

1 RESPONSE SYSTEMS TO ADULT
2 SEXUAL ASSAULT CRIMES PANEL
3 - - -
4 MEETING OF THE COMPARATIVE SYSTEMS SUBCOMMITTEE

5
6 Tuesday, November 19, 2013
7 Suite 150
8 875 N. Randolph Street
9 Arlington, Virginia 22203

10 The meeting was convened at 8:42 a.m.,
11 BRIGADIER GENERAL (Ret.) MALINDA DUNN, presiding.

12 SUBCOMMITTEE MEMBERS PRESENT:

- 13 BRIGADIER GENERAL (R) MALINDA DUNN, Chair
14 BRIGADIER GENERAL (R) JOHN COOKE
15 COLONEL (R) LARRY MORRIS
16 COLONEL (R) DAWN SCHOLZ
17 COLONEL (R) STEPHEN HENLEY
18 RUSS STRAND
19 JUDGE BARBARA JONES (participating by telephone)
20 RHONNIE JAUS

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22

1 ALSO PRESENT:

2 COLONEL PATRICIA HAM, Staff Director

3 MARIA FRIED, Esq., Designated Federal Official

4 WILLIAM SPRANCE, Esq., Alternate DFO

5 DILLON FISHMAN, Esq.

6 JANICE CHAYT, Investigator

7 ROGER CAPRETTA, Supervising Paralegal

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

2 ADMINISTRATIVE SESSION

3 COLONEL HAM: I just want to highlight
4 this: This committee operates under the Federal
5 Advisory Committee Act, which is a Government in
6 the Sunshine Law, that I sound like I know a whole
7 lot about, but I never heard of before I was
8 appointed to be Staff Director, but I've become
9 very familiar with kind of the quirks of it.

10 One thing we all have to get used to is
11 the presumption that everything is publicly
12 available and accessible. For those of us used to
13 attorney work product, attorney-client privilege,
14 that's not the way we're used to doing business.

15 In particular, any time there is a
16 meeting there must be a Designated Federal Official
17 present. Our Alternate Designated Federal Official
18 is Bill Sprance from the DOD Office of General
19 Counsel. Our Designated Federal Official, who many
20 of you have met, is Maria Fried, also from DOD OGC.
21 She'll be here in a little bit.

22 They must be present for any meeting. A

1 meeting is any two of you together discussing the
2 substance of your business, by email, telephone, or
3 otherwise. So in particular, FACA means, down to
4 the nitty-gritty, you can't email each other
5 without going through me, one of your branch chief
6 members, Dillon, Jan, or Kelly. You may not
7 deliberate in the absence of a Designated Federal
8 Official or Alternate Designated Federal Official.
9 We can't have you in corners talking about
10 substance during lunch and things like that.

11 The rules for you are a little bit more
12 flexible than for the full panel, but the important
13 thing still remains. We are not subject to the
14 Federal Register notice and open meeting
15 requirement at the subcommittee level that the full
16 panel is subject to. However, everything that
17 we're doing is verbatim transcribed and the
18 transcripts are posted on our web site for public
19 accessibility.

20 Every document that you receive in order
21 to prepare for your meetings or otherwise will be
22 posted on our web site and available to the public.

1 Anything that we receive from DOD, unless
2 appropriately marked under the Freedom of
3 Information Act or anything like that, is
4 accessible to the public. We can receive other
5 materials, but they'll have special protections.

6 So with that kind of as a background,
7 again, as you know, you're one of three
8 subcommittees. We have a public meeting in
9 December that most of you know about, December 11th
10 and 12th, that focuses on your area. I highly
11 encourage you to attend one of those days of that
12 if you can. That's at the University of Texas at
13 Austin.

14 I know you also are aware of site visits
15 that are being planned on either side of that, the
16 10th at Fort Hood, Texas, the largest military
17 installation I think in the world still, and on the
18 13th at Lackland Air Force Base. Of course,
19 nothing is required for you to attend, but I
20 encourage you to try to attend at least one of
21 those days if you can. A lot more to follow about
22 that. We're already working with Fort Hood and

1 Lackland to set up the agendas for that.

2 The other subcommittees are attending as
3 well. They'll be on different agendas.

4 So with that as a background, Dillon, as
5 you know, is also a member of your staff, and Jan
6 Chayt in the back. We will dial in the Judge,
7 ma'am, if that's okay, and get started.

8 GENERAL DUNN: All right. Do you want me
9 to dial in the Judge?

10 COLONEL HAM: Roger can do it.

11 GENERAL DUNN: Okay.

12 COLONEL HAM: One of the documents in
13 your packet -- I know you've received it, but just
14 to highlight it for you -- are your terms of
15 reference. These are items for your to examine.

16 [Telephone ringing.]

17 SECRETARY: Barbara Jones's office.

18 GENERAL DUNN: Good morning. This is
19 Malinda Dunn from the Response Systems Panel, for
20 Judge Jones, please.

21 SECRETARY: All righty. Can you hold on
22 for just a moment?

1 GENERAL DUNN: Sure, thank you.

2 [Pause.]

3 MR. RUSSELL: Good morning, everyone.

4 GENERAL DUNN: Good morning, Mr. Russell.

5 We're waiting for Judge Jones to get on the phone
6 with us.

7 [Pause.]

8 GENERAL DUNN: Good morning.

9 JUDGE JONES: Hello.

10 GENERAL DUNN: Good morning, Judge Jones.

11 How are you this morning?

12 JUDGE JONES: I'm great, General Dunn.

13 How are you?

14 GENERAL DUNN: Good, thank you.

15 We're getting ready to begin the
16 Comparative Systems Subcommittee meeting this
17 morning. We have Mr. Scott Russell from the DOD
18 IG, who is going to talk about training and
19 investigative techniques of the military criminal
20 investigators. Is there anything you would like to
21 share with the panel before we begin?

22 JUDGE JONES: No, I think I've delayed

1 you long enough. Go ahead. Thanks.

2 GENERAL DUNN: Thank you.

3 If you can't hear Mr. Russell, please let
4 us know.

5 JUDGE JONES: I'll let you know, yes,
6 thank you.

7 DOD IG DISCUSSES 2013 REPORT INVESTIGATIONS

8 MR. RUSSELL: I will do my best to speak
9 up so I can be heard. Can you hear me now?

10 JUDGE JONES: I can, thank you very much.

11 MR. RUSSELL: All right, ma'am.

12 I'm Scott Russell. I work with the
13 Department of Defense Inspector General. I'm the
14 Director of the Violent Crime Division, which has
15 existed since around June of 2011. I have worked
16 for the DOD IG since October 1997. I spent a
17 couple years with the DOD hot line and then moved
18 to criminal investigative policy and oversight in
19 late 1999, and I've been there ever since, although
20 we're now called "Investigative Policy and
21 Oversight" because we do a little bit more than
22 just criminal investigative policy and oversight.

1 But Investigative Policy and Oversight
2 has three divisions: Policy and Programs Division,
3 which handles the criminal investigative and some
4 law enforcement policies for the Department. They
5 handle the contractor disclosures for the
6 Department and they handle the Department's IG
7 subpoenas. And we also have an Oversight Division,
8 which used to be the only Oversight Division, and
9 they did criminal investigative oversight of
10 essentially the defense criminal investigative
11 organizations.

12 But the IG in 2011 decided we needed to -
13 - well, we needed to expand and be authorized
14 additional full-time employees for sexual assault
15 and violent crime oversight. So I was tasked to
16 stand up the new division, starting in July of
17 2011. We hired 11 new full-time employees,
18 including myself. I was eventually promoted to the
19 Director position.

20 But I have two team leaders who are here
21 with me today, Mr. John Dippel and Mr. Chris
22 Redmond, and they each are project managers and

1 team leaders and each of them has a -- they're
2 authorized four 1811 criminal investigators, each
3 team. We did have an intern for a while on one of
4 the teams, but he has since become a full-time
5 employee and moved down to a different job.

6 But our charter is oversight of violent
7 crime, which includes homicide, suicide, sexual
8 assault, child abuse, serious domestic violence,
9 and related investigative training. The objective
10 of our program is to provide a program of regular
11 and recurring oversight to evaluate the quality of
12 the Department's violent crime investigations and
13 training and to recommend improvements.

14 We assess the effectiveness, efficiency,
15 and compliance with policies and procedures,
16 essentially, and assess the need for new or revised
17 DOD military service or military criminal
18 investigative organizations, which I'll refer to as
19 "MCIO" in the future, MCIO policy.

20 The methodology that we use for our
21 evaluations essentially is to decide on what we
22 need to evaluate, seek approval from our principal

1 deputy inspector general, announce the project to
2 the Department, do a data call with the affected
3 agencies -- and that's normally the MCIO's. We
4 will publish a data call memo similar to one that
5 you sent to us for your panel and wait for the data
6 call documents and evaluate them, analyze them,
7 develop leads or requirements based on the
8 documents we've received.

9 COLONEL HAM: Mr. Russell, can you also
10 be directed by Congress to perform certain
11 oversight functions or investigative functions, in
12 other words directed by Congress to do a certain
13 investigation or do a certain project?

14 MR. RUSSELL: Yes. Generally it's not a
15 direction. It's usually a request from Congress,
16 either to the Secretary of Defense or to the IG.
17 That has not happened to my division as yet, but I
18 think it's probably something that could happen.
19 But it hasn't happened since I've been the Director
20 of the Violent Crime Division. But we have had a
21 number of Congressionally requested evaluations in
22 the years that I've been working with either

1 Criminal Investigative Policy and Oversight or
2 Investigative Policy and Oversight.

3 So that is a possibility.

4 COLONEL SCHOLZ: So, Mr. Russell, I'm
5 going to follow on if I can. I don't understand
6 how you decide what you're going to evaluate.

7 MR. RUSSELL: Well, it's based on our
8 charter and it's based on the priorities of the
9 Department and the IG. But right now our priority
10 is sexual assault, so we decided to do a review of
11 sexual assault investigative training in 2011. And
12 then shortly thereafter we launched an evaluation
13 of adult sexual assault investigations conducted by
14 the MCIO's.

15 MS. JAUS: Can I ask a question? So it's
16 not an ongoing oversight? It's just select topics?
17 Or is it ongoing oversight and you do select
18 topics?

19 MR. RUSSELL: It's essentially select
20 topics, but the adult sexual assaults is going to
21 be done on a recurring basis based on the Secretary
22 of Defense request dated August 14 this year, which

1 we will essentially be doing recurring reviews of
2 adult sexual assault investigations conducted by
3 the MCIO's for the foreseeable future, probably on
4 an annual basis.

5 So we do the data call, analyze the
6 documents we receive. We also identify all of the
7 policies, the DOD policies, the service policies,
8 the MCIO policies, and possibly law enforcement
9 best practices, and we analyze those to determine
10 what the standards are for that particular topic
11 we're reviewing. Then we use those policies as the
12 standards to evaluate against.

13 If appropriate, we'll do site visits and
14 interviews, like with the training review we did
15 several site visits to the Army MP School and to
16 the Federal Law Enforcement Training Center and
17 down to the MCIO headquarters, where we did
18 numerous interviews. Whereas with the closed case
19 reviews that we do, not too many interviews
20 involved in those. Essentially, the closed cases
21 speak for themselves with those types of reviews.

22 Now, with the closed case reviews, as I

1 said, we use the policies to guide our reviews, to
2 see if they conducted the steps that were necessary
3 based on the policy documentation, and we look for
4 how well they achieved those requirements that are
5 listed in those policy documents. When we find
6 deficiencies we document those.

7 We look for minor or significant
8 deficiencies, and that is I guess sometimes subject
9 to some subjectivity, but we attempt to take as
10 much subjectivity out of the process as we can by
11 relying on the policy documentation, although a lot
12 of our findings are based on our experience and our
13 own training. So there is some art to it, but we
14 do attempt to take as much of the subjectivity out
15 of it as is possible.

