as to whether or not you can have

evidence against him in another circumstance?

DEPUTY CHIEF FALLS: Absolutely, and

in addition to that, we'll tell the victim

that there is another victim out there and
possibly another one, and that may change
their mind to come forward, but yes, and we'll
look into that before there is a second
victim. We'll try to identify if there is --
if this person is a serial perpetrator, right
out of the gate.

SERGEANT DONEGAN: Absolutely. To
echo what the Chief said, I mean, we have a
duty. If we believe that this perpetrator is
responsible for other crimes, we have a duty
to follow up on that case, or other cases.

DEPUTY CHIEF ALBANESE: Absolutely,
ditto.

CHAIR JONES: Any other questions?
All right, thank you so much. This is very,
very helpful.

DEPUTY CHIEF ALBANESE: Thank you.

CHAIR JONES: We'll take a 10 minute
break.

(Whereupon, the above-entitled matter
recessed at 3:03 p.m. and resumed at 3:21
p.m.)
CHAIR JONES: All right ladies and gentlemen. I think we're almost ready to begin.

All right, we finish our hearing today with, in terms of formal presentations, with our academic discussion, which I'm sure promises to be much more lively then the term academic discussion may sound. And the title of it is Civil Police Response and Handling of Sexual Assault Reports.

And I believe Dr. Lonsway, you're going to begin for us today, is that right?

DR. LONSWAY: Yes. Thank you so much.

CHAIR JONES: Thank you.

DR. LONSWAY: And thank you for inviting us. It's truly an honor to be a part of this. And it's funny you that you would bring that up about the title of that. You actually have one academic up here.

CHAIR JONES: We only have what?

Only one academic.
DR. LONSWAY: Only one of us is probably a card carrying academic. But I think what we hope to do -- I think we are all delighted to be here at the end because we've had a chance to hear what everyone else has said.

CHAIR JONES: Well I think that will be great for us as well.

DR. LONSWAY: And bring it together. And I know Sergeant Archambault was even changing her slides a moment ago. So this is up to the minute information on what we think will be useful given what's already happened.

And so I think what we hope to do in our hour and a half is bring in the research component. What can an empirical base inform to combine with the practitioner perspectives that we just heard a moment ago. And I think one of the things you will see is that in the perspectives you've heard so far, they are grounded in an empirical base.

And so I think we're not just
shooting in the dark here. We really do bring
some knowledge base to what we're guiding in
terms of recommending best practices.

So, let me also begin by saying as I
am a PhD in psychology, but I work for End
Violence Against Women International, which is
a national/international non-profit
organization. We are primarily a training
organization. We have done some research
along the way, but most of what we do is bring
research to practitioners through training,
technical assistance and other avenues.

So I think that will help in terms of
the perspective that we bring. As an
organization, we were founded by Sergeant
Joanne Archambault here, who had her career in
law enforcement in the San Diego Police
Department. You'll hear from her second. But
I think again, the partnership between the two
of us really again reflects the partnership
and the collaboration between research and
practice that we hope to bring today.
So I get to go first. And I'm going to begin with the slide that actually Russ had on this morning. And I'm not going to spend that much time on it, because I think you know the concept of attrition as well as anyone. I include it here just to remind us that if we're talking about investigations and prosecutions, we need to think about that whole picture. We need to keep this triangle, this funnel in mind, because we are losing sexual assaults at every single point, for a variety of reasons.

But it also because of that as we think about you know, of all the sexual assaults that are committed in our communities, in terms of how many we pursue with investigation and prosecution, to the point where someone is held responsible for that. That really is the rare event.

We haven't been doing so well at this. We need to keep this triangle in mind for a variety of reasons. But one of them is
it reminds us that there are multiple places
where we can intervene. And I know that I
have heard that as a theme reflected
throughout today. That because there are so
many points of attrition, we can act and
interact at each of those levels. And those
strategies are going to be different.

So how Joanne and I have divided up
our time here with you today is to walk
through that triangle on some level. And talk
about some of the practice recommendations
that might apply at each level.

And any time we're looking at that
funnel, it's not drawn to scale. When we talk
about where we're losing most of the sexual
assaults in that process, it is that very
first slice. So if you had to draw the funnel
in terms of what the statistics reflect,
you're actually going to be way down to here
by the time they even come into contact with
law enforcement.

So I think that we've heard a lot
about reporting and non-reporting. And I know for an institution that already is seeing an increase in reporting, this is something you know so well. But that is where we are continuing to lose most of our cases. Most of our sexual assaults are falling out at that very first level before anyone in a professional capacity has been asked to respond.

And so we know a lot from the research base and from our work with survivors in terms of why they don't report. In fact I think on some level the more interesting question is why do some of them report. It really is asking an enormous amount from someone. Especially after a traumatic victimization.

So you know, I find with lay audiences if I ever ask people why would someone not report a sexual assault? No one has ever had trouble answering that question. And their responses reflect what the research
tells us.

So this is from the National Women's Studies in 1992, Kilpatrick, et al. But it has been echoed in many other studies as well. When you ask victims of sexual assault why they don't report, certainly fear of the perpetrator will always arise as a potential reason.

But almost all the others there are various shades of, I'm afraid of how other people will respond. Both professionals and also in my personal life. My loss of privacy. Everyone will know, is something that victims so often say.

So you'll see you know, in this study, these were how they were worded. Again they're similar in different studies, but again if you had to boil it down to what people are afraid of, what keeps them out of the system is fear of what other people are going to do. Fear of what other -- how they're going to respond.
And I think when we look at it from our criminal justice perspective, we tend to think of reporting as the most important decision they're making. But for many survivors, most survivors perhaps, that's --

CONGRESSWOMAN HOLTZMAN: Can I just ask you. I'm sorry, I don't mean to interrupt, but --

DR. LONSWAY: Yes, please.

CONGRESSWOMAN HOLTZMAN: This one thing that's a little ambiguous in your prior slide.

DR. LONSWAY: Shall I go back?

CONGRESSWOMAN HOLTZMAN: Yes.

DR. LONSWAY: Yes ma'am.

CONGRESSWOMAN HOLTZMAN: Which is, do not view it as a crime.

DR. LONSWAY: Yes.

CONGRESSWOMAN HOLTZMAN: Is that the victim doesn't view it as a crime, or that they think that society doesn't view it as a crime? Or is it both?
DR. LONSWAY: You know this is a survey, so that is how it was worded. It could mean any or all of those things.

CONGRESSWOMAN HOLTZMAN: Oh, okay.

DR. LONSWAY: But one of the things we know from sexual assault victims in terms of when we try to find out you know, why? We know for example that most don't physically fight back during the assault in the way that people expect. Most don't report in the way that people expect.

A lot of that is because they are not to the point of saying oh, that thing that happened to me, that is a rape. That is a crime. I'm going to call 911 and call the police department.

So a big piece of that can be labeling and understanding that as a sexual assault, as a crime, as a police matter. But in terms of what individuals were thinking when they answered that, it's going to be a variety.
CONGRESSWOMAN HOLTZMAN: Thank you.

DR. LONSWAY: And this is perfectly relevant actually to this slide, which is again, that reporting question is only one of a million decisions that victims are making in the aftermath of sexual assault victimization. And that unfolds, it's not a zero-one sort of decision they're making. They're making lots of decisions about what to do to next. And that unfolds organically in their life.

They're trying to make sense of what happened. Trying to figure out what to do about it. And they do what all of us do, or tend to do in trauma, which is we turn to people we love. We have someone that we love that we talk to figure out what we should do next.

So we know that most survivors will tell someone. Family members, friends, et cetera. And that is key. Because what that person does plays a large role in dictating what happens next. And I have to say thank
you to Russ Strand this morning for sharing
the story about his daughter. And thank you
to your daughter for allowing that to be
shared.

That story of what he described, if
you may recall, his daughter being raped in
the back room, coming out, telling her friend
I was just raped. Friend says by who, she
says him. And she says no way basically, you
know. And it's immediately shut down. It
sort of brings to focus everything that we
understand about sexual assault and response
and disclosures.

Once that happens and then we can see
two pieces of that. One, the negative impact.
Just the sheer damage that response does. And
we see that response every single day from
friends, from family members. From
professionals as well, but again we're mostly
talking in people's social circles at this
point that they're reaching out to.

If they reach out and tell someone,
disclose to someone that they presumably love, which is why they're reaching out to that person. If that person responds with that disbelief, with that blame, with that negative response, the research is clear that there's actually an additional negative impact above and beyond the sexual assault. You can actually sort of count the impact of that. And that makes sense because it's yet another betrayal on some level.

So A, the damage that that kind of negative response has, but B, the other piece of it which we heard from that story, which is how likely is that person then to reach out to anyone else? Law enforcement, mental health, social services, any kind? If this is how my loved one responds, how do I think anyone else would respond?

And so I think that's key when we think about our triangle. When we think about our funnel of attrition, where we're losing folks. A big piece is that initial disclosure
before they ever come into contact with any system.

So the flip side of that is we know that if they're going to come into the system and stay in the system, the key is support. That is asking a lot. As I've heard victim advocacy described as holding someone's hand on a walk through hell. To just sort of go through that process alone is too much to ask.

So we know that in terms of both formal and informal support systems, there are documented benefits for people who do reach out to help that can be very positive for their recovery and healing process. And it is also the key to becoming engaged and remaining engaged with the criminal justice system.

And when you look into what that positive response should look like, when it happens and it works right, what does it look like? Victims will describe in studies what's helpful to them. And really the two key pieces are that having someone to talk to, and
being believed.

And like so many things, this doesn't seem like rocket science, this reflects what we experience in our own lives, and yet it really is important to keep in mind in terms of what victims need. Because some days when you look at our system, it's as if we've designed it completely in the opposite of what it is that victims need to be able to become engaged and remain engaged.

So when we look at tackling that funnel, looking back to our triangle, how can we impact? And again I'm taking the first piece and Sergeant Archambault will take it from there. As a general response, how are we going to attack that?

The first is to improve responses to disclosures. And I'm going to give you a few examples of each of these in a moment. But this is just as a general strategy. Provide support for reporting at the outset, and then ongoing through the system. And I would be
remiss if I didn't talk at all about the question of the fear of false reporting, because that is so often what drives all the other problems.

On some level when we're talking about sexual assault, the elephant in the middle of the room is this question of false reporting. It effects everything in our system including victims' responses before they even come in.

MEMBER HILLMAN: May I --

DR. LONSWAY: Yes.

MEMBER HILLMAN: May I just ask you.

DR. LONSWAY: Please.

MEMBER HILLMAN: This is a question that keeps coming up in my mind. The military itself is not a single culture. There are a lot of sub-parts to it. Neither are any of the communities in which you've all worked and studied. So are these universal? Are those responses, how are they culturally specific or defined by communities, or?
DR. LONSWAY: Which response in particular -- you mean response to disclosure? Or false reporting? Any and all.

I'd have to unpack each one separately. Because these are coming from a research base, so for example if we come back to something like this. Many of them are done with community based studies. For example, you know, if you're studying criminal justice response, you're going to often access it through those statistics and you're going to access through that.

If you're trying to find folks who didn't ever come into contact with the criminal justice system, obviously it's going to be a community based survey. And so really the gold standard for how those are done now, they tend to be telephone surveys, or in person surveys.

But they really have developed a pretty effective way of measuring. You don't ask someone have they been sexually assaulted,
have they been raped. You ask behaviorally based questions. Have you been in a situation where. And then dot, dot, dot. And their behavioral situations. You had sex with someone when you didn't want to because they held you down, et cetera. Those kinds of questions.

So that's why you identify who has been sexually assaulted. And then depending on what else is in your survey, you're going to ask them other things. And so for example, here you're asking about disclosure and responses. Or maybe you're asking about did you contact law enforcement, et cetera. But you have to start by identifying those folks who have been sexually assaulted and that's generally how it's done.

I'm not sure if that addresses any of what you were hoping for. It doesn't look like it.

MEMBER HILLMAN; I'm not sure there's an easy answer here at all. I just -- it seem
that these are very sort of intimate responses
that would seem dependent on one's faith and
one's family and one's -- many different
factors, so I just wonder if you have a
knowledge, a sense --

DR. LONSWAY:  Right.

MEMBER HILLMAN:  Of what works in
particular communities.

DR. LONSWAY:  No, we're not there
yet. When you think about the kind of study,
if you're going to study anything about sexual
assault victims, you have to find them. So
you have to go through that process I just
described. You know, community based survey
to find folks who have had that experience.
And then based on what else is in your survey,
that's what you're going to study.

And so these are difficult and
expensive to do. And so there are some
studies that are done extremely well and we
know some general dynamics. Can we break down
on the level that you're describing?
Absolutely not. For most things.

Because by the time you're slicing your variables that many, you know, we can take male versus female victims, but now if we're studying female victims by culture, by disclosure, by whatever, every time you're breaking your cell size smaller and smaller.

If you're with me.

MEMBER HILLMAN: Thank you.

DR. LONSWAY: All right. And this, I don't need to say this because we've heard this several times today. But in terms of if we're doing this kind of response where we're really thinking about what it is victims need to become engaged and remain engaged in the system, on some levels the success measure, at least an initial success measure is going to be increased reporting. Or at least it can be increased reporting.

And as Deputy Chief Falls was describing, one needs to be able to put that in context to explain it to people who may not
think that's what it means immediately. So I know that's something we've already talked about today.

So at this point I want to transition into just a few sort of samples, or examples, or recommendations, et cetera. You know, with such limited time, you get to choose just a few things to talk about.

I've been delighted that Start by Believing has been mentioned already today. This is this first piece in terms of improving disclosure, is one sample program. This is a program that we at End Violence Against Women International started as a public outreach campaign designed not just for professionals, but for those friends and family members. You know, they are the gatekeepers.

