

Response Systems Panel  
Role of the Commander Subcommittee  
Subcommittee Meeting – October 23, 2013

The Response Systems to Adult Sexual Assault Crimes Panel (RSP) is a federal advisory committee within the Department of Defense (DoD) operating pursuant to the National Defense Authorization Act for Fiscal Year 2013, Section 576(a), the Federal Advisory Committee Act of 1972, the Government in Sunshine Act of 1976, and other appropriate federal regulations. The Role of the Commander (RoC) Subcommittee of the RSP held a meeting at One Liberty Center, 875 North Randolph Street, Arlington, Virginia 22203 on October 23, 2013. The meeting began at 9:25 a.m. and concluded at 4:45 p.m.

Participating RoC Subcommittee Members:

The Honorable Barbara S. Jones, Chair  
The Honorable Elizabeth Holtzman  
Vice Admiral (ret.) James Houck (joined at 1335)  
Professor Elizabeth Hillman  
Major General (ret.) John Altenburg  
General (ret.) Carter Ham  
Colonel Lisa Turner  
Professor Geoffrey Corn

Participating RSP Staff Members:

Colonel Patricia Ham, Staff Director  
Lieutenant Colonel Kyle Green, Subcommittee Branch Chief  
Ms. Shannon Green, Staff Legislative Analyst

Other Participants:

Ms. Maria Fried, Designated Federal Officer

Presenters:

Colonel Alan Metzler, Deputy Chief, DoD Sexual Assault Prevention and Response Office (SAPRO)  
Dr. Nate Galbreath, Ph.D., Senior Executive, SAPRO  
Dr. Elise Van Winkle, Ph.D., Branch Chief of Research, Defense Manpower Data Center (DMDC)

The meeting was opened at 9:25 a.m. Chairwoman Jones began, by way of introduction to new subcommittee members, with a brief background and overview of the statutory requirements and activities of the RSP. She explained the need for the Subcommittee to move swiftly to provide Congress as much information as possible on certain legislative proposals. She indicated the Subcommittee would focus most immediately on: 1) the commander's role in setting and assessing command climate, and 2) the role of the commander as convening authority and other command roles under the Uniform Code of Military Justice (UCMJ).

Following the Chair's opening remarks, Colonel Ham explained what DoD SAPRO representatives had been asked to discuss in their presentation. Ms. Shannon Green noted that the Senate was expected to take up proposed legislative changes to the UCMJ prior to Thanksgiving, and Chairwoman Jones explained to the subcommittee members that the RSP hoped to provide Congress with one or two preliminary assessments to inform their process.

Lieutenant Colonel Green introduced Colonel Metzler to the subcommittee members, and Colonel Metzler introduced the other presenters and provided a brief description of their backgrounds and expertise.

Colonel Alan Metzler, Dr. Nate Galbreath, and Dr. Elise Van Winkle, DoD SAPRO & DMDC

Colonel Metzler oriented the subcommittee members to the Powerpoint presentation he had previously provided. He explained that his brief would address DoD SAPRO's analysis of the sexual assault problem in DoD, potential solutions, and Department policy.

Colonel Metzler first discussed the scope of the sexual assault problem, including the most recent DoD survey data results from DMDC, which estimated the number of victims of sexual assault in the armed forces. Colonel Metzler compared estimates from the survey with the actual number of sexual assault reports. Colonel Metzler stated underreporting was a significant problem, and he described DoD initiatives and efforts to increase reporting in order to improve victim care and increase offender accountability.

Subcommittee members asked questions about prevalence, survey data, and the research assumptions made in the Workplace and Gender Relations Survey conducted by DMDC. The survey methodology was briefly explained. Dr. Van Winkle, with input from Col Metzler and Dr. Galbreath, addressed some of the ongoing criticisms of the surveys, including skewed responses, low response rates, and bias in responses.

Subcommittee members also asked about reasons victims do or do not report incidents of sexual assault and how those factors were evaluated through survey data. The presenters discussed the correlation between sexual harassment and sexual assault and how they relate to

command climate and tolerance for inappropriate behavior. They also discussed offender and commander accountability and the training received by those selected for command.

The presenters next discussed sexual assault reporting and investigations. They clarified that victims are not required to report to commanders, and they explained that the choice to file a restricted or unrestricted report belongs to the victim. The presenters reviewed the various reporting resources and options victims have for making restricted and unrestricted reports. The presenters discussed the DoD policy withholding disposition authority for sexual assault allegations to senior O-6 and above commanders, explaining that junior commanders could not dispose of sexual assault offenses under the policy. The presenters reviewed how survey data indicated that service members understand reporting options and explained that training is regularly conducted to refresh this understanding. The presenters explained that the command was obligated to direct the complaint to one of the service's criminal investigative agencies for independent investigation once a sexual assault was reported.

Finally, Col Metzler reviewed the DoD initiatives targeted at prevention of and response to sexual assault. He reviewed victim care provisions, including mental and medical services, victim's counsel programs, expedited transfer policies, and other resources for victims. The presenters discussed the correlation between victim confidence in the system/victim empowerment and increased reporting and better victim care.

Following a lunch recess, members of the Subcommittee discussed testimony and information received about the role of the commander in foreign military justice systems. Subcommittee members reviewed and discussed the testimony of foreign military representatives and academic experts received at the RSP's public meetings held on September 24 and 25, 2013. Subcommittee members noted that commanders were not integral to the adjudication process in those foreign militaries, and they discussed how this impacted reporting and prosecution rates. Specifically, the Subcommittee members discussed whether they had received any direct evidence suggesting that removal of the commander led to increased reporting rates.

Vice Admiral (Ret.) Houck noted that the comparison was not precise, because the foreign militaries were significantly smaller in scale than the U.S. military. Professor Corn concurred, adding that the difference in geographic concentration of forces between different systems would also contribute to skewed comparison. Major General (Ret.) Altenburg highlighted various reasons the Subcommittee should not recommend changes to emulate the Allies' military justice processes.

Ms. Holtzman recommended that any report provided by the Subcommittee should be narrowly tailored to only address matters on which the Subcommittee or Panel had received sufficient evidence. She explained that further evidence was needed prior to drawing an absolute

conclusion on the role of the commander. Chairwoman Jones summarized the discussion, highlighting the conclusion noted by other Subcommittee members that none of the Allied systems were changed because of sexual assault. Professor Hillman clarified that the evidence received supported a narrower conclusion that removing the commander did not reduce traditional victim barriers to reporting.

Ms. Holtzman proposed that the Subcommittee should make a recommendation to the full Panel on the issue of changes to foreign systems and what impact the changes had on sexual assault reporting. The Subcommittee members discussed the breadth of the recommendation, noting that the evidence only related to reporting, not prosecution rates. Chairwoman Jones clarified that this was the only issue that the subcommittee would take up at this time for a recommendation. The Subcommittee members further discussed whether they had gathered sufficient information to draw any significant conclusion on the role of the commander, and all agreed that receiving additional information from victims, victim advocate groups, and other parties would be important before reaching any conclusions.

Chairwoman Jones indicated a draft proposed assessment would be developed according to the Subcommittee's discussion and recommendation. She advised the Subcommittee members that a follow-up teleconference would be scheduled to discuss and review the draft, once it was developed.

The subcommittee meeting ended at approximately 1645.

I hereby certify, to the best of my knowledge, the foregoing minutes are accurate and complete.



Barbara S. Jones

Chair

Role of the Commander Subcommittee