16 But based on the types of significance --
17 the types of deficiencies that we find in each case
18 that we review, we document those and render our
19 findings. If we find significant deficiencies,
20 which means something that is a pretty big
21 deficiency, like say for instance during an
22 investigation they interviewed the victim,

1 interviewed witnesses, and they develop some other
2 information to indicate that there might have been
3 other victims involved, and they didn't follow
4 those leads to identify the other victims.

5 That would be a significant different
6 deficiency. That would be kind of a show-stopper,
7 and that's the type of a case we would document our
8 findings in a very detailed work paper and we would
9 return those types of cases to the MCIO's and ask
10 them to review our findings to see if they agreed
11 with us.

12 And if they did not, then we would
13 discuss it -- maybe there's something that we
14 didn't see or didn't understand during our reviews
15 -- clarify whether there's agreement between us and
16 the MCIO, and essentially go from there.

17 If we're agreed that it's something that
18 was significant and that needs to be
19 reinvestigated, then the MCIO's reopen that
20 investigation and try to fix it. They try to
21 resolve those shortcomings that we identified, and
22 then we're on the hook to oversee the results of

1 their investigation again to ensure that they did
2 everything that was possible to solve that case or
3 to remove those significant deficiencies.

4 On the other hand, with minor
5 deficiencies, things that are probably more
6 administrative in nature or didn't affect the
7 outcome of the investigation, what we've decided to
8 do with those is lump them together at the end with
9 the significant deficiencies. So we look at the
10 significant deficiencies and the minor deficiencies
11 and we analyze them, and we look for patterns and
12 trends, because the MCIO's do have their own
13 internal processes for quality control, but they
14 don't have eyes on the population of cases like we
15 do.

16 We look at a statistical sampling, and
17 the results of our sampling is projectable to the
18 entire population of the cases. When we do a data
19 call for closed cases, we ask the MCIO's to give us
20 a listing of each and every investigation that they
21 close during that particular calendar year or
22 fiscal year that we're looking at, and we ask for

1 certain data fields on a spread sheet when they
2 provide this data to us.

3 We give that information to our
4 Quantitative Methods Division, which is a division
5 that supports the DOD IG with statisticians. They
6 review those and do a statistical random sampling
7 that is -- what's the term? Well, I've lost that,
8 but based on the various MCIO's they would have to
9 have a certain number of stratified sampling,
10 whereas if we took the whole lump sum of all the
11 three MCIO's' criminal investigations and wanted to
12 have like a 95 percent accuracy rate on the number
13 of cases, it would be far lower than with a
14 stratified sampling. We'd have to have a certain
15 number of cases from each MCIO to reach this 95
16 percent accuracy rate.

17 So the Quantitative Methods Division
18 essentially selects the cases for us that we're
19 going to review, and then we provide a listing to
20 each MCIO of the random sampling of the cases that
21 were selected, and then they pull those cases for
22 us. And with OSI, Air Force Office of Special

1 Investigations, Army Criminal Investigation
2 Command, and NCIS, we do on-site reviews
3 essentially with OSI and CID because their cases
4 are hard copy, whereas NCIS, a lot of their stuff
5 is digitized and they can provide that to us on
6 data disks.

7 But at any rate, we review the cases
8 either on site or at our office. If it's a digital
9 file, then we can review it at our office. So we
10 prefer to be there on site in cases any questions
11 arise and we can take care of them.

12 But that's essentially the methodology
13 that we use for selecting the cases and reviewing
14 the cases. We also develop -- based on the review
15 of the DOD, the military service, and the MCIO
16 policies, we develop very detailed case review
17 protocols. They're extremely detailed.

18 They will list each and every
19 requirement, investigative policy requirement, from
20 the DOD level all the way down to the MCIO level.
21 That case review protocol essentially becomes a
22 data entry form for an Access database that we use

1 to crunch all the numbers and analyze the
2 information.

3 We have been blessed with one criminal
4 investigator that has very good Microsoft Access
5 skills. So he actually builds our databases for
6 us, and he takes the case review protocols and
7 turns them into data entry forms. Those are what
8 we use to actually review the cases. An agent will
9 sit with the case file and the computer and will go
10 through the case and enter the data into the
11 computer, and that's essentially our methodology
12 for conducting case reviews.

13 If we find a case that has significant
14 deficiencies, then the agent will stop and will
15 document that particular case review right then and
16 there, and it is peer reviewed and reviewed by a
17 supervisor and the director. That's our process
18 for documenting our cases that have significant
19 deficiencies. Then we share that with the MCIO's.

20 Once we're finished -- once we are
21 finished reviewing that group of cases at each
22 MCIO, we share that, we share that documentation

1 with the MCIO's and they give us their feedback,
2 and then they reopen the cases that are
3 appropriate.

4 There are some cases that are beyond
5 help, that it would do no good to reopen them.
6 Some things just can't be redone, like if there was
7 a problematic crime scene where they didn't process
8 the crime scene properly or they didn't collect
9 certain evidence. You can't go back and fix that.
10 So some cases don't get reopened, but most of them
11 do.

12 MS. JAUS: I have a question. When you
13 go back as the oversight person, you go back to the
14 particular investigative unit and say, look, I'm
15 not happy with what you did or the deficiencies,
16 the major deficiencies, is it a cooperative
17 discussion?

18 MR. RUSSELL: It's very cooperative.

19 MS. JAUS: Or is there pushback?

20 MR. RUSSELL: It's very, very
21 cooperative. I think that we have an excellent
22 working relationship with the MCIO's and I think

1 that we are all on the same page. We're trying to
2 improve. I think -- well, that would be my
3 opinion, so I probably shouldn't say it.

4 I will say that there is a great deal of
5 cooperation between us and the MCIO's, very little
6 pushback.

7 MR. STRAND: Mr. Russell, do you know of
8 any other agency that does routine reviews of
9 closed cases like you're doing for criminal cases?

10 MR. RUSSELL: I'm not aware of any.

11 MR. STRAND: The process before you even
12 see the case, each MCIO -- you mentioned that each
13 MCIO has oversight and has things in place to
14 review cases.

15 MR. RUSSELL: Yes.

16 MR. STRAND: At what supervisory levels
17 and how are those reviewed before they get closed,
18 if you could kind of go through that, because I
19 think it could be beneficial for us to understand
20 that an agent doesn't close a case and then it goes
21 closed; it's reviewed at certain levels, even if
22 it's like battalions.

1 MR. RUSSELL: I know that that varies by
2 MCIO. I used to be very familiar with the Army CID
3 process because I served with Army CID for 18 years
4 and I went from street agent all the way up to
5 agent in charge and then worked at headquarters for
6 a number of years. But I know that the NCIS and
7 the OSI have different processes and different
8 types of internal inspections or management systems
9 visits. So it's probably better that the MCIO's
10 address that directly.

11 MR. STRAND: But each one of them also
12 have an IG that reviews cases randomly as well,
13 right?

14 MR. RUSSELL: Again, I know that Army CID
15 does that, but I'm not sure the extent that OSI IG
16 reviews cases. I know that they do, but I don't
17 know the extent. I'm not -- and again, with NCIS
18 I'm not sure the extent that the IG reviews the
19 cases, but I know they do. But that's probably
20 something that needs to be addressed directly with
21 them.

22 MR. STRAND: So what you're doing is to

1 your knowledge not normal. It's not what most
2 other agencies do or any other agency that you're
3 aware of does, to review the closed cases for
4 quality control, to make sure that if we've missed
5 something or didn't miss something and then send
6 those cases back to be reopened if possible?

7 MR. RUSSELL: I'm not aware of any other
8 agency that reviews cases to the extent that we do,
9 as I've described with the policy reviews, the case
10 review protocols, and the extensive analysis of the
11 deficiencies to identify patterns and trends so
12 that we can notify the MCIO's that, hey, you need
13 to look at this area and try to do better in these
14 particular areas.

15 We did see a number of areas that I think
16 they weren't aware of because they don't have eyes
17 across each command.

18 COLONEL MORRIS: Can you give an example
19 of how you turn those, how you turn that into data?
20 The checking of investigative processes you said
21 becomes Microsoft Access data. How does that --
22 how do you get a measure that translates, that you

1 can look at, that gives you a sense of the quality
2 of the investigation and a trend?

3 MR. RUSSELL: Say crime scene processing,
4 for instance. We saw a number of cases where crime
5 scenes weren't conducted, the sites weren't
6 visited. Generally speaking, an agent should
7 always respond to a scene. Some cases or some
8 complaints aren't that fresh. It may be several
9 weeks or even months before the complaint is made
10 and the scene may no longer be intact. But there's
11 probably still some value to going to that
12 particular scene and making sketches and taking
13 photographs. There may be no evidence there --

14 COLONEL MORRIS: I understand.

15 MR. RUSSELL: -- but it may be very
16 valuable to go and look at that scene so that you
17 can understand what the victim is telling you or
18 witnesses are telling you about a particular
19 location.

20 So we would analyze those cases and if we
21 saw a number of cases where they never visited the
22 scene at all, then that might be onesies, twosies

1 at a particular location within, say, CID, but
2 across the command that might be a pretty good-
3 sized number of cases.

4 COLONEL MORRIS: Is there then inside
5 that then a way of measuring the quality of the
6 processing? Or is that just you get a go-no go for
7 going to the scene? Would there be further detail
8 then about correction --

9 MR. RUSSELL: Well, we would then make a
10 recommendation --

11 COLONEL MORRIS: -- and that kind of
12 stuff?

13 MR. RUSSELL: -- that you need to take a
14 look at responding to crime scenes and at least
15 going and validating the crime scenes. If it's too
16 late to process it, then at least go and validate
17 it so you can understand what the victims and the
18 witnesses are telling you.

19 COLONEL MORRIS: My question is just
20 about the detail of your data. Assuming somebody
21 has gone to a crime scene, is there further
22 analytics about the quality of the processing of

1 the scene or is that something that you can't
2 evaluate at your level?

3 MR. RUSSELL: We look at the evidence
4 collection and the quality of evidence collection,
5 which is pretty much visible based on the evidence
6 vouchers and descriptions of the processing of the
7 scene that's in the case file and photographs, as
8 well as sketches and various other documentation
9 that give us indications of the quality of that
10 crime scene processing.

11 COLONEL MORRIS: And then finally, can I
12 ask you, in the area of victim interviews, what
13 kind of metrics you might have or what kind of
14 factors you might look to assess the quality of the
15 interviews?

16 MR. RUSSELL: We review the statement,
17 the statement or statements that the victim made,
18 as well as other witness statements that may or may
19 not corroborate what a victim has said, and we
20 analyze the information. That gives us indications
21 of thoroughness of the interview and the
22 thoroughness of the follow-up. We did see a number

1 of instances where that could have been done
2 better, and that's documented in our report.

3 Colonel Henley?

4 COLONEL HENLEY: I think you may have
5 mentioned this. The MCIO IG's don't do the type of
6 qualitative case review as you do, if I understand
7 you correctly.

8 MR. RUSSELL: I don't know that to be a
9 fact.

10 COLONEL HENLEY: Okay.

11 MR. RUSSELL: I do know that they do
12 some. They do quality reviews. They do
13 supervisory reviews. But I don't think that they
14 do it to the extent that our protocol goes to the
15 detail of.

16 COLONEL HENLEY: I guess my question is,
17 where do the service IG's fit into the case review
18 process?

19 MR. RUSSELL: The service IG's don't get
20 involved in the case review process. Each MCIO has
21 an IG that does inspections and case reviews.