We think of law enforcement as the gatekeepers, but really it is friends and family members who are playing that role. And they have no idea. And they're totally unprepared for it. So as one example of a
public awareness campaign designed to at least make people think for a moment that they might be prepared to be in this position, and how are they going to respond.

So we've got a variety of materials to talk about that. But as one example.

Expanding victims' option. You heard Deputy Chief Falls describing their program. But I think again if we come back to what is it we're asking of victims and how can we design a system that is more designed around what they're experiencing.

One of the reasons victims are so reluctant to enter our system, civilian and military, is because we are presenting them with Mount Everest after their sexual assault victimization. We are presenting them with an all or nothing, now or never, are you going to prosecute. And they look up the mountain and think, I don't know if I can do that.

Anything that we can do to design a system more in line with one step at a time.
Do you -- would you talk with an officer? Now that's not so frightening, I can do that. And if that goes well, would you do this? Would you get an exam? Well maybe that sounds okay too.

You know, if we're all doing our jobs right, and we take it one step at a time, victims are going to be more likely to proceed. And that's you know, not just common sense, but we're seeing that in terms of an impact for programs that are designed around that philosophy.

Again one cannot talk about sexual assault without addressing the question of false reporting. When we think about to that slide about why victims are afraid of how other people are going to respond. A core element of that fear is the fear that they will not be believed. And that is a well grounded fear, because so often they are not.

And so anything that we need to do to improve the investigation and prosecution
of sexual assault cases will involve looking
the question of false reporting in the face.
And I think one of the things we have made
great advances in is getting a general sense
of what the numbers are. So I think we're
getting pretty close on that. That it's about
two to eight percent of all reports of sexual
assault to civilian law enforcement agencies
are false reports. We're probably in the ball
dark on that.

We are just beginning to get a sense
of sort of what the characteristics might be.
What they look like. What I think we need to
know a lot more about, and what I -- yes
ma'am?

CONGRESSWOMAN HOLTZMAN: Another
question.

DR. LONSWAY: Yes ma'am.

CONGRESSWOMAN HOLTZMAN: When you say
that they're false reports. Are these in fact
false reports that the sexual assault never
happened? Or is it that somehow you couldn't
prove the case? What are we talking about here when you say it's false?

DR. LONSWAY: Right. And this is what I spend most of my time training on these days. Those are research -- social scientific research studies designed to establish how many, there is evidence to establish that it was false. Now are they perfect? No. Are there strengths and weaknesses to those studies? Yes. But they're not designed to do what you're describing as far as the we don't know yet.

 Agencies call them different things, but conceptually, really there's three types of reports. Reports that you know, we have some evidence to establish that it happened. Reports that we have some evidence to establish that it didn't happen. And then a lot of cases where we don't know. We don't know yet. We may never know.

 So these studies are designed to sort those three out. To say not the ones where we
don't know yet, but the ones where we have some evidence to establish that it's false.

Now one of the ways agencies, law enforcement agencies get into trouble is by calling these false reports, when in fact we just don't know yet. We may never know. And they may remain open forever on some level. But that doesn't make it a false report necessarily. It could be.

So training around this issues, it is the most common training request we get. It is the most common media question we get. It really is something that we have to address. Because on some level, all the training in the world, I think I heard someone say this already. All the training in the world won't matter if you don't believe ultimately what's coming in.

And you know, just think for a moment about when someone knocks on your door trying to sell you something. That orientation, are we hearing what they're saying? You know,
that's the orientation we need to make sure that folks aren't bringing into the room. Because that will set them on a different path entirely.

And just the last thing that I will touch on with my time so I can pass it off to my colleagues here. Because I'm focusing on that first piece of the funnel, the reporting question. How do we encourage, how do we design our system so that it is welcoming? So that it communicates in the way that you heard from the folks on the prior panel? That we care about this, that we take this seriously, and that the only way to do that is for folks to be able to come into the system and stay in the system.

A big piece of that is advocacy. You know, in our communities, it's just too much to ask of victims without that expertise. Without that support. Without someone who can help them make those decisions. Not be imposing you know, or expressing their
opinions, but giving people the information
they need to choose various paths.

And a big piece of that is removing
you know, as a volunteer advocate myself, you
know, the philosophy of community based
advocacy is that it doesn't matter what I
think you should do. I'm going to give you
the best information I can so that you can
decide what you want to do. And I will help
you to do that.

And there again, when we think about
designing a system that is truly in line with
what victims need, it's hard to imagine not
having that kind of a neutral supportive
resource. And I believe --

MEMBER COOK: You just mentioned a
neutral supportive resource. When you're
doing this as a civilian advocate, are you
doing this as part of the investigation team?
Are you doing it for prosecution? Are you
doing it as they -- how does the victim know
to even reach out to you?
DR. LONSWAY: Right.

MEMBER COOK: How do you bring yourself into that process in an advocacy role?

DR. LONSWAY: Right. When I do that I'm a volunteer in my home town with the rape crisis agency. So -- and I have done that in two communities. And that's -- when we think about advocacy, there are community based -- we tend to use this language, community based victim advocates and system based victim advocates. And their role is somewhat different and they're equally important, but they're different.

And so thinking in terms of system based advocates in a community, that would be an advocate that works for the police department. That works for the prosecutor's office and victim/witness assistance, et cetera. And that person can do all kinds of wonderful things for a victim.

And because they're in that system
and they work for the government, ultimately they're going to have different roles. And confidentiality for example is typically not going to be there. Almost never. There's very rare exceptions for that.

So that is a terrific resource. We want that. On the other hand here is a different gap that exists for community based victim advocates, who their whole job is to help the victim do what they need to do and support them and help them through this process toward their recovery and healing.

So again, as a philosophy for a community based victim advocacy organization, they're fundamentally based in the empowerment philosophy of, I'm going to give you all the information, all the resources I can give you. You're going to decide what you're going to do and I'm going to help you to do whatever it is that you've chosen.

MEMBER COOK: And how do you -- how does the victim get matched up with the
community based advocacy? How do they find them?

DR. LONSWAY: They're going to reach out. I mean you're -- in terms of a typical rape crisis center in your community, it's the victim contacts.

MEMBER COOK: Okay.

DR. LONSWAY: Whereas a system based, it might be different. The police department might proactively send someone to contact. Again it's yet another way that you can imagine those roles are different. So it's going to be based on the victim reaching out for contact.

MEMBER COOK: Thanks.

DR. LONSWAY: Thank you.

CHAIR JONES: Thank you. Ms. Archambault?

MS. ARCHAMBAULT: That's pretty good on my name there.

CHAIR JONES: I'm very happy with myself.
MS. ARCHAMBAULT: Yes. Yes. So I
didn't even know until I was grabbing my
PowerPoint that I was in the academic group.
So I must be that card carrying one that Kim
was talking about. Or you guys are the --

DR. LONSWAY: She's further left.

MS. ARCHAMBAULT: Yes. Anyways, it
is an honor to be here. So just a little bit
about myself. I spent almost 23 years with
the San Diego PD, retiring as a Sergeant. So
I have investigated, or supervised over 10,000
felony sexual assaults.

And I think that's really important
because very few people in law enforcement get
to have that sort of expertise. We, like the
military, transfer people every couple of
years. There's lots of history with that.

In addition to supervising sex crimes
for ten years, and by the way, I started
working child abuse though in the early '80s.
So actually my career goes back beyond just
dedicated full-time as the supervisor in
charge of sex crimes. And the other thing I bring is that I've trained in 48 states, eight countries, law enforcement all over the country.

So I'm not just going to be talking about my experience with San Diego PD, but really best practices and challenges both with the military and law enforcement throughout the country. And as Kim said, I was actually back there making notes, because the dangerous thing for me was I got to listen to the entire day.

So whereas this was all organized, I was adding points. So I'm actually going to pass through some of these issues and get to some based on comments I added because of the information I heard this morning.

One thing is that when you study attrition, there is a lot of attrition hidden in our systems. Whether it be the military or whether it be civilian law enforcement. For example somebody already talked about the fact
that law enforcement can be dispatched to take a report, but when they get there, they decide that it's not valid and they clear without a report.

And Sergeant Donegan, after attending the Making a Difference program and participating in that, she's one of the agencies, the communities that went back to her agency, and changed that policy. If you get dispatched to a sexual assault, you clear it with a report. And she would actually check those communications dispatch printouts everyday to make sure that that was in fact happening.

So when I see some of the data coming out, I just use extreme caution that one, there be an independent evaluation, external audits. And really looking at every aspect. So in my case, I don't care if the report has a case number and it's being scored and reported to the FBI.

My department collected information
on every form of sexual assault. And whether that was a mandatory report and it was sent to us on a napkin. Whether it was faxed. We're accountable to understanding what happened to that report regardless of how we scored that report.

So that's just a caution, and I'll share with you some of my concerns based on some of the data I'm seeing coming out of the military. We talked a little bit, there were questions about clearances, but it's another way that law enforcement can hide investigations. And I'll show you a U.S. Army stat and compare that with civilian to help you understand this.

But knowing exactly what something means. For example, the media and social scientists are always using arrest rates to measure the success of law enforcement. It's because arrest rates are available. But the truth is using an arrest rate as a measure of success is the worst mistake that anyone can
possibly make.

Because the truth is in law enforcement, I can easily make an arrest on probable cause, send my case to the District Attorney before I've supported the investigation prosecution, I get a DA reject. But I get to clear my case and it makes it look like I did a great job.

So really, really understanding what's in these numbers, and a lot of people misunderstand. They think that I'm against clearances. I'm not against clearances, I'm against using clearance numbers without understanding what's in those clearances and where cases are being hidden. All right.

And I just showed you here, actually did two different levels. And this is ten years with San Diego PD where I looked at this data. And so to give you an example of what I would want to see with the military, they don't use UCR clearances, but you know what? You can talk about it, and we might not use
the same terms, but the outcomes, they are the
same.

So I am interested in knowing for
example, the difference between those cases
determined to be false with evidence. The
same burden that I needed to present a case to
the prosecutor, versus those cases where the
elements of a crime just weren't able to be
established. Okay, those are really healthy.

Exceptional clearances is one I'm
very, very interested in because I want to
know how many victims are declining to
participate in the investigation/prosecution.
Just two examples of how you have to look
inside these categories to really understand
what's there and whether the numbers are
accurate.

Again with the military as with all
other agencies, tracking false allegations
versus unfounded, meaning an element of the
crime is just not there. Victims declining
prosecutions. A question was asked earlier
about do we give the same attention to a sexual contact versus a rape for example, a forceful penile/vaginal penetration? I would argue that it's not appropriate.

I actually see problems in many jurisdictions where they do lump, for example child abuse together with your felony sex crimes. The felonies do require more investigative effort. The truth is, our juries don't have a problem convicting somebody of a misdemeanor. And they give probation, or they get a maximum of one year. But when I'm working felony sexual assaults, my offenders, we're looking at multiple life sentences in many of our cases.

So there is a difference. And the amount of effort and resources that go into felony level sex crimes versus misdemeanors. And that's one of the reasons why comparing domestic violence to sexual assault is so dangerous. Because the majority of domestic violence in this country, they're prosecuted
as misdemeanors.

I think one of the things that we
have to be careful of also, is comparing
civilian prosecution and military prosecution.
There are advantages and disadvantages within
the military. I'll be honest with you, San
Diego PD, when we had joint jurisdiction, or
I had sole jurisdiction, I didn't give a case
to the military unless I couldn't do anything
with it. We kept all the good ones.

It's true. And the reason we did
that was because the military had the ability
to still sanction military personnel in
different ways. And I think when you look at
prosecutions in the military and the
commanding officers, and this whole discussion
about whether they should be the determining
factor as to whether something is going to get
prosecuted.

In my opinion, the real issue is that
the commanding officers are really in those
lower levels violations. What we would
consider in civilian police departments, internal affairs violations. These are violations of policy like you know, fraternization, or conduct unbecoming.

And so I see a lot of people looking at the military prosecution, and they include all those collateral violations and prosecutions versus our county attorneys in most of our communities, we're talking about felony sexual assaults. And then Dr. Spohn's going to talk more tomorrow, in fact I'm going to be back because I'm very anxious to hear what she has to say, being such a known researcher in civilian prosecutors charging decisions.

I think there are positive things with those commanding officers and their ability to influence those other sorts of violations, which is why we would send cases that I couldn't touch in the civilian community to the military. And actually welcomed the ability to be able to do that.
I think though that one of the things that we have to be careful of, where ever we work, is that we involve outside subject matter experts, community based advocates, conducting external audits. For example I know that Fort Leonard Wood did look at cases. But you know, an audit should be done by someone independent. And I'm not saying that they said it was an audit, but it's one of the better sorts of reviews I've seen.

But it should include external auditors and other members of the community like advocates. And of course always going back to victims. And I have this example up here. We had a series of stranger sexual assaults in San Diego and we were really working hard on our SART. We'd done incredible things. This was the early '90s.

And this victim went on national television. She was like sixth in a series of eight that we investigated. And she's very articulate, very attractive. So the media
really liked her. And she wanted to be on the
news. And she talked about how San Diego PD
and the forensic examiner tortured her by
plucking 50, 100 pubic hairs, head and pubic
hairs. We really were back in those days
plucking between 50 and 100 head and pubic
hairs. I'm talking from each location.

And at first when I heard this I was
devastated because we'd been working so hard
to make this improvement. But after I got
over being so devastated, I actually listened
to her and thought, why are we? I've been
doing this since the early '80s. I have never
seen us use one of those hairs in a sexual
assault case.

And so I actually wrote about this
and included in training, I'm happy to say
that today in 2013, the majority of the
country actually does no -- not any longer
pluck head and pubic hair from victims. So
listening to victims even when we don't like
what they have to say, is really important.
And I know my detectives often times
translate it, I am working really hard, I'm
being buried too, I'm working well for
victims. And that's really hard as
investigators, when we believe in what we do,
and we know we are doing our best. It's very
hard to hear how bad victims often times
actually think we're doing. But it's really
critical to making those changes.