22 COLONEL HENLEY: Okay. So when you stood

1 up two years ago, was there a discussion whether or
2 not service IG's should have a similar organization
3 --

4 MR. RUSSELL: No.

5 COLONEL HENLEY: -- or structure? No.

6 MR. RUSSELL: The service IG's don't have
7 any -- the DOD IG is tasked with providing the
8 policy and the program oversight for the military
9 criminal -- defense criminal investigative
10 organizations. The service IG's don't have that.
11 They don't have that tasking or that authority to
12 oversee the MCIO's. And that's based on the IG
13 Act.

14 COLONEL HENLEY: Right. Maybe I'm just
15 having some difficulty, but it seems you're going
16 beyond policy evaluation into each individual case
17 evaluation.

18 MR. RUSSELL: Right.

19 COLONEL HENLEY: And why that can't be
20 reduced to a lowest common denominator and each
21 service have their own individual service IG set
22 up. But that's my question; they don't have one.

1 MR. RUSSELL: When you say -- and it may
2 be just terminology. When you say "service IG" --

3 COLONEL HENLEY: Army IG, Navy IG.

4 MR. RUSSELL: -- each service has an IG,
5 but they don't have oversight authority for the
6 MCIO's criminal investigations, and that is based
7 on the IG Act.

8 COLONEL HENLEY: It may be my next
9 question will clarify in my own mind. So when
10 you're doing these case reviews for deficiencies,
11 you focus on primarily the fairness of the
12 investigation, or do you actually look at the end
13 result, whether a crime occurred, someone should be
14 titled? Or you just focus on the investigation
15 itself and make those recommendations?

16 MR. RUSSELL: We focus on each individual
17 investigation in total. We look for -- we look at
18 each MCIO's standards and we look at whether they
19 achieve the standards that are required by the
20 policies. If they have timeliness standards, we'll
21 look at whether they achieved the timeliness
22 standards. If they have thoroughness standards,

1 which they do, we look to see that they achieved
2 those thoroughness standards. That's essentially
3 what -- the policies are what guides our reviews.

4 COLONEL HENLEY: So it's a focus on the
5 process rather than whether or not you have the
6 right individual that was identified as a potential
7 suspect?

8 MR. RUSSELL: Well, that is determined by
9 the MCIO's based on the evidence that they gather,
10 and that's worked with the MCIO's and the
11 attorneys, the supporting trial counsels, as to
12 whether somebody's properly titled or not. If we
13 saw a problem with evidence and that somebody was
14 titled, we would probably address it. But thus far
15 we haven't seen any, any issues related to that,
16 sir.

17 COLONEL HENLEY: Okay.

18 GENERAL COOKE: Do you look at the
19 ultimate disposition of the case as to whether the
20 subject was court-martialed? If you do, does that
21 play any role in your analysis?

22 MR. RUSSELL: It doesn't play a role in

1 our analysis, but we do gather the information and
2 include that in an appendix to our report. The
3 information is supposed to be included in each
4 investigative file and we do document that in our
5 database and we do provide it in a table in the
6 appendixes to our report, because it is very
7 interesting data and it's helpful to some folks.

8 GENERAL COOKE: But it doesn't affect
9 whether there have been significant shortcomings or
10 not? That's an independent analysis, basically?
11 In other words, if the person was successfully
12 court-martialed but you found that there was a
13 deficiency in the investigation, the fact that he
14 or she was convicted doesn't make a difference; is
15 that right?

16 MR. RUSSELL: Well, I think it makes a
17 difference, but it's not a call that we're really
18 capable of making. There's lots of dialogue
19 between commanders and judge advocates as to the
20 action taken against an offender.

21 GENERAL DUNN: You would still, if there
22 were a major deficiency in the file or two major

1 deficiencies, even with a successful prosecution,
2 you would still document that?

3 MR. RUSSELL: Yes, ma'am.

4 GENERAL DUNN: And go back to the service
5 and say, there are two major deficiencies in this
6 file, you need to look at this.

7 MR. RUSSELL: That's right.

8 GENERAL DUNN: It might impact whether
9 they reopen the investigation or not at that point
10 if the person had already been court-martialed.
11 But you would note that and take it back to the
12 MCIO.

13 MR. RUSSELL: We do look at investigative
14 outcomes. We don't really look at prosecutive
15 outcomes.

16 GENERAL DUNN: Right.

17 COLONEL HENLEY: You would hope that the
18 quality of the investigation, if it ends up in a
19 court-martial, would have been addressed by the
20 Trial Defense Service attorney, who has access to
21 the same information you do, hopefully, with
22 discovery and what-not.

1 MR. RUSSELL: Right.

2 MR. STRAND: I think what you're maybe
3 really trying to get to is, if there's a successful
4 prosecution and there are still significant
5 problems with that case investigative-wise, that
6 won't taint your results and it won't taint your
7 ability to reach back and say, hey, you still had a
8 problem with this case. Even though he's in jail
9 for 40 years, you still had some problems with this
10 case and we're going to take you to task on that.

11 MR. RUSSELL: Not only take them to task,
12 but we ask them to correct them.

13 GENERAL DUNN: Yes.

14 MR. RUSSELL: If it's correctable.

15 MR. STRAND: But if it was a successful
16 prosecution for 40 years, you're not going to
17 overlook those deficiencies.

18 MR. RUSSELL: That's correct.

19 MR. STRAND: You're going to document
20 them and then give them back to the service.

21 MR. RUSSELL: Right, I agree.

22 COLONEL HENLEY: You must have unlimited

1 resources, that you could devote that time and
2 attention to cases that end up in a successful
3 prosecution.

4 MR. RUSSELL: Well, if they come up in
5 the random draw that's the case you're looking at.

6 COLONEL HENLEY: Okay. So it's chosen
7 for you, okay. I got it. Thank you.

8 GENERAL DUNN: Statisticians pick the
9 cases.

10 MR. RUSSELL: They do.

11 Yes, ma'am?

12 MS. JAUS: You said that you were
13 looking, at a certain point, that you were looking
14 for trends and patterns in some of the cases that
15 you're looking at the deficiencies. Did you notice
16 any major trends and deficiencies in
17 investigations, like were there a lot of problems
18 with crime scene investigations, evidence
19 collection? Were there any major patterns that you
20 saw?

21 MR. RUSSELL: We did find some trends and
22 patterns. We made numerous recommendations to do

1 better in those areas, either to take a look at
2 their policies on crime scene processing -- we can,
3 if you guys can identify --

4 COLONEL HAM: I think Dillon or Kelly
5 sent you both the investigations that Mr. Russell
6 is talking about. Yes, I think they're in kind of
7 an overview.

8 MR. RUSSELL: We had a number of tables
9 in the report.

10 MR. FISHMAN: I have one copy here, one
11 printed out, if anyone needs it.

12 MR. RUSSELL: We looked at subject
13 interview and post-interview deficiencies and
14 identified a number of cases that had problems with
15 the thoroughness of interviews. We pointed those
16 all out in the report. Witness interviews,
17 evidence deficiencies; we analyzed those and
18 pointed out areas that they could improve in.
19 Crime scene documentation, crime scene examination
20 and searches.

21 It's pretty well laid out in the report.

22 MS. JAUS: Those are the major trends

1 that you saw?

2 MR. RUSSELL: Yes, pretty much. I'd have
3 to go through the report with you.

4 GENERAL COOKE: I don't want to get ahead
5 of where you want to be, but I was struck by the
6 variations between the different MCIO's, the
7 different services, in practices or maybe even
8 policies. You identified several of those. That's
9 sort of -- why is that, and what's being done about
10 it? Not that it's your responsibility to fix it.

11 MR. RUSSELL: A lot of people ask that
12 question, sir. Some of them worked on the Hill.
13 But we also have -- and I can't tell you the result
14 of it, but we did a review of MCIO sexual assault
15 investigative policies and we did a comparison of
16 MCIO policies with DOD policies and service
17 policies and looked for areas where they could --
18 we looked for areas where they didn't incorporate
19 the higher level policies into their own policies.

20 We also looked at the -- we went onto
21 several law enforcement agencies and asked for
22 their sexual assault investigative best practices,

1 and we reviewed those. And we looked at IACP,
2 International Association of Chiefs of Police,
3 sexual assault guidelines and policies. We decided
4 that the IACP model and guidelines were the most
5 comprehensive that we could find compared with the
6 other agencies that we looked at.

7 We also compared the MCIO policies with
8 those best practices and looked for areas where
9 they either had incorporated them or they could do
10 a little bit better job incorporating them or where
11 they had not. We also looked at the Council of
12 Inspector Generals for Integrity and Efficiency
13 quality standards for investigations and looked for
14 opportunities where they could improve on the
15 incorporation of those into their policies and
16 practices as well.

17 The evaluation of those policies is in
18 draft pending approval, so I can't tell you what we
19 found, but that was our methodology that we used to
20 evaluate those. And that'll come out shortly. So
21 we're aware that there are differences between the
22 policies, because they are three autonomous

1 investigative agencies that work for each service
2 secretary.

3 So there are differences. A lot of
4 people don't understand why. We're one DOD; why do
5 we have three separate or four separate criminal
6 investigative organizations with four separate sets
7 of policies? But it's because each one is
8 autonomous and they all started out kind of
9 separately and in a lot of ways they do their own
10 thing.

11 GENERAL DUNN: As part of this process,
12 you say this report that's identifying differences
13 in policies across the MCIO's is not yet released?

14 MR. RUSSELL: Not yet released.

15 GENERAL DUNN: But would you anticipate
16 that once it is released that there would be
17 changes across the board? I mean, do you have a
18 follow-up methodology to go back in 12 months or 18
19 months after the report is released to see what
20 effect it may have had leveling some of the
21 differences between the MCIO's?

22 MR. RUSSELL: Once the report is

1 approved, it'll go to the MCIO's and they'll have
2 an opportunity to provide management comments based
3 on the recommendations that we make. Then we'll go
4 from there. There hasn't been any decisions made
5 yet about follow-up.

6 COLONEL SCHOLZ: Basically, your
7 recommendations will be to adopt some of the
8 practices that you identify?

9 MR. RUSSELL: Well, either to adopt it or
10 improve it, or we give them a green light to adopt
11 it, enhance it, or they look good right now. But
12 there will be some areas where we're pointing out
13 instances where they can either adopt or enhance
14 the best practices or policies.

15 COLONEL SCHOLZ: And in this effort
16 probably one of the goals may be to get them all
17 closer to doing the same high level of
18 investigative practices?

19 MR. RUSSELL: I think that's the goal,
20 correct.

21 JUDGE JONES: I'm having a little trouble
22 hearing.

1 MR. RUSSELL: Not that they don't all do
2 very good work, but there's always room for
3 improvement. Even in our work, we're continually
4 seeking ways to do our jobs better. It's an
5 evolutionary process.

6 Any other questions about our
7 methodologies?

8 [No response.]

9 MR. RUSSELL: If not, I'll move on to the
10 projects. We have worked two completed projects
11 since 2011. The first one was the evaluation of
12 MCIO sexual assault investigation training. The
13 second was evaluation of MCIO sexual assault
14 investigations, and these were adult victims only.

15

16 We also reviewed DOD's compliance with
17 the Sexual Offender Registration and Notification
18 Act. That review is essentially completed and the
19 draft report is pending approval. We also did an
20 evaluation of MCIO sexual assault investigations
21 with child victims, which I know is not within your
22 area of interest. But that is also in draft and

1 pending approval.

2 Now I'll talk a little bit -- well, I'll
3 talk about the evaluation of MCIO sexual assault
4 investigation training. That report was published
5 in final on 20 February 2013. Our objectives were
6 to determine what training the MCIO's provide as
7 far as sexual assault investigation.

8 We looked at how the MCIO's ensure the
9 training is effective and we looked at how the
10 MCIO's share and leverage experience and resources
11 to be most effective and efficient. Our findings
12 were that NCIS initial baseline training didn't
13 cover four required essential training sub-tasks.
14 At the time, the sexual assault investigation
15 required training tasks came from DOD Instruction
16 6495.02. Since then, those have been moved to DOD
17 Instruction 5505.18, which is the overarching DOD
18 policy on sexual assault investigation, which was
19 published in January of 2013, I do believe.