Just some differences again between
civilian and military. Our minimum basic
academy, San Diego PD I'll use for example, is
four months. And you had one of your
presenters up here talk about MP school being
11 weeks. So there's a really big difference.
I've always been concerned with the first
responders in the military being the MPs. And
I don't mean that they are. I mean in my
perception they're being left out of a lot of
the training.

I remember years ago, again in the
'90s, I went to 29 Palms with a team. And I
walk into this room and there were all these
people from DOD, Washington, D.C. And the
first thing I said was where are the MPs? And
the answer was they're not too smart. We're
just going to create a checklist.

That is really sad and actually
pretty offensive. Because what someone thinks
is that when I drive up in my patrol car and
I get out, that victims are just dying to tell
me what they've been keeping, not just from
law enforcement, but from friends and
families. Not for days, weeks, but often
times years. And sometimes decades. This is
a very, very, very complex field.

I think though with your
investigators, you have more training in the
military than the typical civilian law
enforcement agency. The difference is in most
of our departments, like San Diego PD, you
wouldn't even be looked at to come to sex
crimes without seven to ten years experience.
And it's not an entry level assignment.
So whereas in the military, they have a lot more investigator training. Our training is a lot more like on the job, and it's progressive over long periods of time. Kind of like what we were talking about with prosecutors.

We launched the Online Training Institute in 2007, funded by the Department of Justice, Office for Violence Against Women, or On Violence Against Women. And I just want to share with you my frustration with this.

I called at the time Dr. Kaye Whitley, and I said look, we've been funded by the Department of Justice to put together this online training institute. I'd really like to collaborate with the military to you know, have the basic foundation for sexual assault, but we can work on specific military issues and resources. So design at least some modules just for the military.

And her response to me was, we're policy and we don't have anything to do with
training. I'm not saying that that still exists today. But I know in my experience that that happens a lot. That you've got policy folks and training folks, and they don't necessarily meet or have a lot of influence over each other.

The OLTI is free. And I've got a slide here that I put together for you as I was sitting there. I've already talked about all this. Here we go.

We launched it in 2007. You can see that as of July 1, 2013, Russ calls me up and says, we're making your first module mandatory for our investigators. Starting July 1, 2013, to -- I left last week, so until last week, 903 military investigators enrolled for the Online Training Institute.

In my opinion, that should have happened back in 2008 or 9, whenever I talked to Dr. Whitley. Because you're dealing with investigators as you know, all over the world. And you've got people with down time on ships
while they're waiting to be deployed, or
transferred, and it's not to replace in person
training like the SVU Course at Fort Leonard
Wood, but the good thing about police
departments and military is that we do work in
a chain of command structure.

So just like this, somebody made it
an order, starting in July, that those
investigators are going to go through the
OLTI. And sure enough, you've got 903 that
have followed that order. Notice that from
2007 until that order in July, you're looking
at just over 100, maybe 200 military
investigators had gone through the OLTI since
its launch in 2007 until it was ordered in
2013.

I want to talk briefly about some of
the issues I heard. San Diego of course we
have Balboa Hospital. Balboa Hospital is a
teaching hospital. So one of the issues with
having the medical forensic exam done at your
military hospitals is that there, the people
who perform the exams are gone. They're gone
when I'm doing my follow up investigation.
They're gone when we go to trial.

And so even though the hospital was
very interested in doing the exams, in San
Diego, we ended up contracting out with
civilian forensic exam facilities because of
this issue of transfers and ongoing
investigations and trials. Which was really
disappointing for the people of Balboa.

Captain Sue Risk for example, she was
dedicated to putting together a good forensic
examiner program. Yes they could do it, but
as far as maintaining that sustainability, and
for us using them in our investigations as
experts in the cases, either you know, a
percipient witness, or an expert witness,
forget it. They would be transferred very
quickly.

I think the other thing that people
have failed to understand is that sexual
assault is extremely complex as far as
investigations. In fact I think the most
complex. I know as a young gang detective in
the you know early '80s, I was so proud
because I had you know, informants. I'm a
Spanish speaking white female, working in a
Spanish speaking neighborhood. And I had the
ability to develop informants. And I thought
I was really cool and hot and a supreme
investigator. Seriously.

Until I go to child abuse, and I'm
working cases with subdural hematoma and you
know, retinal hemorrhaging and dead babies
with multiple care takers. And children who
could not walk or talk. Now you work that
case.

Or in the case of sexual assault, you
work cases where our entire community believes
that women and men are sexually assaulted
because of what they were doing. They were
out partying, they were drinking too much.
And if you just hadn't been doing those
things, this would not have happened to you.
These are very, very tough investigations. Even domestic violence. There is no consent offense in domestic violence. You can't consent to being beaten. But the consent defense worked really, really well. So a high level of skill.

One of the changes I have seen is for years, starting in the early '80s, I heard people I had a lot of respect for say that we weren't doing better in child abuse and sex crimes because the cops just didn't get it. They were too macho, too cynical, too jaded, you know not sensitive enough.

It took me a long time. I'm talking until the '90s that I finally had enough experience, and enough ability to read the research myself to understand this is not about law enforcement. We have a serious problem in our society across all areas, with people believing sexual assault victims. Which is why we started the Start By Believing Campaign.
But that was important to me. And I think that's important in these cases too. Russ talked about the fact that the military is just a part of our culture. No different really than any other group that I've worked with.

Retaining personnel in specialized positions like the military is very, very difficult. In the civilian community, you'll actually see long term personnel being damaged as a result of that. Not just because for example, when I decided to stay in sex crimes, I gave up promotion. You do not stay in an assignment, or choose a career path like I did and expect to be promoted. But I was willing to make that choice.

However, there are lots of people, it's not just a matter of not being promoted, it's a matter of being sabotaged. Especially in law enforcement where terms like being too victim centered can actually be a dirty word and seen as negative. And I've actually seen
people disciplined and moved when they are too
victim centered or when they have a lot of
credibility within the community because a lot
of times insecure command staff, they don't
want someone in lower levels of ranks to have
more clout, more credibility in the community
then the command staff does.

And I've seen this across the
country. I think that's really important that
we address that.

MEMBER COOK: I'm sorry, before you
go from that slide.

MS. ARCHAMBAULT: Yes.

MEMBER COOK: Are those
recommendations that you're making now that
you think the military ought to do to improve
now? Because I guess you've been here today,
and maybe I've missed something. But I
thought that some of the testimony today, we
have added specialized investigators in terms
of qualified experts.

We do have gender investigators. We
may not retain the specialized skill set in one location, but we do still retain it within that criminal investigation community. It just might be in Korea versus Washington, D.C. or San Diego.

We are cross-training with the branches as we heard Mr. Strand talk about. He is training across the board. And each of the criminal investigators this morning talked about how they'd like to get more of that training. And maybe he should get more funding more often to get people up to speed quicker. And subject matter experts do include the military and the civilian population.

So I guess I'm just -- on some of these I agree that it sounds like we need to be doing these things, but it also sounds like from today and from other information we have been provided, that the military has already instituted many of the things that are recommended in this presentation, including
some of the things you said in earlier slides.
That it may be what happened in the '90s, but what's happening today is perhaps late to the table, but significantly better than what it has been.

MS. ARCHAMBAULT: I actually think maybe I was asked to compare civilian and military. Mine were actually complements to the military.

MEMBER COOK: Okay.

MS. ARCHAMBAULT: And what I was trying to say is that we still suffer these problems. I'm also, because I do a lot of training, sometimes I hear what's policy. As you know, when you establish a policy practice and for the ripples to really penetrate in all areas, is a little bit more difficult.

But I agree. I'm just letting you know where we still see a lot of problems within the military, which is people being too victim centered are often sabotaged. And their careers are basically at a dead end.
MEMBER COOK: Okay, because that's one of the things as we get to the end of this, I would really appreciate if you can focus in that there might be some things that the military has made huge strides. There may be areas where we haven't, so if you can, as you're going through this and saying look, and this is one area --

MS. ARCHAMBAULT: Okay.

MEMBER COOK: Where in particular I don't think you've moved the ball far enough forward. So that would be --

MS. ARCHAMBAULT: Yes.

MEMBER COOK: That would be helpful.

MS. ARCHAMBAULT: Okay. And one of those is the use of advocates. I mean I can tell you, and I'm talking about community based advocates or systems based, in this case, your military advocates. I've worked with people in the military and within civilian communities who are adamant that an advocate will not be part of their interview
or their investigation. Whereas in San Diego PD, the investigators would tell you that utilizing community based advocates are their best asset.

So I know that's still a struggle. And I think it goes back to you know, nobody really likes to have people outside our organizations looking in, or feeling like they're going to judge them, or that they're there to catch them doing something wrong. But Dr. Lonsway talked about the fact that if we want to change that funnel of attrition, that we have to provide these victims with as much support as possible.

So that's one area that I think I'm hearing a lot less of an argument in the civilian police departments. Once in a while I still get it, but a lot less. I used to get it a lot more. I still think there's resistance in the military. And we don't wait for the victim to say I want an advocate. Because most victims don't have the knowledge
or understanding of what that person can do
for them. The best practices that the
advocate responds and is there unless the
victim declines. And then of course we always
honor what the victim wants.

So what I'll try to do as I move
forward is differentiate between what you've
done and what we still have a lot of work to
do. HQEs is one of them. Your high quality experts. You know, in this country, there are
probably only six folks from the criminal
justice field that I could highly recommend as
an expert in sexual assault investigations.
And that's really a symptom of the problem.
If you were doing child abuse or domestic
violence, I could give you hundreds.

So this -- creating these experts and
having them available, it's not easy to do.
And I think the people who are involved in
hiring those high quality experts probably
experienced that. My reason I'm up here for
gender in investigators is that I heard it
this morning. I actually do not agree with
people who think that this is about having
investigators based on gender.

I actually see it with universities
a lot. With they're small enough and they'll
say, we guarantee you a female officer. One,
they can't guarantee it because you don't know
who's going to be on shift 24/7, 365. But the
other problem is that your female
investigators can actually be that victim's
worst enemy.

We've actually seen that when an
officer is doing their job right, it can be
very important to that victim. Some of my
favorite investigators are males. And the
reason I bring that up is because it's an easy
fix for people to say, we're victim sensitive
now and we're victim centered. Because look,
I have X number of female investigators and
female prosecutors, and I always have concerns
when I see people making quick and easy fixes.
It is really not about gender. It is about
whether this person can show compassion,
empathy and skill.

And victims, even when we screw up,
and trust me, we screw up a lot in law
enforcement, victims are very smart. They
know the difference between a mistake that
involves malice and someone who's working
really hard to do the best they can, and
they're actually very, very forgiving.

So that's the reason that's up there.
Not that you're doing anything wrong, but I
know what these discussions are across the
country. And I was just sharing this
retention of personnel is a problem in
civilian communities. It's not just the
military community that has this issue.

I already talked about my own career.
I want to talk about some of the other best
practices. Russ has talked a lot about FETI,
the forensic experiential trauma interview.
And people have talked about cognitive
interviewing. Now Russ and I don't always
agree on all this. But he reminded me as I was coming here, that if we always agreed, one of use wouldn't be needed in the world. Right? Which I think is really true.

I personally think that what Russ has done in his team with FETI is taken a lot of the best, and then some new research from the neurobiology field and brought that in. When I train law enforcement, I always try to show them what they already know, and then how can we do it better.

So I don't think FETI is absolutely new. I think what Russ has done is pulled together the best and then supported that with some research. But frankly, we need a lot more research.

The conversation surrounded cognitive interviewing. Cognitive interviewing has been around for decades. But even Dr. Fisher talks about that cognitive interviewing was not designed to be used with victims who've experienced trauma. You're talking more about
strangers types of crimes, where somebody was
describing the color of a car, or you know,
what they heard or what they saw.

So just be careful when you talk
about cognitive interviewing or FETI. It's
really much, much bigger. I remember many,
many years ago going to FLETC, the you know
the Federal Law Enforcement Training Center
has these smart rooms. And every room on
every wall, not one wall, but every wall, was
who, what, when, where, why. And then I get
there and I say forget everything that's on
that wall.

So again, what we need is a lot more
research. I thought there were really good
questions this morning from the panel about do
we know this, do we know this. In fact Mr.
Bryant, you brought up the 48 hours. As far
as I know, I was the first person in this
country to bring that into training for law
enforcement when it comes to sexual assault.

But what people have forgotten, I
I don't do because I've got Kim Lonsway here that wouldn't let me get away with it, always citing where this information comes from. That information actually comes from Lieutenant Colonel David Grossman, military. And what Lieutenant Colonel David Grossman did, was based on his military experience. Him and his partner put together a program for police chiefs and sheriffs to send their internal affairs investigators, and it wasn't just for police officer involved shootings, it was for any incident, critical incident. And why would police chiefs and sheriffs be interested? Because it's those critical incidents where we are going to be sued. And what Lieutenant Colonel David Grossman was doing, was trying to help his chiefs and sheriffs understand how to best interview officers following these critical incidents to get the best information when you are in fact taken to court to be sued for money.
So I'm glad to see it spreading across the country, but I wish people would kind of go back to where this came from.

CONGRESSWOMAN HOLTZMAN: Excuse me, can I ask about that? Does that -- are you suggesting -- I'm not sure I follow. Are you suggesting then that the 48 hours, the 48 hour rule in terms of not going forward with investigations for 48 hours because it's genesis had to do with police officer shootings, doesn't necessarily apply to --

MS. ARCHAMBAULT: Oh no. No, I'm saying exactly opposite, which is, it does apply. What I'm saying is that --

CONGRESSWOMAN HOLTZMAN: Is there scientific basis that it applies?

MS. ARCHAMBAULT: That's actually my point. And I am sorry --

CONGRESSWOMAN HOLTZMAN: Okay.