20 We looked at how each MCIO did as far as
21 covering those required training tasks in their
22 initial baseline training and, as I said, we found

1 four of them that NCIS did not cover in their
2 lesson plans and curricula. They told us in their
3 management comments, however, that they did cover
4 those tasks; it just wasn't covered in the lesson
5 plans and curricula. So we asked them to correct
6 their lesson plans and curricula.

7 We found that each MCIO provides initial
8 baseline, periodic refresher, and advanced sexual
9 assault investigation training to their criminal
10 investigative personnel. We looked at -- we found
11 that all training academies measure the
12 effectiveness of initial and advanced training
13 courses with testing and course critiques. Each
14 MCIO uses these evaluation tools to adjust the
15 training content to increase effectiveness.

16 We found that CID and NCIS had leveraged
17 resources by sharing instructors and highly
18 qualified and subject matter experts to assist with
19 training course development and delivery.

20 We made a number of recommendations, one
21 that I already mentioned, that the director of NCIS
22 ensure that the lesson materials for initial sexual

1 assault investigation training covered all the
2 essential training tasks.

3 We asked the MCIO director and commanders
4 to form a working group to look at initial baseline
5 training and to establish common criteria and
6 minimum requirements. One of the findings which I
7 think I failed to mention was that we found the
8 time devoted to the required training tasks that
9 were listed in 6495.02 varied greatly between the
10 MCIO's, whereas the DOD policy requires the same
11 initial baseline training for all first responders,
12 and the MCIO's are considered first responders. So
13 we asked them to look at that initial baseline
14 sexual assault investigation training and to
15 establish common criteria and minimum requirements
16 so that they could incorporate more sameness
17 between the MCIO's, so that it's easier for them to
18 do advanced training together. If they're not all
19 on the same page, it's hard for them to train
20 together at the advanced level. So that was really
21 the impetus behind that recommendation.

22 COLONEL HAM: Has that been complied with

1 as far as you know?

2 MR. RUSSELL: That is an ongoing process
3 that the MCIO's are working through. My most
4 recent communication with them has been that they
5 have a series of meetings and they have decided on
6 a number of things, but they have not yet been
7 approved by their headquarters. So I don't know
8 the results of it yet, but it is an ongoing
9 process.

10 MR. STRAND: They have established a
11 working group.

12 MR. RUSSELL: They have established a
13 working group between the three MCIO's and they
14 have discussed our recommendations and how to
15 comply with the recommendations, and they're
16 staffing that through their headquarters. I don't
17 know the result of it. So that's something you'll
18 have to address individually.

19 We also made a recommendation that the
20 working group look at periodic refresher training.
21 Periodic refresher training is required and we did
22 find that it was being delivered, but we didn't

1 find any measures for effectiveness in the periodic
2 refresher training. So we asked them to take a
3 look at that and to develop some common criteria
4 and minimum requirements for measuring the
5 effectiveness of their refresher training.

6 COLONEL HAM: What's periodic, Mr.
7 Russell? Is there a set --

8 MR. RUSSELL: It's pretty much annual.

9 MS. JAUS: And that could be on line or
10 in person?

11 MR. RUSSELL: It could be anything that
12 they choose. But we would like to see them measure
13 the effectiveness, and that's pretty much based on
14 training doctrine, common training doctrine. If
15 you don't measure the effectiveness, how do you
16 know that what you're doing is really worthwhile.
17 So we asked them to do that.

18 MR. STRAND: And the topics of the annual
19 refresher training are left up to the services?

20 MR. RUSSELL: Left up to the services.
21 And this is all dictated, again, by DOD I-6495.02.
22 That was the standard that we used. And we looked

1 at -- we asked the working groups to look at the
2 their advanced sexual assault investigation
3 training programs to further capitalize on efforts
4 that were already ongoing to leverage training
5 resources and expertise, working toward
6 participation in a common advanced training course
7 using shared facilities and resources.

8 This was based on GAO's recommendation.
9 The GAO in their 2011 review recommended that the
10 services -- this was not a recommendation for the
11 DOD IG. This was a recommendation for the service
12 secretaries. I don't have the language captured in
13 my brain right now, but you will find that in the
14 GAO's report. But it essentially tracks with our
15 third objective, which was looking at how the
16 MCIO's share and leverage their experiences and
17 resources to be most effective and efficient, and
18 to look at those advanced training programs and
19 further capitalize on the work that was already
20 under way.

21 One of our findings was that CID and NCIS
22 had leveraged resources and shared instructors and

1 highly qualified experts, but we think that -- we
2 thought that they needed to move that further down
3 the road. But we leave that up to the MCIO's to
4 decide how that's done and to overcome the
5 obstacles that are built into the process, because
6 they don't all train at the same location. You've
7 got USAMPS at Fort Leonard Wood, Missouri, and
8 we've got FLETC in Glynco, Georgia. So there are
9 some geographic problems that come up.

10 COLONEL SCHOLZ: Is there some reason
11 that's not consolidated?

12 MR. RUSSELL: Yes, there is, but I'm not
13 prepared to discuss it. But there is a reason that
14 they're not. Several years ago there was an
15 attempt to try to get them all at the same
16 location, but CID chose to continue to run U.S.
17 Army MP School, which was at the time at Fort
18 McClellan, Alabama -- it's now at Fort Leonard
19 Wood, Missouri -- whereas NCIS had already trained
20 at FLETC and OSI moved their training to FLETC and
21 collocated there with NCIS. That's a totally
22 different topic.

1 But those were our recommendations for
2 the training review. Any questions about that?

3 [No response.]

4 MR. RUSSELL: Okay, I'll move on to the
5 evaluation of adult sexual assault investigations.
6 That final report was published July 9, 2013, so
7 the ink is just about dry on that.

8 I will say that both of these reviews
9 were groundbreaking reviews. We have not
10 undertaken a review like these in the past. But
11 our objective in the adult sexual assault review
12 was to determine whether the MCIO's' investigations
13 of sexual assault complied with guiding policies,
14 and those guiding policies are the DOD, the
15 military service, and the MCIO's policies.

16 Again, I talked before about the
17 statistical sampling, the methodology we use for
18 that. We looked at a statistical sample of 501 of
19 2263 MCIO cases that were closed in calendar year
20 2010. We began the process, I believe it was early
21 2012, so that was a pretty recent sample at the
22 time. Now we're in 2013 and 2010 doesn't seem like

1 a very recent sample, but it was at the time. So
2 that's why we chose it.

3 We found that most cases, 445 of 501, met
4 investigative standards or had minor deficiencies.
5 We found some cases, 56 of the 501, had
6 significant deficiencies. Those cases that had
7 significant deficiencies, as I said before, we
8 returned those to the MCIO's for resolution, for
9 agreement and resolution. Out of that 56, the
10 MCIO's reopened 31 investigations. As I said
11 before, we will oversee the results of those
12 investigations, and we have done some oversight
13 work of those cases, but much of it is still
14 pending.

15 25 cases were not reopened because there
16 was no possibility to fix the things that were
17 wrong. It would have been futile to spend more
18 time on those cases. The MCIO's came back to us
19 and said, we agree, we can't do anything with this
20 case. We looked at them, we agreed with their
21 findings, with their decisions. So we concurred on
22 the 25 cases that weren't fixable, essentially. It

1 was either futile or it wasn't practicable.

2 As the report documents, some of the
3 major deficiencies that we observed: key evidence
4 wasn't collected from crime scenes, from victims,
5 or subjects. There's essentially like three scenes
6 with each sexual assault case at a minimum. You've
7 got the actual physical location, the scene where
8 the offense occurred; you've got the victim that
9 has evidence on her or him; and the subject may
10 have evidence on her or him. So we found key
11 evidence was not collected from those three areas.

12 Crime scene examinations not completed,
13 not thorough or not completed before loss of
14 evidence; subject or victim interviews not thorough
15 or re-interviews didn't sufficiently develop new
16 information; and witness interviews not thorough or
17 not conducted. You'll find the quantification of
18 each of these types of things all laid out in the
19 tables in the report. So that's essentially the
20 results of the adult sexual assault investigation
21 review.

22 COLONEL HAM: Mr. Russell, do you if any

1 actions were taken to hold responsible agents or
2 officers accountable for those deficiencies?

3 JUDGE JONES: I'm sorry, I just can't
4 hear. I didn't hear it.

5 COLONEL HAM: This is Colonel Ham. I
6 asked if the DOD IG knew if any actions were taken
7 to hold accountable those agents or officers with
8 substantial deficiencies, major deficiencies.

9 JUDGE JONES: Thanks, Colonel.

10 MR. RUSSELL: Well, I don't know the
11 answer to that question. That would be left up to
12 the MCIO's. We do provide -- with the cases with
13 significant deficiencies, they have the case. If
14 they choose to go back and discuss it with the
15 agent that didn't do things properly and provide
16 additional training, that's probably a good idea,
17 but that's not something that we get involved with.
18 We point out the deficiencies and it's left up to
19 the MCIO to deal with the matter.

20 MR. STRAND: I'm not very good with math.
21 That's why I became a cop.

22 GENERAL DUNN: Speak up, speak up.

1 MR. STRAND: I became a cop because I'm
2 really bad at math. So of the 56 cases out of the
3 501 you looked at, if you standardize that across
4 the 2,000-plus cases that's roughly about 2 to 3
5 percent that had significant or major problems,
6 right?

7 MR. RUSSELL: It was 11 percent of the
8 sample.

9 MR. STRAND: 11 percent of the sample.

10 MR. RUSSELL: So if you project it, it's
11 11 percent of 2263, so whatever that is, a couple
12 hundred cases.

13 MR. STRAND: And then 25 of those weren't
14 reopened, so that would be less than 11 percent.
15 That would be --

16 MR. RUSSELL: It's 25 of --

17 MR. STRAND: 56.

18 MR. RUSSELL: -- 501, probably 5 percent.

19 MR. STRAND: So roughly about 5 percent
20 of the cases if you went across the board had
21 significant deficiencies that weren't reopened.
22 But that's not too bad. Have you looked at that

1 and looked at other -- see, this is difficult
2 because nobody else has really done this.

3 MR. RUSSELL: Yes.

4 MR. STRAND: But is that within a margin
5 of error that --.

6 MR. RUSSELL: That's the problem. How
7 much is good enough and how much is not bad?

8 MR. STRAND: Right.

9 MR. RUSSELL: We don't have a baseline.

10 GENERAL COOKE: There's no industry
11 standard that you can compare this to, is that
12 basically it?

13 MR. RUSSELL: We're not aware of an
14 industry standard, sir. As I said, this is a
15 groundbreaking review. We'll go in next year
16 again, like I mentioned. We're going to look at
17 closed cases for calendar year 2013. Right now the
18 baseline is 11 percent, and if they do worse that's
19 not good. If they do better, okay, we're going in
20 the right direction.

21 MS. JAUS: Maybe something analogous that
22 I read in the readings that were provided to us, I

1 think it was the Philadelphia Police Department,
2 they had victim advocacy groups look at some of
3 their closed cases to see if they felt that they
4 were closed correctly or if there was something
5 more that they could do, and then they went back
6 and looked at those cases. I wonder how many cases
7 -- and there were some readings about that. I
8 wonder how many cases they found that there were
9 deficiencies.

10 I mean, it's not the same thing. It's
11 not an agency looking at itself. But I think that
12 was a whole portion of our readings about how
13 important it is to have somebody else look at the
14 work and find deficiencies. I wonder what their --
15 they didn't mention any numbers.

16 MR. RUSSELL: I know about the report
17 that you're talking about. I don't have the
18 results or the numbers committed to memory.

19 MS. JAUS: They didn't have any numbers.

20 MR. RUSSELL: But that's not a
21 methodology that we decided to use.

22 MS. JAUS: Right. I'm just saying it's

1 an analogous thing that somebody else is looking
2 at, looking at closed cases to determine were there
3 mistakes made or deficiencies.

4 MR. RUSSELL: We think that we're well
5 qualified to do that work and that's just not a
6 methodology that the Department has decided to use.
7 But we are aware of it. It's good food for
8 thought, but that's not what the DOD --

9 MS. JAUS: They didn't have any numbers.
10 I was wondering myself how many mistakes they
11 found or problems they found in the cases that they
12 looked at, some of those victim advocacy groups.

13 MR. RUSSELL: I'm not aware. But I have
14 read through the study quickly, but I just don't
15 know what the results were. It was an interesting
16 process that they did.

17 COLONEL HENLEY: Mr. Russell, do you have
18 an opinion whether the deficiencies -- Mr. Russell,
19 do you have any opinion whether the deficiencies
20 that you've identified -- key evidence not
21 collected, crime scene investigation not thorough,
22 thoroughness of the interviews, suspect, witnesses

1 -- is that unique to sexual assault offenses or is
2 there some carryover to property crimes, crimes
3 against persons?

4 MR. RUSSELL: I could not speculate on
5 that, sir. We did not review any other cases. I
6 don't have any idea what the results of those
7 reviews would be.

8 COLONEL HENLEY: Right. I'm not asking
9 you whether there's been a --

10 MR. RUSSELL: I don't know if there's any
11 --

12 COLONEL HENLEY: Do you have an opinion
13 whether you think there would be carryover into the
14 quality of the investigation into non-sexual
15 assault offenses in the MCIO's? Is this unique to
16 sexual assault investigations, or if we looked at
17 other offenses in which it appears the same
18 investigators would be involved would they have the
19 same deficiencies?

20 MR. RUSSELL: I just could not, I
21 couldn't answer that. I don't know.

22 MR. STRAND: Are you seeing similar or

1 different deficiencies when you look at child abuse
2 and adult homicides?

3 MR. RUSSELL: The child sexual assault
4 case review is complete, but the report has not yet
5 been approved. Once it is, it'll be approved in
6 draft, it'll go to the MCIO's for review and
7 management comments. Once we adjudicate the
8 management comments and get the report approved,
9 it'll be published in a final format and released
10 to the public and to DOD leaders and Congress.

11 At that point in time, we could compare
12 the results between the two. I can't do that at
13 this point. I just can't, I just can't speculate
14 on any carryover between sexual assault
15 investigations and property crimes or fraud
16 investigations. That would be unfair of me to do
17 that to the MCIO's.

18 MR. STRAND: Colonel Henley, part of your
19 question may be about bias. Did you see bias in
20 the cases? Is that kind of --

21 COLONEL HENLEY: Well, we were trying to
22 identify deficiencies in a subset of crimes and

1 you're making recommendations on how to improve.

2 MR. RUSSELL: Right.

3 COLONEL HENLEY: Is it focused in the
4 right area?

5 MR. RUSSELL: Well, I will say this. I
6 think if they take our recommendations and apply
7 them to sexual assault, it's probably going to
8 carry over into the other areas. That's just based
9 on my experience as a criminal investigator.

10 COLONEL HENLEY: I'm not an investigator.
11 You're talking about -- I think one of the
12 takeaways I got was no minimum training or
13 competency standards for the sexual assault
14 investigation. Is there something unique with --

15 MR. RUSSELL: Say that again, sir?

16 COLONEL HENLEY: No minimum training or
17 competency standards for sexual assault
18 investigations, across the board. I think you
19 mentioned each service has its own --

20 MR. RUSSELL: Did that have to do with
21 the training review?

22 COLONEL HENLEY: I think that's where I

1 read it, no minimum training or competency
2 standards. I'm not saying you said that today. I
3 read it, I believe, or that was my takeaway from
4 the two reports. The first report, the training,
5 there's no minimum training or competency standards
6 across the services. I think you mentioned that,
7 that each service develops its own training
8 standards, right, that there's no DOD --

9 MR. RUSSELL: There is no overarching
10 DOD, right.

11 COLONEL HENLEY: And that's not unique to
12 sexual assault investigations. That's
13 investigation of any crime, homicide, property
14 crimes, other assaults. And I'm just curious
15 whether the sexual assault investigation requires a
16 certain investigatory expertise. Have you
17 identified that? Is that one of your
18 recommendations? Is that what you've seen in the
19 services in trying to improve their training and
20 competency standards, that these are different?

21 MR. RUSSELL: Our experience right now is
22 limited to the results of the sexual assault

1 investigation training review. We haven't gone
2 beyond that as far as evaluating the MCIO's
3 experience with training. It's limited to the
4 results of the training review.

5 COLONEL HENLEY: Right, and I guess --
6 this is my own question. Interviews, crime scene
7 investigation, doesn't seem to be unique the sexual
8 assault investigations. If you have an individual
9 who has no minimum training or competency standards
10 on those basic, crime scene analysis, are you
11 looking at the next step, that you develop at that
12 level and go to sexual assault investigations? If
13 there's no baseline, what are you training them on?
14 That's my own question.

15 MR. RUSSELL: Well, I would say each MCIO
16 has their own baseline for criminal investigative
17 training across the board. They all have certain
18 things that they have.

19 COLONEL HENLEY: Apparently they're not
20 doing it very well if you identified these as four
21 deficiencies.

22 MR. RUSSELL: We identified --

1 COLONEL HENLEY: These seem to be basic -
2 -

3 MR. RUSSELL: We identified four sub-
4 tasks that the NCIS had not documented in their
5 lesson plans for initial sexual assault baseline
6 training. We did find that the other MCIO's were
7 covering all of the required sub-tasks, but we
8 found that there was a great deal of variance in
9 the number of hours that were spent on each
10 required task.

11 But we did not find problems with, great
12 problems with their minimum competency standards.
13 We found that the training was --

14 COLONEL HENLEY: So it may not be the
15 training, but the execution.

16 MR. RUSSELL: They were doing what was
17 required, but we think they can do a little bit
18 better by looking at the number of hours that they
19 provide on each task and providing more similarity
20 or more sameness or more contact hours on each
21 topic, so that they can better train together at
22 the higher levels. So that's pretty much what we

1 found, sir.

2 COLONEL HENLEY: I'm not trying to beat a
3 dead horse, but it may not be the training that was
4 received. They may be actually trained in evidence
5 collection and interviews, but it's the execution
6 in the particular case that you evaluated.

7 MR. RUSSELL: Well, these things are
8 taken on a case by case basis. Then we look at the
9 deficiencies and we analyze them across the board
10 to look for systemic weaknesses, patterns, and
11 trends so that we can make recommendations that
12 they might evaluate their policies to make
13 improvements or increase supervision to make
14 improvements and things of that nature.

15 But we didn't find problems with minimum
16 competency standards for the MCIO agents.

17 COLONEL HENLEY: Okay, thank you.

18 GENERAL COOKE: You could have a
19 perfectly well trained agent, who's a good agent,
20 who's simply swamped. I mean, that's not to excuse
21 a significant defect, but that may explain some of
22 these. Is there any way to get at that?

1 MR. RUSSELL: Well, there is a way to get
2 at that, but we don't go there. We don't -- if we
3 find a case that had significant deficiencies, we
4 don't ask what that investigator's caseload was.
5 That is a problem or an issue that the MCIO's are
6 going to have to manage themselves. They've got a
7 finite number of agents working the cases and
8 they've got a caseload and they have to manage it
9 as best they can. But that's not part of our
10 oversight process.

11 GENERAL DUNN: I think we're going to
12 have the opportunity next to address this with the
13 MCIO's, and I think you've given us some great
14 understanding of what the DOD IG looks like, and we
15 will now have the opportunity to ask each of the
16 MCIO reps how they've taken your recommendations
17 and implemented them and even ask them what action
18 they've taken against agents and how they've
19 changed their training in response to the report
20 that you released, although I realize that these
21 reports have all just come out in the last three to
22 nine months or so.

1 MR. RUSSELL: Right, February and July.

2 GENERAL DUNN: But we'll have the
3 opportunity to do that next.

4 In the interest of time, since we started
5 about 30 minutes late, does anybody have any more
6 questions for Mr. Russell?

7 GENERAL COOKE: No, we'll let him off the
8 hook.

9 JUDGE JONES: Not me, thank you.

10 GENERAL DUNN: All right. So why don't
11 we take a ten-minute break and then we will start
12 with the service MCIO reps.

13 MR. RUSSELL: I just want to thank you
14 for the opportunity to come and talk to you today.
15 We think that we have a good program and we enjoy
16 working with the MCIO's in trying to improve the
17 quality of the Department's investigations. We
18 know that they're committed to doing that.

19 So thank you very much for the
20 opportunity.

21 JUDGE JONES: Thank you, Mr. Russell.

22 GENERAL DUNN: Thank you, and thank you

1 very much for your time, gentlemen. We very much
2 appreciate it.

3 [Recess from 9:56 a.m. to 10:12 a.m.]

4 COLONEL HAM: If we can get restarted.
5 Maria wanted to make a couple comments about FACA
6 items as well.

7 MS. FRIED: Good morning, everyone. I
8 won't take up too much of your time. It's nice
9 meeting everyone for the first time, for those of
10 you I have not met before. And for those who I've
11 met before, it's good to see you again. Thank you
12 all for coming. I won't be too long.

13 The reason why I wanted to talk with you
14 is because I know that some of you have not gotten
15 your FACA and standard SOCO training. There are
16 certain limitations that subcommittee members have
17 with regard to backup especially. The SOCO stuff I
18 think we can talk about more offline with the
19 standard of conduct rules.

20 But just a few things to keep in mind.
21 As subcommittee members, you cannot speak on behalf
22 of the subcommittee or the Response Systems Panel.

1 So if you're approached by the media or
2 if you are asked to go to Congress for whatever
3 reason, you could only do that in your personal
4 capacity and you need to have that disclaimer made
5 up front, because the subcommittee work is the work
6 of the panel. Everything we do here is closed to
7 the public.

8 While there will be a transcript
9 provided, we need to make sure that we have free
10 discussion on that we are supporting the work of
11 the full panel. We don't want to do anything
12 that's going to taint or compromise the final
13 product.

14 So I ask that you keep that in mind, and
15 I also ask that if you have any questions,
16 concerns, or something presents itself, feel free
17 to give me a call and let's address it before you
18 take any action if you think it could create an
19 appearance problem for the full panel or even for
20 the work of the subcommittee.

21 Again, I think you'll get more
22 information when we get our FACA briefing, but I

1 did want to present that here because I think
2 that's probably a more common scenario that
3 presents itself.

4 Is there anything else that you think we
5 should address?

6 COLONEL HAM: No, thank you. What we're
7 concerned about is the independence of the panel
8 and the appearance of independence of the panel not
9 being tainted.

10 MS. FRIED: Yes. As the Designated
11 Federal Officer, it's my job to make sure that
12 there's compliance with the regulations and FACA.
13 You're all independent. That's not for me to get
14 involved with. But with regard to how it operates,
15 I am responsible for that. So I obviously have an
16 interest in making sure that that works well.

17 So thank you all.

18 GENERAL DUNN: All right. Thank you all
19 for joining us this morning. We very, very much
20 appreciate your time. I think we'll go by service,
21 starting with Army and move down the panel to your
22 right, my left.

1 We are interested -- I know you're all
2 going to make opening remarks and then we will ask
3 you questions. We are interested, based on our
4 last briefing, which was from Mr. Russell at the
5 DOD IG, in how the service MCIO's have implemented
6 recommendations that came out of the DOD IG review
7 of training and of the adult sexual assault
8 investigations. So if you want to add that into
9 your initial remarks, I think everybody in the room
10 is interested in your take on that, especially with
11 respect to recommendations that a working group be
12 formed, what the progress has been on that,
13 etcetera.