MS. ARCHAMBAULT: I know I talk really, really fast. So what I was trying to say is, I went to a training -- I actually put
on a training. And this guy says you've got to look up Lieutenant Colonel David Grossman's work. So I did. He's got a book called Killology. He's got a website. He's talked about critical amnesia. I adopted this.

I had already believed it based on my own experience investigating these cases for many, many years. When I heard Lieutenant Colonel David Grossman, it made sense. I know that victims are much better off beyond that preliminary interview and contact after they've gone home. After they've contacted advocates for support. After they've you know, taken a shower or a bath, or just being surrounded by things they know. Of course I knew this. I knew this from experience.

What I'm saying though is that I'm watching this 48 hours just like Mr. Bryant brought up. It's being used all over the country without anybody really understanding that it actually came from a military person based on trauma and military. I personally
went back to Dr. Lonsway because she makes me always you know, bridging research to practice, and practice to research, and said, go find me the research to back this up.

So she contacts some of the leading researchers in this country. Dr. Mary Koss. It isn't out there. Now from a cop's perspective, I knew this. I still know it, just from my own experience. But we're missing some of this research. Not just with FETI, because FETI is really more than just the experiential trauma interview.

We should be doing trauma informed investigations and prosecutions. And that's another thing that concerns me. Right now the buzz word in the country is trauma informed interviews. Well, it's much more than that. We need more research. Research like the research coming out of Noel's team, Dr. Becky Campbell, Dr. Debra Patterson, to help us come up with the research to back up what I for one as someone who's done this for a long time,
1 knew. All right?

2 So no, I'm thankful for Lieutenant

3 Colonel David Grossman's work out there when

4 it comes to internal affairs. But we need to

5 understand, and I think in assaults and

6 shootings, you've got an officer involved in

7 a pursuit. What we do with victims is say,

8 you know, where was your right hand, where was

9 his left hand. Well how many minutes did that

10 occur. It's all ridiculous, they can't do it.

11 So for example when I train cops, I

12 say you know, almost every cop has been

13 involved in a high speed pursuit. So if I

14 look at this cop and say tell me, where was

15 your right hand, where was your left hand, and

16 what time was it when you went by that

17 intersection? And was the light red, or

18 yellow, or green? And how many pedestrians?

19 They look at me like I was crazy. That's my

20 point.

21 Funding additional research. Some of

22 the things that I also think is pretty
incredible, is I was on the advisory board for
the Brig at Miramar. And I got to be honest
with you, at the time I was shocked. Because
in the civilian population, when we convict
offenders, they don't get treatment.

These were people who were being
treated. They had to have a minimum of three
years in confinement to be eligible for the
program. But these were people who were never
going to go back into the military population,
but the military cared enough that they
actually were involved in varying extents of
sex offender programs.

That's amazing, because we basically
don't do anything with our people when we lock
them up in prison. We actually end up making
angrier sex offenders when they come out.

Some of the things that -- and I know
I'm out of time. So some of the things that
I have proposed and would like support for,
and I know that at least Russ and some of the
people who work in these positions, are all
for it. But for a long time I've wanted to collaborate with the U.S. Navy, just because Teresa Scalzo and I go a long way back. I think she's an outstanding prosecutor and her work with the JAGs and then Russ Strand.

But we need not only to fund the research, but we actually need to answer a lot of the questions that I heard this morning about all this. And we are funded by the Department of Justice, Office on Violence Against Women. October 1st we just got a comprehensive technical assistance grant for law enforcement.

So for many years I've offered to collaborate with the military to combine our resources and our expertise. And collaborate with researchers like Dr. Campbell or Dr. Patterson, to put together an online training module on this issue. But not just trauma informed interviews, but trauma informed investigations and prosecutions.

I am actually jealous of some of the
funding that's coming out of the military,
because in my department, I had zero dollars
in my training budget for training. And the
reason is because law enforcement in many
states, we have to go to the training that's
funded by our, like in California, POST,
police officer standard in training, which is
money taken out of fines.

So and the problem with that is a lot
of our state training, it's not cutting edge.
It's not best practices. It's pretty much
minimum standards versus setting the bar as
high as we can.

So I have watched incredible changes
take place within the military, and that's
what I was really trying to say, is some of
the best practices, like the military led this
country in what's called forensic compliance
in the civilian community. In the military,
it's restricted reporting. A lot of people,
that really hasn't been a discussion. You
were doing that, the military was doing that
before this was even an item of discussion in
the civilian population.

I'm concerned, I saw something where
the Army said that they had a 40 percent
increase in reporting. I can tell you that
your command staff and all your people have to
be really prepared for that. I've not seen
any other community report that sort of
increase.

And I had a mandatory program that I
developed for all high schools in the City of
San Diego for freshmen. I can tell you that
when we would go to a school, and one school
allowed us out twice a year, and all the other
schools were once a year. In the school that
allowed us out twice a year, our reporting
doubled.

So we know that communities when they
see increases in report, they think it's
negative. So really being prepared as Dr.
Lonsway showed on that slide, being prepared
to help people understand that an increase in
reporting is a really positive thing, knowing
that 80 percent of victims don't come forward.

    This is what I work on with law
enforcement too. They get upset when a victim
delays reporting five days, let alone 50
years. Right? Flagstaff as an example, I
just recently trained for the Arizona Chiefs
of Police. Flagstaff has had an incredible
increase in reports because they have really
implemented the Start by Believing campaign.

    What that means is that their
reporting rates are higher right now than
Tucson. And you know Tucson has the
University of Arizona, which is a huge student
population. So can you imagine that Flagstaff
would be getting possibly, if someone didn't
know how to respond, getting negative media
attention because how can Flagstaff have more
sexual assaults than Tucson that houses the
University of Arizona?

    Well I know the answer to that. But
we've really got to help people understand
that. And I think the military needs to do a better job helping people understand that.

I've actually seen the media report that 40 percent increase as though it's negative. And it's not negative. Anytime you see an increase in reporting, somebody is doing a good job.

We see about 25 to 35 percent of our cases where victims just decline prosecution. I'm really glad that the panel focused on, do we force victims to prosecute. And I've yet to go to a community where that happens unless there was a stranger sexual assault where they would really be concerned about the safety. Because you know, the prosecutors and law enforcement, we have a responsibility to a community, the rights of many versus the rights of an individual.

But I think that's really important and I want to say that at least from experience, when I hear someone say that victims in the military also have a right to
decline participation with the investigation and prosecution. That's not the perception. And I think it might be a situation where policy has changed in policy and practice.

I know that many military victims feel that they're not in control of what happens. And maybe it's this issue of the sexual assault versus collateral violations. But I for one, what I tell civilian law enforcement agencies and their commanding officers, victims all over this country are screaming for their day in court, and they can't get there.

So what business do we have forcing victims to participate in a system that most victims are failed in this country? This is a stat, U.S. Army's reporting anecdotally six percent of victims withdraw from the investigation. I have a couple concerns. I find that absolutely impossible to believe because I know that even the most sensitive investigators are going to lose victims.
Just because, believe it or not, we are not their first concern. These people are trying to survive. They're trying to get to work, they're trying to get their kids off to school. We just are not their priority. However, with that said, based on my cynical you know, perspective, that it's impossible. If it's true, if we can actually establish that that's true, then somebody better find out what's making that happen.

My cynical part of me says that it's because victims don't have the ability to withdraw as someone said earlier, when the cat's out of the bag. But I know I've seen this number right there. And the last thing, and then I'll just pass this out over to Noel, regardless of where I am. Is just as an example, California is a medical mandated reporting state.

So what that means is a victim of sexual assault goes in for a medical forensic exam, the examiner has to report to law
enforcement. So all states you know, have to provide what the military refers to as restricted reporting. But in cases of the military in California, the examiner is going to report let's say San Diego to NCIS.

And what I hear is that once that report is made to NCIS, even for cases where it occurred you know, 100 percent within the civilian community, they're not in control of whether or not there's a restricted versus unrestricted report, because NCIS got the mandated report. And I bring that up because it kind of goes with that thing, are victims really in control? Is it really true?

Because as a supervisor of a unit response for investigating over 1000 felony sexual assaults a year, no domestic violence, no child abuse, I've got to tell you, when I got those mandated reports, if the victim didn't want to talk to me, I didn't dispatch an officer out to bang on the door and say I don't care whether you want to talk to me, I'm
going to talk to you. And you have to talk to me. Because it's not going to go anywhere. We're actually going to create more damage then what's already done.

I know some civilian law enforcement agencies, usually the smaller one, and it's a complaint by University people, is that they will run with an investigation, kind of like these are felony crimes against the state. I have every legal authority to force this investigation. And some do, but most do not.

Anyway, so it's just an area that restricted reporting, medical mandated reporting, especially in states like California, that we still need to work on.

MEMBER BRYANT: May I ask a question?

CHAIR JONES: Yes sure, Mr. Bryant.

MEMBER BRYANT: Do you think that there's the perception that they're not in charge in the military is -- goes along with the whole thing that a certain rank, and up through certain ranks, you're not in control
when you're going to sick call.

MS. ARCHAMBAULT: Yes.

MEMBER BRYANT: You're not in control of what time you're going to get up, or what time they're going to blow taps. So in the military, depending on where you are in the command structure, do you think that that has some -- that it's not just sexual assault, in other words what I'm trying to get to.

MS. ARCHAMBAULT: Um-hum.

MEMBER BRYANT: Victims probably in the military feel less in control period. Is that fair?

MS. ARCHAMBAULT: Yes except that I know the victims that I've talked to, their speaking specifically to the investigation of the sexual assault. And I, my personal opinion, I think what we need to look at, I think it might be some of the collateral issues that are going on. That maybe the sexual assault's being dropped.

But once the cat's out of the bag,
and you've got a minor in possession, or there
were drugs, or there was fraternization, or
there was oral cop, or I mean there's all
kinds of things. I think that might be more
what it is versus just the sexual assault.

MEMBER BRYANT: Okay.

DR. LONSWAY: And I think she's
talking specifically about a restricted report
that becomes unrestricted involuntarily.

MEMBER BRYANT: Well I understood
that. But when we talk about the perceptions
that victims are not in charge, there's a lot
of things when you are in the military, you
are not personally in charge.

MS. ARCHAMBAULT: Yes. But here
they're specifically talking about the
investigation and prosecution of their sexual
assault.

MEMBER BRYANT: All right.

MEMBER COOK: But are you hearing
from victims that somebody will go bang on
their door and force them to actually talk
about -- I mean it's one thing when a victim comes forward, or if the military, because of the community that's there, that they make a decision to pursue a case. Whether the victim participates in that case is a different and a separate issue.

I'm not a -- I mean, are victims telling you, is that the perception, that victims believe they're going to bang on their door, they're going to be forced to testify, or? I mean I don't think we've even heard that in the testimony that's come before this panel.

MS. ARCHAMBAULT: I don't think anybody's banging on their door because the military NCIS would call them up and tell them to report in a certain location. So I can tell you that yes, that in cases where a military person is sexually assaulted in a civilian community like in California.

MEMBER COOK: Um-hum.

MS. ARCHAMBAULT: And a medical
mandated report is made to NCIS, that we are
being told because End Violence Against Women
International, we're the national technical
assistance provider on forensic compliance.

So we get reports that because of that medical
mandated report being sent to NCIS, that NCIS
launches an investigation at that point.

Basically meaning that restricted
reporting for military personnel isn't an
option because of California's medical
mandated reporting requirements.

MEMBER COOK: And just to clarify,
because you -- is that recent? Is that recent
processes that you're hearing? Or is that
also back in the '90s or --

MS. ARCHAMBAULT: No, no.

MEMBER COOK: Oh, that's recent,
okay.

MS. ARCHAMBAULT: No, yes, we're
talking -- we've been the technical assistance
provider on a national level since 2009. And
in those instances with medical mandated
reporting, it's still currently an issue.

MEMBER COOK: Thanks.

MS. ARCHAMBAULT: I'm not saying it's true.

MEMBER COOK: No, no, I'm just -- that's --

MS. ARCHAMBAULT: I'm just saying that those are the conversations.

MEMBER COOK: It's what you're hearing. And that's what I'm asking about.

MS. ARCHAMBAULT: Yes, yes.

MEMBER COOK: Is that what you're hearing and is it current, and the answer's yes.

MS. ARCHAMBAULT: Yes.

MEMBER COOK: Okay.

CHAIR JONES: Dr. Busch?

DR. BUSCH: I think my PowerPoint's being put up. But I'll go ahead and start.

Chairwoman Jones and distinguished panel members. Thank you for giving me the opportunity to address this panel on this very
important subject. On behalf of the
distinguished faculty and staff of the
University of Texas at Austin, and the school
social work, I'm very pleased to welcome you
to our campus.

UT Austin ranks among the top 25
universities in the world, with the core
values of learning, discovery, freedom, and
responsibility among others. And I understand
that the charge of this independent panel is
to investigate issues of sexual assault
occurring in the military, and to make
recommendations regarding how to improve
investigation, prosecution and adjudication.

It seems fitting then that this
hearing takes place at our public university,
where the ideals of learning through dialogue
and discourse are a shared value. So I'm very
pleased to be a part of it.

By way of introduction, I have worked
in the field of inter-personal violence for
about two decades, and I've been a social
scientist for about 15 years. I'm also a
survivor of sexual assault. I'm a licensed
social worker and practitioner, and today I
still listen to the voices of practitioners,
including those working in the criminal
justice field, and other professionals such as
sexual assault nurse examiners.

I'm also the Associate Dean for
Research of the School of Social Work and the
Director of the Institute on Domestic Violence
and Sexual Assault. IDVSA is the only inter-
disciplinary academic institution of its kind
in the nation. We are collaboration of the
Schools of Law, Social Work and Nursing, and
the Bureau for Business Research, with more
than 150 community collaborations, or
community practitioner affiliates.