14 With that, Mr. Surian, please.

15 OVERVIEW OF EACH MP/SPs AND MCIO'S TRAINING,
16 PROTOCOLS AND PROCEDURES TO RESPOND
17 TO SEXUAL ASSAULT REPORTS

18 MR. SURIAN: I was going to say, I think
19 you want to know -- as I understand it, you wanted
20 to know the training for both the military police
21 and the investigators. So I was going to let Ms.
22 Donna Ferguson go first since she's from the United

1 States Army Military Police School and kind of can
2 give you a thumbnail sketch of the training that
3 the MP's get. She'll touch a little bit on CID
4 training. Then she'll pass it back to me and I'll
5 give you a little more in depth on what the CID
6 agents get, and we'll go on down the line, if
7 that's agreeable, ma'am.

8 GENERAL DUNN: That is awesome. Thank
9 you.

10 MR. SURIAN: Donna.

11 MS. FERGUSON: Good morning. What I want
12 to do is I want to be able to start actually with
13 our basic training so I can give you an actual
14 picture of where we start from the inception, that
15 they choose to become military police, to the time
16 that they actually decide to become a CID, to know
17 what training they get and how there's cross-
18 training, even though it may not say "sexual
19 assault," where there's a multitude of training
20 that actually occurs actually concurrent with that
21 for them.

22 So for us at the Military Police School,

1 it's not so much it's vitally important what we
2 train; it's how we train. What we've done from the
3 educational perspective is taken an adult model of
4 learning, instead of learning like children do,
5 because with adults you want to talk about from a
6 visual perspective how they learn, those who are
7 kinesthetic in their learning styles, to make sure
8 that we're not just giving them the science; we're
9 giving them the art together actually with that.

10 So as we take a look at this, I've given
11 -- I've put out some slides actually for you when
12 we're talking about the Military Police School
13 sexual assault training, beginning with their
14 initial training, just weaving it through the
15 advanced training courses, up to what we actually
16 have, called our SVUIC course, which is set aside,
17 specialized for our CID agents.

18 So when we talk about the sexual assault
19 training it's not, again, it's not always just
20 specifically called sexual assault training, but
21 those things that enhance and enable them to be
22 able to fully operate, or we'd be having a

1 duplication of courses and that's something that we
2 didn't want to be able to hold. We wanted to
3 ensure that everything was enhanced and taken to
4 the actual next level.

5 So if you'll take a look at the next
6 slide, what I've done is, so you can see the
7 training career time line for the Military Police
8 Corps and the way that it works from the initial
9 training, those trainings that enhance or enable.
10 Inside of our one-station unit training there are
11 64.6 hours that are actually accomplished that are
12 surrounding sexual assault, so that they get the
13 fullness of that, so that they understand the UCMJ
14 and the legal procedures and then what they do upon
15 arriving at a scene, because this is a CID purview,
16 but those patrols are first responders.

17 So there are trainings for them as it
18 relates to crime scene protection also, for the
19 initial when they arrive on the scene. We have
20 asked our initial military police not to attempt
21 any form of investigation because we have set that
22 aside actually for our CID to do.

1 In every case of sexual assault, a CID
2 agent does respond to that case. So if we look
3 across at our professional development, you have
4 the military police, what we call BOLC, which is
5 our officer basic course. There are 35 hours there
6 where they also have specific sexual assault, where
7 they learn about sex offenders, and they too get
8 the inception of the UCMJ with Article 120 as well
9 and understand sex offenders also, because they're
10 not only going to be platoon sergeant as well as
11 military police, but they're also going to be duty
12 officers as well when they're military police are
13 on the road operating.

14 So they get that training, our CID
15 special agent course, which Mr. Surian will talk
16 more specific to, our warrant officer basic, and
17 our advanced course for them as well when it comes
18 to case management and how it should be handled in
19 their mid-career. Also we have specialized courses
20 in child abuse, along with our SVUIC course as
21 well, which we'll talk more about, and our MPI
22 students as well.

1 I will say with that also is not just an
2 Army course; it's actually joint. We have the
3 Marines that actually join us, we have the Navy,
4 within military police investigations course as
5 well, along with our SVUIC course also with
6 different branches of service. So that will be a
7 part of that as well.

8 COLONEL HAM: Donna, may I ask a
9 question, please? For example, when you say "MP
10 BOLC, 35 hours of sexual assault training," that's
11 35 hours out of a total of how many hours of
12 training?

13 MS. FERGUSON: I don't have the exact
14 number of hours for our MP BOLC, but they're there
15 for four and a half months for their actual course.
16 But during their law enforcement, because they
17 actually have different forms of duty, and when it
18 comes to their law enforcement side of it, because
19 they also have a combat side as well -- so when it
20 comes to their law enforcement, there is a minimum
21 of actually that 35 hours that is inclusive, which
22 they'll talk about duty officer responsibility,

1 they'll learn about desk sergeant responsibilities,
2 their patrol responsibilities, how to respond to a
3 scene, such as sexual assault, domestic violence,
4 those type of special victims crimes overarching
5 from a leader perspective.

6 So when we talk about their professional
7 development, again, the way that it's actually
8 woven in, if you'll look at the next slide, we
9 actually have it set aside where every facet of the
10 Military Police Corps or the military police
11 soldier will actually receive some form and some
12 level of training, depending on where they are in
13 their career time line, from the basic level all
14 the way to our pre-command course level, because
15 they too have a minimum of two hours of sexual
16 assault training also at the pre-command level.

17 So the military police battalion and
18 brigade commanders also receive training as well in
19 sex offenders and how we can actually further
20 assist them as it relates from a command
21 perspective, to be able to understand and recognize
22 sex offenders also and how to handle cases and how

1 to actually have a relationship with CID agents as
2 it relates to case management.

3 MS. JAUS: Can I ask a question?

4 MS. FERGUSON: Yes, ma'am.

5 MS. JAUS: Who takes the advanced course?
6 Everyone? Is that what you're talking about with
7 the advanced course?

8 MS. FERGUSON: No, ma'am. The way that
9 it works, you have different levels. The way that
10 the different levels work is the OSUT is for the
11 basic military police when they come into the
12 military service, from the civilian into the
13 military. That's where the one-station unit
14 training is.

15 Then once they are assigned to military
16 police companies, then they may -- if they choose
17 to, after working patrol, the next level is
18 military police investigations. That's where
19 they'll have certain purviews where they'll work
20 levels of investigations.

21 From military police investigations, then
22 you have the CIDSAC course, which is our special

1 agent course, where they go from becoming what we
2 call Victor-5's. They actually have an assigned
3 identifier to them. Then they move to the CIDSAC
4 course, which that's where they become CID agents.

5 After CID agents, they receive another level of
6 training.

7 But then we have a special victims unit
8 training, where that two-week course is set aside
9 for those who have been assigned to work special
10 victims cases as it relates to sexual assault.

11 GENERAL DUNN: And that is just for CID
12 agents, because only CID agents investigate sexual
13 assaults?

14 MS. FERGUSON: Right.

15 MR. SURIAN: I think the confusion might
16 be is OSUT, the one-station unit training, is for
17 enlisted soldiers. The BOLC, the Basic Officer
18 Leader Course, is for officers. Then the enlisted
19 soldiers then may decide later on to become a
20 warrant officer in CID and that's another track of
21 training. So you've got really three tracks of
22 training going along the same way.

1 MS. FERGUSON: So the way the training is
2 set up, it is designed that, regardless of which
3 track they take, they actually have sexual assault
4 training regardless.

5 So if we look at those special agent
6 courses, the sexual assault training that they
7 actually receive specifically, Mr. Surian will talk
8 more specific to that particular area.

9 COLONEL HAM: What's the MP's' overall
10 mission? What's the mission of the military
11 police?

12 MR. SURIAN: I'll let you answer, Donna.

13 MS. FERGUSON: Actually, when it comes to
14 the military police, it actually is to protect,
15 assist, and defend, not just our nation, but also
16 our installations. So from a protective
17 standpoint, even to include such things as physical
18 security on the installation, anti-terrorism.

19 When we talk about assisting, we also
20 work collaterally with other organizations within
21 the military community and external to the
22 installation as well. When we talk about defense,

1 that's more of our wartime mission in a deployed
2 environment, where we actually have support roles
3 to such areas as the infantry and field artillery.

4 But our law enforcement mission both
5 happens in combat and in a garrison environment as
6 well on the installations, where we are responsible
7 as law enforcement.

8 COLONEL HAM: And how do criminal
9 investigative responsibilities divide up between
10 CID and the MP's?

11 MR. SURIAN: Generally speaking, they
12 divide on the felony line, with some exceptions for
13 property type of crimes with dollar amounts. But
14 generally all the felonies are handled by Army CID
15 and the misdemeanors would then be handled by the
16 military police investigators.

17 To pile on Donna here, the MP's also got,
18 in addition to CID, which is like a specialty
19 within the MP Corps, you've also got Army
20 Corrections, which is another specialty within the
21 MP Corps since then run Leavenworth and other
22 vacation spots.

1 Then there's a criminal intelligence
2 piece that ties into that also, that goes back to
3 what Donna was talking about with anti-terrorism
4 and force protection, both in theater or in a
5 combat situation and then also in peacetime, to
6 track crime trends and patterns and things like
7 that.

8 Are you done, Donna?

9 MS. FERGUSON: Yes.

10 MR. SURIAN: I was going to say, if
11 you'll pick my first slide up, it's just to give
12 you some background on CID in regards to sexual
13 assault. There are some broad numbers here to let
14 you know that we do about 12,000 some odd felony
15 crimes a year, which is a fairly good workload.
16 Out of that, there's probably another 2,500 some
17 odd sexual assault cases. So about one-fifth of
18 our caseload is sexual assault.

19 That's all sexual assaults. That's
20 separate from the DOD definition of "sexual
21 assault." So using the DOD definition of "sexual
22 assault," the number drops down, at least in FY

1 '13, to about 1800 some odd cases that we had to
2 work.

3 We do all sexual assaults. We've always
4 done all sexual assaults in Army CID. So whether
5 you use the UCMJ from 1972 or you use the UCMJ from
6 last year, we've done them all and we've always
7 done them all.

8 We run about -- on average, probably an
9 average case last year was about 109 days. Part of
10 the problem that complicates completing them
11 quicker is not necessarily the lab, but it was the
12 delay between the event or the occurrence of the
13 crime and when it gets reported to us. Almost a
14 third of our cases are at least a month old, if not
15 older, and a good about 15 percent of our -- 15
16 percent of the cases that we get are at least one
17 or two years old, if not older.

18 So trying to track down witnesses, crime
19 scenes, etcetera, all takes an extremely long time
20 for those cases. So when you start talking about
21 the average, it can skew the numbers there.

22 The next slide goes into the training

1 that the agents get, their basic training, CID
2 CIDSAC, if you will, special agent course. They
3 get over 200 hours of crime scene processing. They
4 get numerous hours of interviewing processes. They
5 get 16 hours specifically on sexual assault.

6 I'm sure Kevin and Bob will bring this
7 out, too. A lot of the techniques and practices
8 and art of investigating the crime are kind of
9 similar across all the different types of crime and
10 not specific to sexual assault. Once you know how
11 to process a crime scene for fingerprints, it
12 doesn't matter if it's a murder, a larceny, or a
13 rape. You're good to go for processing it for
14 fingerprints and what have you. And that applies
15 to a lot of the other techniques that we use in
16 sexual assaults.

17 A couple of years ago, about 2009, we
18 realized that -- we had some highly qualified
19 experts come in and look at our cases, and we
20 realized we had a problem where a lot of our sexual
21 assault cases weren't up to where we wanted them to
22 be. As a result of that, we got with the Military

1 Police School and we developed an advanced sexual
2 assault investigation course, which has morphed
3 over time into a special victim unit investigation
4 course, or the SVUIC.

5 It's a two-week course. We tried it
6 shorter at one time to see if we could do it
7 shorter and we found that a shorter time didn't
8 work for us, because what we found we had to do was
9 overcome a lot of cultural biases, opinions, and
10 hardheadedness amongst our agents folks in order to
11 knock them back into taking these cases the correct
12 way and looking at these cases in the correct way
13 and understanding why the victims were doing what
14 they were doing and why the victims were saying
15 what they were doing and things like that.

16 So we found that two weeks was about the
17 right amount of time to turn an agent around. We
18 started the course grabbing all of our senior
19 agents, all our senior field agents, and trained
20 all those individuals, so that they could influence
21 all their subordinates to do it the right way.
22 We're working our way down through the chain as

1 we've gone over time, and so we've done all of our
2 senior agents out in the field and now we've done
3 almost all our mid-level managers, and we're now in
4 the stage of doing the actual agents themselves,
5 the agents with about three or four years
6 experience who are not yet agents in charge or
7 operations officers or anything like that.

8 Yes, ma'am?

9 MS. JAUS: Do you use outside experts to
10 do the training or is it only in-house people?

11 MR. SURIAN: No, we use outside experts.
12 So we've got people like Dr. Barbara Craig from
13 the national DOD child protection thing. We use
14 Ann Munch. We use Dr. Hopper. We can get you a
15 list, ma'am, if you need it.

16 MS. FERGUSON: I actually have some of
17 those actually with us, because what we decided in
18 the course -- because we wanted to look at best
19 practices. Like Mr. Surian said, we started off
20 with a three-day training and we found that it
21 didn't work. So we went from three days to five
22 days, because there were a lot of cultural biases

1 that were there, but also the methodologies that we
2 use from the art of what we were doing.

3 So what we decided to do is have a
4 collaboration of not just military, but civilian
5 personnel also, experts from the field, to actually
6 bring them in and sit down and look at best
7 practices. What we did was we actually married up
8 the science and the art and took the criminal
9 justice arena and added it to the psychological
10 world, because there was so much -- especially in
11 our interview techniques.

12 So some of the people that we had
13 inclusive within that -- and I just made a list of
14 just a few of them that actually come in within the
15 course to teach that are not Army or military, if
16 you will. We've got the prosecuting attorney, Ms.
17 Patty Powers out of Washington State. From the
18 social science and behavioral science arena, like
19 he said, Dr. Joan Harper, actually from Harvard
20 University; Dr. Lisak, who's a former professor at
21 U.Mass., a clinical psychologist; Theresa Sikoldo
22 from Navy TCAP, as well as Erin Rue; Dr. Kim

1 Lonsway from End Violence Against Women also come
2 in.

3 But we also wanted to bring in civilian
4 law enforcement, so we brought in Detective
5 Elizabeth Donegan and Detective Mike Crew actually
6 from the Austin PD Sex Crimes Unit as well and,
7 like he said, Dr. Barbara Craig.

8 So we had a diversity of fields, bringing
9 the entire behavioral science field together, I
10 think something we haven't done in the past,
11 because law enforcement did it law enforcement's
12 way, the clinical world did it their way, and by
13 bringing those together and better understanding
14 victims and actually perpetrators, better enhance
15 that which our agents would be able to accomplish
16 and how to investigate a case, and not just using
17 some of the old techniques that no longer work for
18 us.

19 So that's what we were able to do with
20 this course.

21 MR. SURIAN: We teach a lot about trauma
22 within memory and recall. We teach a lot about

1 alcohol-facilitated sexual assaults. We talk about
2 same-sex sexual assaults. We lay all that as a
3 groundwork for a new technique, interview technique
4 that we're using, that we call FETI, which is the
5 Forensic --

6 MS. FERGUSON: Experiential Trauma.

7 MR. SURIAN: -- Experiential Trauma
8 Interview technique, thank you. I can never get
9 the "E" out.

10 It's different than anything else that
11 we've seen. It's not like the cognitive interview
12 technique or anything else. It's a different
13 technique altogether that Dr. Harper and Dr. Lisak
14 helped us develop down there to better get at --
15 have the victims tell us what went on, what
16 happened, what they remember, and things like that.

17 So what we're finding is that we're
18 getting much better interviews, a lot more detail
19 that we're able to corroborate, like micro-
20 corroboration or something, where a victim will
21 remember like how many dots are on the back of a
22 seat or something like that because that's all

1 she's concentrating on because she's trying to
2 forget the assault. So then we're able to go to
3 the crime scene and actually count the dots and
4 verify that there is X amount of dots on the back
5 of the seat, or something along those lines.

6 It's all that little micro-corroboration
7 in the investigation stuff that then helps build a
8 better case against the accused on the case.

9 Anyway, so they go through about two
10 weeks of that, and the slide hits some of the high
11 points of what the training is. We talk about
12 legal issues, we talk about medical evidence. We
13 talk about, like I say, trauma, memory, recall. We
14 do -- obviously, the capstone is the FETI
15 technique, where the agents actually do it in
16 practical exercises, three or four of them if I
17 recall correctly. They go through that.

18 There's a test at the end that they all
19 have to pass in order to graduate from the course.

20 We've opened that course to all the
21 services, so Navy, Marines, Air Force, and the
22 lawyers, prosecutors, also all show up and take

1 this course. We've also got the National Guard
2 Bureau has, because of their unique situation in
3 the Guard --

4 MS. FERGUSON: The Coast Guard.

5 MR. SURIAN: Yes, and the Coast Guard's
6 there, too. But the National Guard has got a
7 program run out of National Guard Headquarters here
8 in D.C. where if a TAG at the national or a state
9 has a sexual assault that occurs and that the local
10 police aren't handling it because it doesn't make
11 their threshold, or maybe it doesn't violate some
12 state law in their jurisdiction, they can call this
13 group out of the National Guard Bureau
14 Headquarters, who then come out and investigate
15 that for the TAG.

16 Then the TAG -- of course, you can't --
17 in those cases you can't take them to a judicial
18 process, but he can go through an administrative
19 process to kick the soldier out of the Guard or,
20 depending on the UCMJ and the state, they might be
21 able to do what would be akin to us in the active
22 side as an Article 15.

1 So we're training those lawyers and some
2 of their investigators on how to do this better and
3 how to collect evidence. That all goes then, works
4 into -- and obviously we've expanded it since
5 Congress expanded the SVU program from just sexual
6 assault to also include child abuse and domestic
7 violence, at least serious domestic violence and
8 serious child abuse. We've expanded the program to
9 also cover those fields, so Dr. Craig comes in and
10 she talks about injuries and medical evidence on
11 children as a result of sexual assaults or other
12 violent crime.

13 That all then goes into a process that
14 we're trying to get our hands around right now
15 within the Army. We have additional skill
16 identifiers, ASI's, that tack onto the end of a
17 soldier's military occupation specialty code. So
18 for like most CID agents, their military
19 occupational specialty code is a 31-Delta, which in
20 the Army means, hey, he's a CID agent. We then
21 tack on additional skill identifiers that would
22 identify an agent as, say, a polygrapher or

1 something along those lines.

2 So we have two codes that are now in the
3 process of being approved by the Army. One would
4 be a basic level SVU code and the other one would
5 be a senior SVU code, ASI. The basic level is an
6 agent who has gone through all the CID training,
7 has at least three years of experience, is not on
8 probation or an apprentice status or otherwise not
9 in good standing with CID, and he goes to the two-
10 week SVUIC course.

11 He comes out with a basic ASI that says
12 he's qualified, certified, if you will, to
13 investigate, be part of an SVU team on an Army
14 installation to investigate sexual assaults, child
15 abuse, domestic violence.

16 The senior position requires not only the
17 two-week SVUIC course, but it also requires three
18 more courses. Those courses would be the CAPT, the
19 DVT, and the advanced sexual crime scene. The CAPT
20 is a child abuse course, the DVIT is the domestic
21 violence course, and the advanced crime scene is
22 another two-week course where we take the agents

1 through advanced CSI-type of processes to process
2 crime scenes even more than they get in the basic
3 course. So they've got more tools, more toys, and
4 more expertise to find even more fragile and trace
5 evidence than they would normally.

6 With those two ASI's that the Army can
7 then assign to our agents that have been through
8 it, we can then manage where our agents are, so
9 that we can ensure that we've got coverage at all
10 Army bases with at least one agent with a basic
11 SVUIC course, if not ideally an agent with a senior
12 ASI and an agent with a basic ASI.

13 In addition to that, we've hired -- we've
14 gone up and down on this through the budget crisis.

15 But we've got 22 civilian sexual assault
16 investigators. These are to a large degree either
17 military or civilian investigators who have spent a
18 lifetime almost investigating sexual assaults.
19 We've grabbed those guys. We've hired them on to
20 us and we've made them in charge of sexual assault
21 teams at our bigger installations.

22 So I've got like 22 of these people at

1 about 20 Army installations around the world right
2 now. In FY '14 I'm supposed to get eight more. I
3 repeat, I'm supposed to get eight more, because I
4 don't know what the budget looks like, in which
5 case I would have 30 of them and I would then be
6 able to cover 23 Army bases.

7 But, assuming that that could be a
8 Christmas wish list, we're really relying on the
9 training that the military agents that I have going
10 through the SVUIC course and either becoming a
11 basic ASI or a senior ASI indicator on it would
12 then cover those places where I can't have a
13 civilian sexual assault investigator running the
14 team.

15 Those guys would run -- those agents who
16 have these basic ASI or ideally the senior ASI
17 would then be the special agent and team chief for
18 a sexual assault team in each of the offices. All
19 the cases -- they would supervise or run all the
20 cases that come into that office that they're
21 responsible for.

22 If we don't have enough to do it -- and

1 we should, but if we don't have enough to do it,
2 and there are some Army places that we don't have
3 CID offices at, then we do it as a fly-away team
4 and we fly those agents in or send them in TDY to
5 cover whatever crime is happening at the Bluegrass
6 Army Depot or wherever else that I don't have a CID
7 agent at, because the Army of course has hundreds
8 of Army installations and I've only got CID at
9 about 60 or 70 places altogether.

10 That's a quick overview, ma'am, of that.
11 To talk about the DOD IG training assessment, I
12 think the DOD IG found that all the services were
13 meeting the requirements of the regulation and made
14 a recommendation which seemed to be -- my personal
15 opinion -- did not seem to be grounded in any fact
16 that they found in their assessment, that said a
17 working group was needed to come together.

18 So myself and Mr. Poorman and Bob Vance
19 and Mo Evans have been working here for the last
20 couple of months on a response to that that would
21 identify some commonalities of the training that is
22 needed for CID and others.

1 MS. JAUS: Can I ask another question?
2 Is there any training -- I imagine you have
3 training on the rape kits. You have someone at the
4 regular training who comes and talks about the rape
5 kits. But do you use a suspect kit in the
6 military? Do you have a suspect kit?

7 MR. SURIAN: The same -- well --

8 MR. POORMAN: Within the kit is a suspect
9 protocol.

10 MR. SURIAN: A suspect protocol.

11 MS. JAUS: Oh, in your actual victim rape
12 kit you have a suspect? And what about a drug-
13 facilitated rape kit? Is that within the main kit
14 or is it a separate kit?

15 MR. POORMAN: That's in the main kit. It
16 calls for toxicology samples where appropriate.

17 MS. JAUS: So it's just one kit and it
18 has little components?

19 MR. POORMAN: Yes.

20 MR. SURIAN: But you have to understand
21 that not all sexual assaults get handled by a
22 military medical facility. A lot of them are

1 contracted out. So then you're out in the civilian
2 community of whatever state you're at and, because
3 the state obviously certifies its own doctors and
4 nurses and examiners, they require their people to
5 use whatever state kit they've got.