IDVSA researchers, like social work
scientists, investigate social work problems
in the context of systems and structures in
the lives of human beings. And so we use bio,
psycho, social context, their families, their
communities, their social structures, such as
schools and court systems to look at those
dimension of social problems.

We also consider a historical
analysis that helps us understand how things
got where they are, and what moves us forward.
It's a complex social science discipline
grounded in ethics and principles. I'm proud
to have family members who are both veterans
and active members of the military. And over
the years I've also collaborated closely with
colleagues who are career military social
workers.

However I have not served in the
military, and so I don't consider myself an
expert in the military system. So it's from
these previous viewpoints that I will talk
with you today.

The research that I've conducted
clearly demonstrates the professionals in
response systems to sexual assault need better
tools and strategies to more effectively
address the pervasiveness and the complexity of these crimes. Little is known about the range and effectiveness of services for sexual assault victims from their point of outcry to the indictment and adjudication of the offender. And the factors that promote or hinder victim restoration and offender accountability.

My research has been aimed to enhance our understanding of what contributes to the scope and effectiveness of services, with the major goal to provide direction to policy makers, practitioners, and to advocates, to first responders, to community members, about how to meet the complex needs of victims. To hold offenders accountable and to ultimately end this violence.

The underlying premise -- my underlying premise is that sexual assault is a social problem and that if we are to reduce it, and lessen its impact on society, it really will require a complex, multi-
dimensional systemic response. At the same
time though, we know that professionals
engaged in response systems can uniquely make
a difference in the validation and treatment
of victims and the accountability of
offenders.

What I've learned is that this crime
is really difficult. It's really thorny. In
previous testimony you've heard why these
issues and why these cases are so difficult.
I know that you've learned that for example,
the difficulty lies in the relationship that
exists between the offender and the victim.
The tenacity of the offender's behavior. The
lack of reporting. Under-resourced services.
These crimes are among the most nuanced of all
violent crimes, and yet our criminal justice
system is set up to discretely measure
behavior.

And so there's quite a mismatch in
those two things. And so what we have to
learn is really how to hold complexity. So a
prism might be a good metaphor here for both
the crime itself and the process for
addressing it.

A prism by definition is a tool that
refracts light. Prisms are also used for
internal reflection and they can operate like
mirrors. Before the prism was invented, we
believed that light was colorless. Today we
know that prisms can be used to break light
into its color spectrum. Refraction changes
the direction of the wave, while color travels
along its frequency.

Sexual assault crimes as you know,
have historically been invisible. They've
been unspoken, they've been under addressed.
So every time we undertake a process like
you're undertaking, like this hearing, we
refract light onto it. We see the crime in
color. We indeed see its truth.

Perhaps too like the prism that shows
the color along the spectrum, we start to
develop an integrated, interdisciplinary
response that I hope is forthcoming for all of our communities. And I think that our research supports is the way forward.

So let me relate that metaphor more precisely to the research that I've conducted over the last 14 years with IDVSA. I've directed large scale studies with surveys of representative samples of 1200, to smaller scale quantitatively driven studies where we collected individual and focus group data.

We've collected data from stakeholders across every stage of this crime, including from sexual assault nurse examiners, Hospital administrators, crime lab personnel, first responders, law enforcement investigators and their leadership, prosecutors, defense attorneys, system based victim advocates, community based advocates and policy makers. Currently we are working with an interdisciplinary team from Houston, some of whom are in this audience today, on a project funded by the Institute of Justice,
where we're exploring the reasons for untested sexual assault kits.

Often talked about in the public as a backlog, which is actually not the right term for it, but we'll go with that. The aim is really to develop a national model that addresses why we have this backlog. You know, what were the conditions under which these kits were left untested? And then how do we solve that for the nation so that we don't end up with sexual assault kits left in property rooms untested?

Victims and their families are also at the center of our research. And we've also engaged men who in surveys have identified as perpetrating this crime. We have over the years have interviewed many, many victims. By in large, most victims who have not reported to law enforcement.

In all our studies, the central goal has been to fully describe the issue. To understand the complex decision making of
every actor along that continuum. Because everybody makes a decision or maybe an indecision about the crime. And then to offer solutions for improved systems response.

Today I will offer you our framework. What we have implemented at least here in Texas to answer these questions. And perhaps these questions that I have in front of you are lofty, but we think they're achievable. I offer you this as perhaps a model, although there will be some differences in its translatability for the military.

So here are the questions that we have explored here in Texas. And this is our 36,000 foot view really, probably pulling some of what you've heard all day long together. We wanted to know what systems are working well to meet the needs of sexual assault victims? What are the current organizational needs to address the crime? What are the challenges to collaboration? And then what are the preferred outcomes?
And the preferred outcomes, you can talk about best practices, but we really want to talk about them in terms of preferred outcomes, and we want to reach towards that. And that is always the goal, to reach towards that preferred outcome. So keep moving us down the road towards that preferred outcome.

To answer question number one, what systems work well to meet the needs of sexual assault victims, we took an inventory. We developed a trajectory, calculated the incidents of sexual assault crimes and essentially what we did really was conduct a full needs assessment. So I don't know if that's what the military has done, but that's where we had to start. We really had to understand the scope of the problem.

To answer question, queries number two about organization needs, the framework led us to estimate victim and societal costs around sexual assault crimes. Estimating costs for a new and expanded services,
expenditures and revenues for programs, such as law enforcement and same programs.

So as a quick finding, we know in the state of Texas, at the very base level, we can tell our policy makers that sexual assault costs the state of Texas $42.8 million a year. And that's a real underestimate, but I can tell you per dollar where we spend that money. Now we don't -- what we did not measure, were costs to prisons, how it is to house people who are eventually adjudicated. We don't do treatment of offenders, that's not in that cost. But we can at least tell our policy makers this is a reason to solve this problem. If for no other reason, this is what it's costing us.

Research queries three and four are driven to divine collaboration. And the current context of current conditions around awareness, collaborative efforts, training needs and prosecution processes. So here best practices are included in what's working, such
as reduced investigation time and expansion or availability of what we call a vertical prosecution services.

What we found -- you know, when you think about a current condition, you really think about what is needed. What we found was that latent in all of these means is what you've heard over and over today, which is the value latent should be around victim inclusion and victim centered approaches.

So I want to share just two of our outcomes. This is really at the very beginning of what we have found.

The first illustration here shows you the chronologically the course of a sexual assault incident from victimization to victim restoration. This is a good start. The reason it's a good start is because again, we reach towards preferred outcomes. If we know what -- where's our data's going, and we look at that bottom circle, we know in the state of Texas, 82 percent of all cases end here
without a report. And we know that's not a preferred outcome, so how do we make a deep dive with that circle?

So it was important for us -- so part of our research was to actually build this trajectory of what this inventory and trajectory. And it really has helped us then map where we're going to go next. So you could take each one of these blocks, and it could be its own research piece when you really understand what's going on, that full assessment.

So this model doesn't fit the military system exactly of course, because it was built on data from the civilian structure. But it really does give you a point -- a similar model could give you a point of how to do a deep dive. I might say where it says in the middle there, it's highlighted, it says case reported, see Figure 4. I'm going to talk about that.

Secondly, the second illustration
gives you a piece of information about cases reported to law enforcement. And that is informing our NIJ funded project in Houston, which is a research action project. So you can see that 18 percent of cases reported now, we're taking one jurisdiction, although a very large jurisdiction, and just one piece of law enforcement, right, because we have the sheriff's department and also Houston Police Department. But of those 18 percent reported, and now we're taking a really deep dive.

What we know is that we're looking then at that box now saying, exam performed, sexual assault nurse exam performed, and actually we're taking a deep dive. Those that are performed now, we're now actually opening up those cases, not only about those performed, but those cases that were performed, and nothing has been done about them. So those were the unrequested or untested kits.

So again, this is just one example of
what research can do to move an agenda forward
when you really do understand the element of
what you're dealing with. Sort of a whole
picture or a map.

The problem here, as I see it, is
both these examples I gave you are really
focused on victimization. And I really do
believe that we need to focus some on -- we
need to make a major pivot towards
perpetration, and I'll talk about that in a
minute.

The framework of preferred outcome
serves as a guide for future directions and is
a mechanism to achieve exemplary services.
Recommendations can't be one size fit all,
particularly given the vastness and diversity
of our system, and perhaps particularly around
the military system.

Nonetheless, preferred outcomes are
a way to initiate useful conversation. They
are a means to spark open honest and useful
dialog that will strive towards those
exemplary responses to this crime. So in the end I guess I would urge a process. A longitudinal courageous process that involves a multi-loop diagnostic and implementation phase or phases.

This would be a process that really could hold complexity, and I think you've heard that over and over. And it would be a way to map what's going on and how you're doing. And it would be a way to map both the process and the outcome. So the change of that process.

In anticipation of this panel, I was really thinking about the reasons for the upsurge of sexual assault and the reports about sexual assault in the military. And really trying to theoretically think about that, because I am one of those card carrying academics.

I see the military as the great equalizer. It really is society's great equalizer in so many ways. And I wondered if
that is because the military has fast forward
society, whether it's about race or sexual
orientation, or the definition of marriage.
The civilian world goes incrementally on
things. We engage in some national discourse
when we disagree, and in so many ways, we get
to have our individual opinions.

Relatively speaking, in the military,
equality changes are comprehensive and abrupt
and broad. The military has taken on gender
disparities perhaps like no other system in
the U.S. Characteristics embedded in sexual
violence of women, such as entitlement, power
and control that have essentially been leveled
in the military, and to some degree, you have
undone sexism.

While the presence or undoing of
sexism does not fully explain the occurrence
of sexual assault, so I don't want to misstep,
but I want to offer this as a theory. The
status of women and the embedding of the
 occurrence of sexual assault, I think deserves
some attention in your discovery about how the
military has equalized the status of women and
what that has done, and how this maybe has
promulgated the issue of sexual assault.

So I'm going to offer you what I
found is some exemplary service --
characteristics around services as I close.
First, I think you need to strategize, or
first what we did, I'll tell you what we did.
We had to strategize some innovative ways to
enhance collaboration and communication among
professionals that assist sexual assault
victims.

Interdisciplinary teams are really
important and providing support structures for
those are really important. Joanne said
earlier, she talked about the justice -- an
advocate and working with investigators.

We have implemented that and are now
testing that model in Houston. That person is
called a Justice Advocate. They are embedded
with the investigative unit. And so in six or
eight months, we'll know how that's going, but
the preliminary research is that it's
actually, this particular person is able to
bridge really nicely, the needs of the victim
and move the investigation forward in a way
that originally investigators did not believe.

So that's a little bit different than
the model that a community based advocate. So
that's what we're testing in Houston.

Recruitment and retainment of the
most seasoned professionals and responders and
champions, we've also found this is really
important. You know, there's a lot of
research that says you can change the
knowledge of people, but you can't change
attitude. And I have to tell you, I think
what you were talking about is, you know when
I know something. And that's called actually
practice wisdom. And when you don't know it
empirically, but you know it.

And it has meaning and relevance.
And what I know from my practice wisdom but
not yet empirically, is that we have changed
people to champions in this work, particularly
in Houston. And what that has really taken is
some longevity and some relationship and some
keeping at it. And so that's how I would
encourage you to keep the most seasoned
professionals as these responders and find
champions to do this work. It's very
difficult work.

I also think you need to take care of
them. These are not easy cases. They are
cases that can burn people out. So we have to
think about that.

Accessible and competent services,
and I think the question about culturally
competent, culturally grounded, contextual
services was a really important question.
Courageous victim centered approaches, and I
do mean putting things on their head
sometimes. And then, revolutionary campaigns
to broaden our understanding of this crime and
decrease it's stigma.
So in closing, I want to go back to my metaphor about the prism. Scientists use reflective prisms to invert, displace or otherwise disrupt an image. Without a prism, some objects would really appear upside down. Using a pair of prisms can be used for what is called steering, where deflection is focused to desired angle within a narrow field of regard.

This framework perhaps provides a way to look in, narrowing of understanding, a steering, a way forward, a way to continue or engage in our courageous dialog to solve this problem. I really do see this panel as an opportunity and that your ultimate recommendations to Congress as being able to make meaningful shifts in the anti-violence field, you will pivot towards justice, towards the accountability of offenders, not just for the military, but for our society in general.

Thank you.

CHAIR JONES: Thank you. Questions,
comments? I just had one question, you talked about the military equalizing the status of women. Could you amplify that remark.

DR. BUSCH: Well you know, when I was thinking about the upsurge and the reports and this 40 percent reports, I was really trying to theorize about that. I know that there has been rhetoric about why that would happen. Does sexual assault happen more often in the military is, I think, the theory that more people want to go to. Or is it something about the military culture where sexual assault would happen more often?

And so I wanted to shift the conversation and offer an alternative theory. Alternatively it might be that if we look at the issue of sexual assault being embedded in the issue of the status of women, and it's not about gender. The issue of sexual assault is not about gender, it's about power and control. Embedded that in that, certainly is the status of women, right?
So it's a very sort of multi-layered complex issue. But we think about what the military has done in terms of the status of women as a great equalizer. Right? People are able to be equal in the military. You're in the context of a bigger society where the status of women is not equal.

And so I think people that live and work in the military, make their lives in the military, live in this juxtaposition where the status of women and the place in which they make their careers is one way, and in the bigger society it's in another way. And so it was really a hypotheses to sort of provoke thought that it is really not about the people who exist in the military creating sexual assault, but something that's culturally shifting in the military that could explain the upsurge.

Was that helpful?

CHAIR JONES: Yes. I understand your comment better.
MEMBER HILLMAN: I have lots of questions about that. But let me -- let me come back to something more targeted, which is what metrics we should be looking for? So one of the things you actually mentioned, I think while this slide was up on recommendations, but you mentioned the shortening the investigation time might be one way to measure progress.

And yet I worry that's a lousy way to measure progress, because we need to give victims and survivors time to come forward. And therefore encouraging law enforcement to shorten that time and to press on that metric could be counterproductive actually.

So I -- another number I was wondering about, and this goes to the question about how the Army's suggestion that maybe only six percent were -- this came up in a previous hearing where we were talking about conversion rates, and the conversion from unrestricted to restricted. And one of the
Air Force's great victories in the special victims counsel era that has only been these past months, has been a much higher conversion rate, a conversion rate of restricted to unrestricted reports.

And I've asked previously of some of the civilian experts, what should be our goal for that? I mean how can we tell we're actually doing what we should be doing there?

And at one point somebody suggested to us 80 percent should be a goal for the restricted to unrestricted. And I just -- or should our goal be five percent? I mean I just -- your reactions to that would be helpful to me at least in trying to think about how we should address that. Why would anybody ever report this sort of thing?

DR. BUSCH: Let me go back to the first question. So when I talked about shorter investigation times, that was one example. And what I want to really emphasize is that, I think maybe we've all said this,
this crime is really complex.

And so what people want to do is have some absolutes and, what I'm hoping my take away message is, is that people need to be able to hold the complexity. So in some cases, shorter investigation times is the absolute answer, and in some longer.

And so people need to be able to sit with that complexity and so I guess that was one recommendation. But we have actually a list of recommendations. So it wouldn't be carte blanche that we're talking about making that, because as soon as you make a recommendation with that sort of emphasis, you've made a mistake.

So I would just urge complexity. And then I guess to the other point is, you know, I'm a scientist. And so until I understand the impact of what 80 percent means for that 80 percent or 20 percent, I'd have a hard time saying that should be the target.

So part of what I wanted to recommend
is that you know, unless the 36,000 view has
been done where there's a real assessment of
what's going on. While I think the training
that I've heard about is really important,
that engaging in a process, a long term
process that keeps looping back and trying new
things, and giving you the 36,000 foot view is
really critical.

DR. LONSWAY: I want to jump in and
keeping all of that in mind, I think a simple
answer is, ask victims. Is it working? Is it
not working? You know, and I think that
really comes back to what you were asking
about some of these things. You were saying
some of these things we've done, some of these
things we haven't. Some we've done
extensively, some we've just tried.

Is it working? Is it working? We
need to just keep asking, because you know
maybe it's something you've done but not
enough of, or maybe that wasn't the right
thing, or maybe that's exactly the model
everyone should -- we don't know yet. But we can know. And you are in such a perfect position to guide that learning.

And that's where all of us I think are so excited about the work you're doing. No one else is doing this experimentation on the level that you all are. And you have the opportunity to answer so many of the questions that we have all had in the field.

But I think it does start with asking victims, you know, is this working? And I think specifically one of the things I would like to see is a study of following folks who report a sexual assault, where are they one year later? You know, what happened? Not just the outcome of the case, but the outcome of their life on some level.

And I think one of the things that will help us with, is coming back to that false reporting question. When we train in this area, what we hear in military audiences, it's a different flavor of exactly what we
hear everywhere else.

But it's the incentives of false reporting. All you do is file a report. You say you've been raped and you avoid deployment and you get your spouse -- all these goodies flow, is sort of what people say. There's this incentive, this unique incentive to report and therefore falsely report.

And I think that's an empirical question. When someone reports a sexual assault, what is the outcome? Not just with the sexual assault case, but any collateral misconduct issues. And then again, their well being. Did they -- what services did they access? How are they doing? And I think that could guide a lot of what we do.

DR. BUSCH: I would say that the -- also that is true for people who perpetrate. You would want to know -- there's quite a bit of -- there's a body of literature about under what circumstances people perpetrate. Because they don't -- people who perpetrate, don't
always perpetrate. So under what circumstances, and what characteristics are, at the time are they perpetrating? And so could you follow that.

So I guess you know, the recommendation might be to broaden up the view point so you're getting those data and following it. And the model around an action research plan really engages the practitioners at all levels. Everybody involved in a continuous, with the researchers, the academics, in a continuous dialogue.

And that is actually what has changed people quite frankly, in Houston. It is the relationship and the need to be accountable to each other across this continuum of response systems. From the same nurse to the crime lab to the prosecutor, over two and a half years.

MS. ARCHAMBAULT: If I could just add something really quick. It's one of the reasons I was trying to give a long term view of the changes I've seen. What we're really
good at, both in the military and police
departments, is thinking that if I've changed
a policy, my problem has been taken care of.

And what I was trying to show you is
that this is a constant. It takes a lot of
work. And you don't just create a policy and
think that we've taken care of the problem.
Even when we're doing things the way we say
we're doing them, changing victims'
perceptions, changing the community
perception, that's a battle of its own.

Even when I'm doing everything right.
Which is why I was trying to also talk about
going -- what Kim said, is going back to
victims all the time. Because it's really
easy to say, oh no, that would never happen
here because we have a policy against that.
I see it all the time, cops tell me that. Oh
that could never happen here. I'm like yeah,
that's why we have prisons full of people who
violated laws.

All right, so establishing policy is
actually the easy part. And then changing
practice is really difficult, and keeping that
up, keeping that sustained. Not over one,
two, five years, but over decades of improving
and going back to victims and checking in.
You know, are we still doing better, right?
Have things really changed? That is a
constant challenge.

CHAIR JONES: Yes, Liz.

CONGRESSWOMAN HOLTZMAN: Well going
back to the point that was made earlier about
victim satisfaction. What jurisdictions are
doing victim satisfaction evaluations? Are
they?

MS. ARCHAMBAULT: We have the
numbers. I'm proud to say that San Diego
County, not just the PD, which just to give an
example, we started our dedicated sex crimes
unit in '71. To this day the Sheriff's Office
does not have a dedicated sex crimes unit. So
there's very different ways of responding
within the county of San Diego.
But from the county and all of law enforcement, victims, unfortunately only those victims who get forensic exams, which from a scientific evaluation is a little bit biased there. But they actually rated the officers very, very high. We in End Violence Against Women International have tried to promote that. Like for example, Washington D.C. has been in the news a lot, the Metropolitan Police Department.

But checking back in. I actually went back over two years and tried, hired multi-lingual advocates, and we tried to go back and do phone interviews with victims. But this, in this civilian population, the victims, they're a very transient population. They're very hard to find, which is why so many of us that do victim satisfaction surveys are doing them around the forensic exam.

The victim is given the information there. We don't ask them to fill it out in San Diego County there, because I actually
wouldn't allow that. I mean like this victim's already going through all that and now you want me to fill out a form. But they take it with them, and surprisingly our return rate is really, really high.

So a lot of communities are going toward checking in, in one way or another. And I think it's really important, because a lot of times people only want to focus on how is law enforcement doing? Where we really need to be evaluating the forensic examiner, the prosecutor's office, as well as advocacy.

And we have some communities, some really good models of how that's being done. But it does look different in different communities.

CONGRESSWOMAN HOLTZMAN: Also, is there a kind of standard -- because this was a question I asked when we had military people appearing at some prior hearings. Is there a standard for the caseload of a victim advocate? I mean how many cases can you
handle? Are there norms?

MS. ARCHAMBAULT: I don't know that.

DR. BUSCH: We do have that data, but I don't have it in front of me.

CONGRESSWOMAN HOLTZMAN: If you could share it with us, that's good. Because that's --

DR. BUSCH: Yes, I'd be glad to look that up. We did that literature search last year. And also there's a measure called procedural justice theory, that measures some psychological changes around procedural justice. The victim's voice. How they felt heard and it doesn't focus on what happened in the case, but actually the degree to which the victim felt heard, listened to, that would -- we are testing that measure in Houston.

And then Becky Campbell also has a measure that looks at, across the continuum, of response systems from the SANE nurse to the prosecutor, how the victim perceived that he or she was served by those professionals.
Which might also be a good tool to use in terms of evaluation.

CONGRESSWOMAN HOLTZMAN: Well if you would provide us with that --

DR. BUSCH: I'd be glad to.

CONGRESSWOMAN HOLTZMAN: That would be great. I would appreciate it very much.

DR. LONSEWAY: And just to sort of circle back too, and even beyond all of that being true. What I'm also talking about, is beyond victim satisfaction. Because what do they have to compare it to?

That is a critical piece of it, but part of what I was talking about too was in terms of archival data. Whatever we can find out about, where is this person for example, a year later? You know, are they still in the military?

You know, we don't know some real fundamental questions I think about what happens from the minute you report a rape, what happens, you know? And because we can
compare that with some baseline on where
someone might have been if they hadn't.

It's not going to be perfect, but you
have numbers. And so I think that would be a
fascinating thing to know.

CONGRESSWOMAN HOLTZMAN: Well I think
that's an important issue for us. Is what
kind of evaluations need to be done of these
programs. I obviously agree that it needs to
be done. We're not just talking about the
investigation or the medical help, or the
victim advocate, but the whole process.

And also what, I mean we're finding
the annals of their issues once people get out
of the military and then have to deal with the
Veteran's Administration. So it's a -- you're
laughing.

So this is an ongoing process. But
any thoughts you have about the evaluation
process as this goes forward, because it's one
thing to put programs and policies and
procedures in place, but how do you know a
year from now whether they're working, two
years from now. And what information do we
need to find -- even assuming that they're in
the right direction, how do you fine tune them
and how do you improve them.

So that was very helpful.

DR. LONSWAY: And beyond even the
things that we've already talked about here,
I think what your potential evaluation ideas,
you know one can do quality of work type
evaluations. You know poll a sample of
investigative reports from folks who have been
through the training and folks who haven't,
for example. Or now or a year from now. And
have experts evaluate the quality of the work.

There again, it's not going to be
perfect, but if we're looking for measures of,
you know for example is our training working?
Is it having an effect? Are they doing better
investigations? That's not impossible to do
that.

MEMBER HILLMAN: You all mentioned

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one thing that I don't think we have time to get into. But a pivot towards the perpetrators. And this last line on the chart up here says decrease its stigma. Well we actually want to increase its stigma for the perpetrators.

But we haven't really talked much about that here. But if you have ideas for what we should be doing in order to close those windows of opportunity, those points at which persons do find the ability to exploit the vulnerable populations or -- that would be helpful to us, I think.

Because it's a part of the front line services that you are talking about, and that we've heard about today. Those of you have been out there and are out there now, working on this. It's helpful for us to better understand what kind of guidance we might be looking to make sure we're aware of.

CONGRESSWOMAN HOLTZMAN: And just to follow up on that. I mean I've asked this a
few times. But what understanding do we have that would allow us to screen, if we could, for potential offenders. For example, in terms of recruitment. Are there -- is there a profile? Is anyone studying where there is? Maybe there isn't.

DR. LONSWAY: No, there's no such thing as a profile, wouldn't that be nice. But the best predictor --

CONGRESSWOMAN HOLTZMAN: Now. Excuse me, now there's no profile. Maybe we don't know enough.

DR. LONSWAY: Right. And the best predictor we have is prior perpetration. So I guess that was the two parts of it. When we say profile, we're thinking personality characteristics, or whatever. I mean there are some things that are more -- you know that are, along the dimension, more likely to be seen in an offending population then not.

So there are variables that differentiate, they're just -- they don't have
a clear threshold to say you're in this camp or that. But the second piece of that is you know, if you're going to predict out of a room of 100 people who is likely to sexually assault in the future, the one thing that would be most helpful to know is have they sexually assaulted in the past?

It's not perfect prediction. It's not going to be true for everybody, but it would be the best prediction.

DR. BUSCH: I think there is a bit of research around. We did a survey around the legal definitions of perpetration and gave it to a sample of men. Have you done these things? A surprising number, and I know it was a small sample, it was surprising percentage said yes.

I think we have a lot of work to do. I don't think we know yet. I think we would be remiss in making recommendations specifically about that, other than to say that's where we need a really deep dive.
Resources I think, a recommendation around resources going to that to find that out, is probably maybe one of the top priorities.

CONGRESSWOMAN HOLTZMAN: And along that line, I mean it's not exactly the same thing, but also research on the victim. Because one of the things that I've learned in this process, is that at least in the military, and maybe it's not true in the civilian sector. But a substantial proportion, more than 40 percent of rape victims in the military, sexual assault victims, have been previously victimized.

Well why is that the case? What makes victims more susceptible? And if that's true, what can be done to de-susceptify them? To strengthen them? To protect them? To make those fences that somebody was talking about, budget or otherwise.

But in a human sense, I mean have people looked at that? Is there research out there on those subjects?
DR. BUSCH: I think that research bears true what you're talking about. And I think one of the things that we haven't done is because the issue of sexual assault is stigmatized and people don't talk about it for 20 years to their close -- they don't disclose, is they don't get the help, the assistance that they need.

And so then I think we see victims who then may -- some victims who do fine. There's a group of victims who go on and do just fine. And then there are victims who then are troubled by other things, like addictions and that sort of thing and have trouble in school and all those things.

And then I think it makes them more vulnerable to You know, sort of that other victimization. And so I think where we haven't addressed the issue immediately. Does that makes sense? And so their first victimization hasn't been addressed. And that's what makes them --
CONGRESSWOMAN HOLTZMAN: Well whatever the answer is. I'm just suggesting that maybe this is something that the military needs to look at so that it can protect the people that its recruited who fall in this category. And develop some programs to assist them to deal with these problems. Even if they -- so --

DR. BUSCH: Can I say amen to that.

CONGRESSWOMAN HOLTZMAN: Oh okay.

MS. ARCHAMBAULT: Can I add to your question though that you asked about profiling. You know law enforcement for many years, we have to go through psychiatric eval and I mean there's all kinds of things.

So when some high profile cases occurred in the military with some pretty high ranking folks, I went to some friends and I said, what are you guys doing to screen these folks that get these particular positions? What I was told is that they cannot.

And I said you mean to tell me when
you've got somebody that goes into special forces, I mean that you're not looking for a certain type of soldier, I mean right? And I was told, yes we can there. But to do anything else for any other sorts of jobs, it would require Congress to make some changes.

Because there are -- we can't identify a sex offender, but we know for example in police work, that we can identify people who want to abuse their power. There are certain characteristics that we can look for, and we can try to exclude those folks from ever joining law enforcement.

So I just wanted to share that. That I think there are screening tools for some of those military personnel in special assignments and that they can't be applied in other places.

MEMBER DUNN: Can I ask one question?

CHAIR JONES: Of course.

MEMBER DUNN: In your interactions with the community, in terms of trying to get
women to report, has there, have any of you, or are you aware of, or have you been involved with a program, that maybe goes beyond the we believe. And more into the hey, you know these guys are out here this is how many sexual assaults we have. This is how many get reported. You need to come forward, it helps you, it helps your community if you will band together.

I mean have we ever gone down that path in any type of public campaign?

DR. BUSCH: Well I can tell you from the research. Of the 18 percent that do report, one of the reasons that they do report -- there are two reasons that they report. Becky Campbell's research says first of all they report because somebody else helps them report. They say I'm going to take you now to the police or I'm going to take you to the hospital.

And the second reason they do it, their second motivation is for that exact
reason. So that that offender can be held accountable and it won't happen again. Those are the two primary reasons.

So for the 82 percent that don't, we don't know yet. But I can tell you in Houston again, because we have this big project, we're putting out a hotline now for all these cold cases, for the lack of a better word. And some of these cases are 10, 20 and we interviewed some cases that were 30 years old. And I think we'll ask these questions exactly.

What we have found and we've interviewed 40 cold case victims, they actually would have -- actually maybe I'm confusing my data for a minute, because those victims did report.

Other victims who did not report that we interviewed in the 1200, I think went back to the what Kim presented, they didn't define it as a crime at first. They didn't make sense of it in their head at first. They didn't believe that people would believe.
That the veracity of their story would be undermined. They blamed themselves.

So that's that stigma part I think is really increasing, or decreasing stigma, whatever the marketing is on it is important.

MEMBER DUNN: So it sounds to me though like based on the data that you have, and I realize that all of this is very imperfect. But based on the data you have, and given the nature of the hierarchal nature of the military and the fact that there is essentially a captive audience to do any type of training that you want to do, that there may be some value in training for -- I suppose I won't distinguish between genders, but training for everybody on how to avoid --

Well not how to avoid victimization so much, but on the benefits of bringing this to the public, as a tool among many of the other tools that we can use.

DR. BUSCH: Can I -- I was just going to say, and I think there's a lot of effort
now about men standing with men against rape
as an effort to pivot a little bit on around
accountability. Men holding other men
accountable as a way to get to the same place,
but a different avenue.

DR. LONSWAY: And I want to respond
to that too. Yes, what Noel just said is
true, that we know that for victims who report
and victims who remain engaged in the system,
a very common reason they will give is because
they don't want this to happen again. That is
a very common reason.

So yes, that is a motivation for many
folks who do come forward and stay engaged.
To imply then that that would be something
that we would teach victims and potential
victims, that if this happens to you, here's
what you need to do. They know that already
and feel that.

I think it's unfair to put that
burden on folks who are -- the sexual assault
was unfair enough. And devastates one's life
to a certain point to say now you have to go through this even perhaps more miserable experience.

And again we know the impact of that on people over time. I think it's unfair. It's too much to ask of people to sort of put our efforts there.

I think what you're asking really connects to the previous question, which is this is one of the things that keeps me up at night. The fact that someone who was sexually assaulted, just like I said with perpetration, if you want to know who's most likely to be victimized, most likely sexually assaulted, again it's not a perfect measure, but the single variable that will give you the most information is have they been sexually assaulted in the past?

And that is -- again, working in this field, it's disturbing enough. But that is so fundamentally unfair on some level, that that burden would be borne so much on some folks.
But when we think about perpetration, if you imagine for a moment that you are wanting to sexually assault someone, you're going to look for -- and we go back to our sheep where started this morning. If you want to commit a sexual assault, or at least your indifferent to whether or not that's what it is, you're going to look for someone who's vulnerable and/or you're going to make them more vulnerable. And you're going to look for somebody who lacks credibility. So that even if they do come forward, they're not taken seriously.

And so if I'm out looking for someone to target and I'm looking for vulnerability and lack of credibility. Chances are that whatever I see someone else is going to see as well.

So of course, we all want folks who have been sexually assaulted to shore them up, give them -- we want to do everything we can to make sure this doesn't happen again. But
if we don't address the perpetration, it's just going be not this persons, the next person. And You know that. I'm not suggesting imply that.

So yes, whatever we can do to shore up the resources and help people to heal, obviously is good on its face. Whether or not it does prevention. But that's not going to get us anywhere until we deal with the perpetration piece as you know.

MEMBER COOK: But as part of that training initiative that was just mentioned, based on what has been presented today. It would not be unfair to put that burden in part on the bystanders that are there and watching. The situations that created, get created, especially within a military culture where frequently, not always, but alcohol, or a group environment, or we got battle buddies. You want to watch out for them.

And maybe by doing that education, You may keep somebody from becoming that
perpetrator or becoming that victim, because there's somebody else watching out for the people who may become involved. And that might be a fair focus in the training process.

DR. LONSWAY: Yes, absolutely.
MEMBER COOK: I don't think is actually addressed as much as maybe it could be.

DR. LONSWAY: I think absolutely. Because the goal there is protecting my friend, my colleagues.
MEMBER COOK: Right.
DR. LONSWAY: So protecting someone from harm, very different motivation then saying, you who were just sexually assaulted, you are now responsible for preventing this person from perpetrating again. Those are very different things. I think you're absolutely right.

DR. BUSCH: And then how do you make it safe for that person to report potential perpetrators? I mean that is a real
challenge. Because bystanders, the backlash on bystanders, right, I think is a real challenge. I think that's where the field is going. The civilian field is going in that direction.

There's quite a bit of work being done in that area. Again I don't know that it's being evaluated as effectively as it can or should be.

MEMBER BRYANT: Along the same lines as General Dunn's questions in terms of reporting that we've been discussing. What did you think -- and I'm going, she's on the spot, she's still here. What did you think of Sergeant Donegan's public service piece? Where they victims coming by, and they had various excuses. Were you here to see that?

DR. BUSCH: Yes.

MEMBER BRYANT: For not reporting. And then having them say, what did you think of the effectiveness of that? And suppose we added the piece that then said, and by the way
in so many words, sexual offenders usually have X number of victims. And that --

MS. ARCHAMBAULT: Actually, I brought some brochures for you all to figure out. What Sergeant Donegan was talking about actually, was borne of the Making a Difference Projects, which were started in eight states in the United States, and eight provinces in Canada.

And that whole concept was actually borne of my frustration with the fact that this isn't about law enforcement. I, for example, I'm never going to sit on a jury. I'm never going to be selected on a sexual assault trial jury, right?

So I knew again, my practice wisdom, I learned a new word today. My practice wisdom said, we're not the only problem here. We have a problem with all the gatekeepers out there, the mothers and the fathers and the sisters and the neighbors.

MEMBER BRYANT: But did you think it
was effective in encouraging people to come forward and report?

MS. ARCHAMBAULT: No, there was a reason that I was going there. That -- Liz was the first person out of those sixteen teams, the first agency to go back and create that campaign, which is actually the Start by Believing campaign that Dr. Lonsway talked about. So yes, I mean we know that the first thing that we have to do when we talk about that funnel of attrition, is to get those 80 percent of those victims who choose not to come to us.

So I think it's a very, very effective and if you actually -- I'll give you the Start by Believing brochure. But we talk about, not just believing when these victims disclose to us. But we talk about our failure whether you're the father or the cousin. Our failure, based on research, is that there are going to be five more victims from this perpetrator. Because the average
perpetrator with adults, offends six times.

And you know we've got Dr. Lisak and McWhorter, I mean there's some good solid research. So of course I'm biased because we were all part of creating that campaign. And then took the Start by Believing campaign on an even much larger level then Liz did in Austin.

MEMBER BRYANT: Well in line with the statistics that so many victims stick with it though the investigation/prosecution process because they don't want there to be other victims or if there are other victims, they want them to come forward. I don't know whether this, that piece is being used in other jurisdictions, but it certainly seemed in a very encouraging way to encourage victims to come forward. It covered almost every scope of why I didn't go forward.

MS. ARCHAMBAULT: But what's so incredible for us in law enforcement is that came from a law enforcement agency. So
whereas, we're used to seeing advocates saying those things, come to us, we'll welcome you, we'll treat you well. Yes, we have examples of agencies all over the country.

We are so excited about this Start by Believing campaign, which this Austin PSA that you saw is just a tiny piece of what law enforcement agencies all over the country are doing and changing. Like for example, we typically interview our victims in interrogation rooms. They look like interrogation rooms on purpose. It's no accident. But something as simple as having a couch, and a plant and a carpet and a piece of art. And Caldwell, Idaho has on their wall Start by Believing.

I mean so, that's my passion, is changing the criminal justice response. I mean this is all a part of it. We know that there have been incredible changes in the way law enforcement agencies like Austin have changed their community perception of who
they're going to be treated based on public
service announcements like that.

MEMBER BRYANT: Thank you.

DR. BUSCH: I can just add one piece
from our research. We've asked victims what
would make a difference for you to engage or
re-engage in the criminal justice system? And
it's having an advocate that they felt like
they could trust and call any time.

Which has been a really important
piece of our implementation of the justice
advocate who's embedded with law enforcement.
Which is different than their community based
advocate. If I can make a differentiation
between, they have a community based advocate
and they also have a systems based advocate.

This Justice Advocate is embedded in
the investigation unit and really serves as a
lead -- so she has the ability to see
restricted information and help the
investigator with his or her investigation,
but also stay in touch with the victim.
It's a very interesting and different model. And we are testing that model now. And the reason is that the community based advocate needs to be able to stay at a different place then this justice advocate, who needs to be able to help this investigator move that case along in a different way.

So we're actually testing that model to see if it works. And this is what victims have told us empirically that they would engage or re-engage if they felt like they had somebody who they could call all the time. And investigators can't do that. They just can't have the social work perspective, or we can't ask investigators to do that.

So that's been our solution and we'll see how that turns out. The interim report has been pretty fabulous.

CHAIR JONES: Well I want to thank you very much. First of all, the tremendous amount of work you've all done is incredibly impressive and the insights that you've shared
are great.

You certainly focused me on the incredible opportunity that we have here in studying the military. And it in fact is a study that could be terrific for the entire country, because there has been an upsurge in reporting.

It is chronologically related to a number of initiatives, interdisciplinary initiatives as you've mentioned. And to really drill, seems to be the favorite word these days, drill down into it and see what's effective, what's not. And what are the causes and results, just is a tremendous opportunity for everybody.

And we are particularly interested as Congresswoman Holtzman mentioned before, in understanding, hearing from victims and what worked for them. But we need to do it in the right way. And it's my understanding from what I've heard from other military presenters, that they have every intention of
doing this type of survey.

So any additional information, particularly in that area that you could present to us would be terrific. Thank you so much.

DR. BUSCH: Thank you.

CHAIR JONES: Do we want to have public comment?

COLONEL HAM: Ma'am we have two people who requested to make public comments. So if we could take a short break and make sure those people are here and ready.

CHAIR JONES: Okay. Thanks Colonel.

(Whereupon, the foregoing meeting went off the record at 5:29 p.m. and went back on at 5:37 p.m.)

CHAIR JONES: All right, Colonel Ham.

COLONEL HAM: Ma'am, this is Major Melissa Brown.

MAJOR BROWN: Good evening.

CHAIR JONES: Good evening. I think that's where we're at, evening, right?
MAJOR BROWN: It will probably be dark when we get outside, yes.

CHAIR JONES: Okay. You're welcome, thank you for coming.

MAJOR BROWN: Thank you ma'am. I wanted to come and speak today. I knew you guys were coming to Texas. I'm an officer in the Texas National Guard. I've served on active duty. And I recently found the motivation to share my story and for the benefit of others.

And so I believe that the public service announcements that we saw from the Austin Police Department are needed. I saw the story of a young private on the Army website and she told her story of sexual assault. And utilizing the military system and felt that if she could do it, then I should do the same.

So I began that through my initial commander, and I shared with him my experiences, and asked him to help me in any
way that he could to facilitate sharing my
story. And improving what I feel is at a
point now that it was really being looked at
to change. And hopefully we can change it for
the better.

In June, 2005 as I sat in a parking
lot in my car getting sick at 6:00 in the
morning when I should be going off to PT with
my unit, I was dressed for it. I ready to go.
But I started to get sick. And I knew
something was wrong.

But I didn't have the courage at that
point to pick up a phone and call 911 and have
police come and get me and take me where I
should have gone. Instead, I thought I need
to go home and fix this and change my clothes
and get to work and do my job, because that's
what I'm supposed to do.

And I think that that's probably a
reason that many individuals don't report when
they need to for their cases to be prosecuted.
It took me a year and a half, and personal,
physical distress, to actually go seek help
and then finally report my sexual assault.

Part of that was driven by my
requirement to deploy. I felt that reporting
it would distract my unit and distract me from
that mission that I was given. So I ended up
spending a year living about 100 feet away
from the man that assaulted me and that again
probably did more damage than anything else.

But when I went and made my initial
report, it was well received. The SARC, she
took great care of me. She took the report,
gave me the information I needed. And about
two months later, I was in training, and that
same lady walked down an aisle and touched a
gentleman on the shoulder and said if this guy
did such and such, would you guys think that
was wrong?

And it just happened that the person
she touched was the man that had assaulted me.
And it dawned on me at that moment that he
could do it again. And I owed to everyone
else to get up and say something. So I went
back to her and said we need to investigate.

And earlier some of you, some other
members discussed the fact that the victim has
the right to request prosecution. I don't
believe that's a true statement, because the
commander has that right. The commander will
chose who they prosecute based on the
recommendation of the legal officer.

I've been a commander and I
understand that from my own situation. I can
want to prosecute something, but having the
burden of proof is extremely important before
you prosecute. Because if a soldier takes
that charge to a court-martial, it can easily
be dismissed. So commanders, while they may
want to do the right thing, may not be able to
because of the report they're given in the
investigation.

As the gentleman from the Oregon
police department spoke and talked about how
they have established their system, which
allows victims to stop an investigation or at any point along the course. I think it's something that the military desperately needs.

Because I wanted to report so that my case was investigated so this person would be stopped. And because of the time lapse between the incident and my report, that didn't really matter. There was no evidence to be gathered, there was nothing to be delivered to that commander so that they could pursue and prosecute.

But I believe the military has many other avenues that could be established so that when a case was substantiated that someone had committed a crime, but maybe we didn't have the burden of proof that's required in a criminal case, that there should be other options afforded to commanders. So that they can remove those people from service. So that they can be flagged. So that they're not placed in positions of trust and responsibility where they can continue to
victimize and perpetrate.

I, like many other people, reported because of my duty to protect and my responsibility. Some of the things you guys have brought up I felt I had some ideas for. Victim advocates, you can't place people in those jobs that don't want to do it. They have to be recommended by, I believe, their commanders and I think they should be endorsed.

You know I can look in my military formation and tell you which people I would trust. And which people I would ask to do that job if they were interested. But I think it needs to be a 360 assessment that they're the right person for the job. And they be supported to do it. And not assigned because we need to put a name on the line.

Another issue is with a restricted report, there's only three ways to get into the system. Once a victim's assaulted, if they go to anything outside of those three
arenas, it becomes unrestricted, and it's everybody's business.

If I needed to go to a friend, and that's probably the best place for someone to go, is to someone they trust. Once I tell that soldier, they have an obligation to report it. It's an unrestricted report, and then everything goes out, my privacy goes out the window.

So if the military would expand that, that a first responder, if I told my battle buddy or I told my supervisor, and they took me into the chaplain, the victim advocate, the hospital, I think that should be allowed as a restricted report. Because that's the line of security and advocacy that the victim needs. That right now they can't get. If they tell their roommate, their roommate has an obligation to report it and the victim can no longer make a restricted report.

So I think expanding some of those restrictions would improve people's, victim's
confidences in the system. Because it's also
that battle buddy that sees their friend that
isn't helped. That doesn't want to encourage
anyone else to report it or doesn't do it when
they're later victimized.

And we have a lot of trust to develop
and improve so that we all believe that as
things happen, they will be appropriately
investigated and referred for action so that
these people are removed and our forces are
safe.

As for measures, I think transparency
is the most important thing. We need to
report what happens. We need to not hide it.
But investigations that are started and
completed, those are probably the most
important thing, along with the referred
investigations.

And we should all know how many
investigations are dismissed because of lack
of evidence or how many people are kept in
service that have had substantiated sexual
assault charges brought against them. It's certainly not the people that I want to stand next to in a formation.

The training that we ask of our military, we're right now at a training burn out. I think about every 30 to 60 days we hear about a new suicide prevention training program, or sexual assault training program and we've got to be very specific about what we add to the plate to ensure that it's supported and it's effective.

I know you guys spoke about measures and making sure what we do is gauged for success, to see if it's effective. That's one thing that we're very bad at doing. We implement and implement and implement. And we really do need to test, evaluate, and then apply that across a bigger spectrum.

So I do believe some training needs to change. I have started participating in my state. I've gone to our state SARC and given her my name. Talked to her about my story.
And she's got me on the billet to talk and participate in our future SARRT training. And I look forward to being able to help our soldiers in any way and make something better out of my situation.

CHAIR JONES: You know I have to say, you are the most important type of witness that we could hope to hear from. First of all I think you've hit on a number of things that we've been poking around the edges at. But to have you validate some of these things is just extraordinarily important.

I think we all agree the victim's advocates are incredibly important. And so your idea that they should be people who are really excellent and want to do the job right on the money.

I think that your notion that perhaps a friend or a confidant should be included in the list of people that you can report to without making it unrestricted, is also something that we've already heard about in a
briefing, in terms of the Army's thinking. So this is again another endorsement of an idea coming from exactly the person that knows and can really validate what people are trying to analyze from however many thousand feet up we are.

So anyway, I don't know if anyone else has any questions or comments. But I --

CONGRESSWOMAN HOLTZMAN: I just wanted to thank you very much for coming forward in this very thoughtful way. I know it was an extraordinarily painful and traumatic experience. But not everybody turns it into helping other people, not to mention helping themselves.

So thank you very much for your testimony here. And for your willingness to help other victims.

MAJOR BROWN: Thank you ma'am.

CHAIR JONES: Thank you.

COLONEL HAM: Ma'am, this is Daniel Ross.
CHAIR JONES: Mr. Ross, Daniel Ross.

Yes.

MR. ROSS: Chairwoman Jones and distinguished panelists. My name is Dan Ross. I am an attorney here in Austin. I graduated from the University of Texas, both as an undergrad and in the School of Law. And I have experience representing victims of sexual assault, including children.

I have dealt with military investigations in the course of my practice. And so I have some familiarity with the topics that were brought up here today. And I want to tell you I'm very, very glad that this panel exists and I'm hopeful that this will result in some changes being made in the military and its reaction to sexual assault.

I want to say that the woman, Ms. Jones who was here, and I forgot her rank, but I just want to say that the courage that she exhibited here today to come and speak up, and the courage she exhibited 15, 20 years ago,
or I can't remember what the date was, but the
courage that she exhibited in reporting, she
has in common with a number of my clients who
- it is a very courageous thing to step up
and stand up and say that I've been sexually
assaulted and I want some degree of justice.

I am at the end of the -- I'm the
last resort for justice. I'm a civil
attorney. I sue defendants for committing,
among other things, sexual assault against my
clients. I also do a lot of education, or a
lot of, I'm sorry, employment law.

And I notice that there are a lot of
similarities between my work as an employment
lawyer and my work as a personal injury lawyer
interested in helping victims of sexual
assault and others achieve justice. And we
are often the last people that can give, that
can at least allow them to have their day in
court.

I am the chairman of the advisory
committee of the Institute on Domestic
Violence and Sexual Assault, of which Dr. Busch-Armendariz is the head. And it was -- I've gotten to know her through my profession. We have done numerous focus groups because I want to know before I walk into a courtroom, I want to know what the people walk in, what they have on their blackboards when they walk into a courtroom.

And sexual assault is very hard to even -- and people's opinions about sexual assault, jurors, is very hard to get out of them. So I have to go to focus groups to find out what they think so that I can start understanding who's going to be on my jury and what they're going to be thinking.

So asking Dr. Busch for statistics and for research on those topics, I've found that there is a huge gulf. And I'm just talking about in America in general. I know and specifically in Texas based on her research, but in America in general, there is a huge gulf between what people, the average
person thinks about sexual assault, and what really, really are the statistics about sexual assault.

There are rape myths that exist. Rape myths that are pervasive. And in doing these focus groups I learned that like the most common problem when somebody says they were sexually assaulted, when a victim says it, the most common problem is that that about 70 to 80 percent of the people say well, she must have had it coming.

It is at least in the focus groups that I've been in, and for whatever reason, they have this negative attribution that they attribute to the victim. And I think that's based on these rape myths that rape is something, or sexual assault is something that occurs in the back alley, or you know, with people that you don't know. When in fact it occurs most often in a person's own home or in the home of someone that they are familiar with.
And so it is that -- somehow we've got to catch up people's -- what is on their blackboard, what's on their minds. Their perceptions of sexual assault. We've got to somehow catch that up with the research that's being done, and which are the facts. Because it's very difficult to get around those deeply held beliefs on the part of a juror. So educating people about sexual assault, in my opinion, is of upmost importance.

The second thing that I think is important and this is true in the civil work that I do for Title VII cases. Which most of every Title VII case, Title VII is the law that prohibits discrimination based on race, religion, gender, national origin, age, disability, that Federal law and the state equivalents of those laws.

And it is hard for me to even remember a case that I have taken that does not involve retaliation for reporting whatever it is. Whether it's sexual harassment,
whether it's any sort of discrimination that is protected. And it is the institutional problem in dealing with the victims I think that is certainly a factor, if not one of the larger factors, of why people don't report.

Imagine if you will a woman walking to her car after visiting the mall, say, and walking to her car. She unlocks the door and someone comes up behind her, clubs her on the head and just maybe robs her, but she falls down and when she comes to, or when she wakes up, or when she gets her wits about her, what's the first thing she does? She calls the police.

Have the same scenario occur and have a sexual assault, and we know from research that only 20 percent, or only well, less than 20 percent of people report that sexual assault. If you start looking at it, you start seeing the stigma that's associated with sexual assault and that's what we have to eliminate. And we also have to eliminate the
fear of retaliation.

To do that, you have to let people know. And not just the victims, but the perpetrators, or the potential perpetrators are aware, that there is a system in place whereby if someone reports a sexual assault, they can go over the heads of their superiors and they can be safe. And that sexual assault allegation will be treated seriously and will not result in retaliation against the person who was assaulted.

To me that is the key of increasing the reporting. Once you increase the reporting of the incidence of sexual assault, and once the perpetrators or potential perpetrators are aware of the fact that it is easier and easier to report, and that retaliation is not going to occur for that report. They will become aware that they can't get away with it as easily as they may now, simply because of the numbers of people who do not report.
You talked a little bit a while ago about why 40 percent of sexual assault victims were prior victims. I think you looked at it in terms of predictors for sexual assaults. And you know, it can really only be a few things, right? It can only be something to do with the victim or something to do with the perpetrator.

But there is something that happens. It could be on a subconscious level. But perpetrators or predators prey on the vulnerable. And they have a way of detecting the vulnerable. People who have been victims, victims of childhood sexual assault, or prior sexual assaults, often put themselves in situations where they are more likely to be assaulted because they don't have the radar that people who haven't been sexually assaulted or, particularly, sexually assaulted as children may have.

They're not so aware of the fact that they read or they miscue the cues that they're
getting. And I think that is something that
ought to be looked at, but I wish I could tell
you how to do that, but I can't.

I know though that the issue is a
huge problem. And what I would ask you do to
do is when you do come up with rules and
listen to these experts like Dr. Busch-
Armendariz, and the people that have spoken
today, that you think about the most
fundamental thing is to get, and important
thing, is to get people to report and to make
it so that it is safe to report. Thank you.

CHAIR JONES: Thank you very much Mr.
Ross. Colonel Ham?

COLONEL HAM: Ma'am, does the panel
wish to discuss any release of information at
this point in time?

CHAIR JONES: Yes. Professor
Hillman, do you want to go ahead?

MEMBER HILLMAN: This is a draft
prepared to summarize by our terrific staff.

I think -- and it's submitted for the review
of the panel before it's released so that we might be able to post this and inform the public more generally about some of the topics that the presenters brought to us today.

It has a public education benefit here of sharing what everybody shared with us today to a broader audience and allow us to signal the direction of our work and understanding the issues before us. So if everybody could look at it and see if they have comments.

You had a question. Colonel Ham, this is our fourth public meeting, is that correct?

COLONEL HAM: That's correct ma'am.

MEMBER HILLMAN: Just checking.

If there are any typos or small changes that you wanted to submit, I'm sure that our staff could make those changes before we -- if anybody has. I see Colonel Cook looks like a great editor to my right, has made some edits in this.

MEMBER COOK: Yes.
MEMBER HILLMAN: And that we could make those, but if the overall content looks appropriate, maybe we could approve it once everybody has a chance to read it.

COLONEL HAM: I see one place referred to as hearings rather than meetings. Little things like that, ma'am.

MEMBER COOK: Colonel Ham, what's the process in turning a spelling error or two, things like that. I think we can do off the record. But to the extent you know, if I'm sitting here looking at this and talking about Mr. Strand's testimony this morning where he talked about he supervises the training for Army personnel. But he also supervises and oversaw some of the training that was for Army and other military personnel from the other services.

You know clarifications like that, or things like Major Oakley who is here from Secretary of Defense's Office for Personnel and Readiness. Who talked not just about the
act itself, but more relevant for him was and
the DoD policy for implementing the legal
requirements.

Clariifications like that where it
doesn't change the substance of what's in
here, but it just merely clarifies them in
some ways. Does all of those changes have to
be on the record in this forum, or can minor
modifications like that just be submitted to
whomever drafted this particular release?

CHAIR JONES: I think we can just
make those types of edits. Has everyone read
everything for substance? And is there any
substantive disagreement?

MEMBER COOK: No.

CHAIR JONES: All right. Then I
think it's approved and we will take some time
right now after we leave here so you can all
go too. And we'll make a few amendments along
the lines that Professor Hillman suggested.

CONGRESSWOMAN HOLTZMAN: Just a
question, is this going to be on stationary?
Do we have stationary? I mean just for immediate release, but release by whom, and whom do they contact? The press and so forth, that needs to be on here.

COLONEL HAM: Ma'am, on the last day, I'm sorry, on the last page it gives the Deputy Staff Director as the contact.

CONGRESSWOMAN HOLTZMAN: Yes, but it should be on page one.

CHAIR JONES: We can fix that.

MEMBER BRYANT: We should comment I think for those who are present, that we do this without the benefit of a trained public information officer. So we're on our own, breaking new ground here.

CHAIR JONES: Thank you. Thank you Mr. Bryant. I think that was all said. All right. Thanks very much everyone for attending the hearings. And for all of your contributions.

(Whereupon, the above meeting was concluded at 6:07 p.m.)
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CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Response Systems to Adult Sexual Assault Crimes Panel Meeting

Before: US DOD

Date: 12-11-13

Place: Austin, Texas

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

______________________________
Court Reporter