6 So sometimes we're -- sometimes the kits
7 are good, sometimes they're not necessarily as
8 thorough as we would like. You'd have to ask the
9 medical community why we don't do it in Army or
10 other hospitals.

11 MR. POORMAN: The DOD protocol is very
12 comprehensive. It's a 14-page protocol.

13 MS. JAUS: For the rape kit?

14 MR. SURIAN: Right.

15 MS. JAUS: Here it is.

16 MR. VANCE: You can Google search it and
17 it'll come right up.

18 MS. CHAYT: We'll make it available.
19 I'll make copies.

20 MS. JAUS: Do you know how long you've
21 been using the suspect kits or the component?

22 MR. POORMAN: It's been around for well

1 over a decade.

2 MR. SURIAN: Yes, forever, it seems like.
3 It's modified. It's grown better over time,
4 obviously.

5 MS. FERGUSON: Yes.

6 MR. POORMAN: The services get together
7 annually and review the protocol, so it gets --
8 it's evolved over time based on new science.

9 MS. JAUS: Do you know how frequently
10 it's used? Because it's really on rare occasions
11 you can use it. It has to be an immediate crime,
12 etcetera. But how often, do you have any idea?

13 MR. POORMAN: This is just my sense:
14 About 25, 30 percent of the time, because many of
15 ours are late reports.

16 MS. JAUS: I understand that. Which is
17 similar to the jurisdiction where I was in, New
18 York. We do use the suspect kit, maybe for ten
19 years as well, and we don't use it that much, I
20 would say 25, probably consistently. I was just
21 curious.

22 MR. VANCE: The DOD kit has been revised

1 actually in the last 18 months now. So it's not
2 like it's been delayed and revised. We're I think
3 about a year in to the revised kit. So it's pretty
4 fresh.

5 MR. SURIAN: DOD had a panel together of
6 civilian experts, SANE nurses, etcetera, when they
7 came up and drew up that whole protocol on how to
8 do the exams and what to look for and everything
9 else like that.

10 MS. JAUS: Well, the suspect kit can be
11 dicey. It has to be in certain circumstances,
12 etcetera. Sometimes it helps, sometimes it can
13 hurt.

14 COLONEL HAM: Maybe you're not the right
15 person to ask and let me know if that's the case.
16 But if we're contracting out to have the kits done,
17 is there a requirement that those that we contract
18 with meet DOD standards? Like for example,
19 corrections facilities that contract with the
20 county jail, they have to meet certain DOD
21 standards. Do you know if that's the case with the
22 civilian medical facilities that we contract with?

1 MR. SURIAN: I don't know, ma'am. You'd
2 have to -- somebody from the medical, the Surgeon
3 General's Office or something like that, would
4 probably know better.

5 COLONEL HAM: Thank you.

6 MS. FERGUSON: Also -- I was going to
7 say, also because of delayed reporting and things
8 like that, one of the things that we do within the
9 courses as well, we actually talk about challenges
10 to credibility. We talk about differentiating
11 between false information and false reports. A lot
12 of times that comes up because of the delayed
13 reporting or because of what happens with the rape
14 kits and things of that nature.

15 So that's a very integral piece in what
16 we actually do, because when a victim often comes
17 in and it's been a week or it's been two weeks and
18 now they're concerned about their credibility
19 because of their delayed reporting, statement we
20 spend quite a bit of time on those particular
21 areas, because they think if there's not a rape kit
22 then there's no way that there can be a

1 prosecution.

2 So taking the forensic or the
3 psychophysiological evidence that actually comes
4 from them, which is stored in the brain, actually
5 assists greatly in those areas. That's something
6 that a lot of victims don't actually have knowledge
7 of, so it has been very beneficial to us to be able
8 to retrieve that information actually through our
9 trauma interviews that we actually now do with
10 them.

11 So that actually has been wonderful for
12 us over the last couple years, because that wasn't
13 something that was happening before. The victims
14 just thought if it was delayed there's nothing I
15 can do, or if they tell their story, how am I going
16 to be perceived as being credible when there's
17 actually no physical evidence.

18 MS. JAUS: Do you use 96 hours or 72
19 hours for the kit?

20 MR. VANCE: The instructions say up to a
21 week, ma'am.

22 MS. JAUS: Up to a week?

1 MR. VANCE: Yes.

2 MS. JAUS: Wow.

3 MR. POORMAN: One of the problems with
4 that is oftentimes folks consider the specimen, the
5 biological specimens, but your injuries may stay
6 for up to -- actually beyond, longer than a week.

7 MS. JAUS: We use 96 hours.

8 MR. POORMAN: Bruises in particular.

9 MR. STRAND: Mr. Surian, one of the
10 questions from the previous witness, Mr. Russell,
11 that he punted over to all of you is, based on
12 their investigative report, and it's rather new,
13 their investigative report, what action if any have
14 you taken based on that report as far as dealing
15 with the agents that created some of the
16 significant deficiencies, or how have you dealt
17 with the cases that were reopened, and where are
18 those at?

19 MR. SURIAN: It was actually a fairly
20 small number of cases that were deemed by DOD IG to
21 be impaired, significantly impaired. We reopened
22 those cases where we could. Some of them didn't

1 get any further than they had at the time that we
2 had closed them. Others have turned up, have
3 turned up an answer to a question that they had,
4 but it didn't solve the crime. The DNA came back
5 to an old boyfriend, the victim told us that he
6 didn't do it, it was somebody else. So we ran some
7 of those leads down.

8 We took their findings in general and we
9 sent what we all an operations memo out to the
10 field reminding the field of our standards and that
11 everything has to be done correctly and there's a
12 reason for it, to make sure that all the stones are
13 turned over and don't overlook any leads or any
14 evidence.

15 Then of course, we have an internal IG
16 team that goes out on an annual basis and reviews
17 cases at all the field levels to ensure that the
18 cases are meeting our standards, and if they don't
19 meet the standards then the office flunks, to put
20 it in bad terms, and they get to see the IG sooner
21 than later, who comes back to see if they've
22 corrected deficiencies and done a better job of

1 investigating crimes. So it's a not so nice IG;
2 they wear a black hat.

3 GENERAL DUNN: That's your internal?

4 MR. SURIAN: That's the internal IG.

5 GENERAL DUNN: Army IG. About how often
6 do they hit your major offices? What kind of
7 cycle?

8 MR. SURIAN: They hit them about every 18
9 months.

10 GENERAL DUNN: Okay.

11 MR. SURIAN: That's the cycle.

12 COLONEL SCHOLZ: And they're looking at
13 all cases, not just sexual assault cases?

14 MR. SURIAN: No, but they key in on the
15 more major crimes, because we also do a lot of drug
16 crimes. So we have -- once you've done a sample of
17 some of the drug cases and you know what they're
18 doing, then there may not be a need to go into each
19 of those with as much detail.

20 We've also told them that sexual assaults
21 are a priority for the command and so they grab
22 more of those cases than they would normally to

1 review them. Then of course, if they find problems
2 they'll grab more cases to review them, to see if
3 it's a trend or a pattern or a training issue or
4 some other type of problem we have.

5 GENERAL DUNN: From your perspective at
6 kind of the pinnacle of the investigations in the
7 Army, what's your view on whether or not there has
8 been progress over the last, say, two to three
9 years?

10 MR. SURIAN: I think we do a better job
11 now than we did in the past. I guess one of the
12 eye-opening things we did is when we first brought
13 in a lot of the older, more experienced senior
14 leaders, agents that we had, and we gave them that
15 two-week course and we changed their cultural bias.
16 We had many of them come to us after the course
17 and tell us: Oh my God, I think I screwed up a
18 case five years ago; I think I screwed up a case
19 three years ago.

20 They were feeling bad because after they
21 had been trained they realized that, hey, I took my
22 cultural bias and because she reported it late or

1 whatever I assumed that she was a liar and I didn't
2 look, I didn't look for the other evidence that
3 would have proven that she was actually raped or
4 sexually assaulted.

5 So we've had that shift in the command
6 since we've started this program, which is in my
7 opinion tremendous because now we're doing a lot
8 better on these cases than we ever had before.

9 I think the Army indicates, the Army
10 lawyers, AJAG, indicates that they're prosecuting
11 more of the cases. So I'm assuming I'm getting
12 better product to the prosecutors, that they feel
13 more confident in taking the cases to a judicial
14 forum as opposed to maybe an administrative or
15 nonjudicial forum.

16 The numbers are tough to manage at the
17 moment, since they keep going up. Hopefully we'll
18 hit a peak at one point and it'll plateau out and
19 will give us a little bit better time line. But
20 otherwise I think they're better now than they were
21 before. I know that the class we've had out at
22 USAMPS has done wonders in turning around a lot of

1 the things that we found we were taking shortcuts
2 before or not believing victims before. So since
3 2009 I think we've done a better job.

4 MR. FISHMAN: May I follow up with two
5 questions. As you go down the line, if you would,
6 identify the minimum training for sexual assault
7 investigators that they would have in your service,
8 so the persons, the members here, can get a
9 comparison with civilian jurisdictions who come in
10 and talk about it. So we're looking for basically
11 the minimum training your sexual assault
12 investigators would have, and also looking at the
13 specialized training they would have concerning
14 sexual assault investigations. That's number one.

15 As you go down the line, number two, I
16 don't know that we got a clear answer. I may have
17 misunderstood Mr. Strand's question on the tail of
18 what the DOD IG said, which was: Concerning the
19 deficiencies, are there any mechanisms that each
20 service has put in place to remedy that or rectify
21 any identified deficiencies, looking really more at
22 the policy level, at your level? I'd appreciate it

1 if you could identify that as you go down the line.

2 GENERAL COOKE: Can I just ask, how many
3 CID agents are there?

4 MR. SURIAN: There are about a thousand.

5 GENERAL COOKE: And what percentage of
6 those have or do you want to have this additional
7 skill identifier?

8 MR. SURIAN: Ideally, I'd like them all
9 to have that. But with rotation and retirements
10 and just getting out, that's probably an
11 unrealistic goal. I've got about 300 right now
12 that have gotten at least the basic training, and I
13 know that I've got about five or six agents,
14 military agents, that have both the basic SVUIC
15 training plus the additional three, so they'd be
16 recognized as senior, senior sexual assault
17 investigators for an SVU team.

18 As we continue on this, we'll continue to
19 push sending them to school and sending them to the
20 courses. The agents usually like to have an ASI at
21 the back of their deal because it kind of gives
22 them an up on everybody else. It looks good on

1 their official records and tends to get them
2 promoted maybe a little bit quicker than somebody
3 else. So there's an incentive to do these things.

4 GENERAL DUNN: You would consider your 22
5 civilian sexual assault investigators to be
6 equivalent to having senior SVU agents?

7 MR. SURIAN: Yes, ma'am.

8 GENERAL DUNN: So really you have --

9 MR. SURIAN: I've got about 28.

10 GENERAL DUNN: -- about 28 or so that
11 are, you think, have a really good level of
12 training on sexual assault specifically?

13 MR. SURIAN: Yes, ma'am. They would be
14 our senior sexual assault investigators.

15 COLONEL HENLEY: Must the lead
16 investigator be a graduate of the SVU course?

17 MR. SURIAN: For sexual assaults?

18 COLONEL HENLEY: Yes.

19 MR. SURIAN: Yes, especially for the
20 penetration offenses. Now, if he's running a team
21 he doesn't necessarily have to be the lead
22 investigator on the not-penetrating sexual

1 assaults. So if it's just an indecent assault, an
2 inappropriate touching, as long as he's supervising
3 somebody on his team who's doing that investigation
4 that would be acceptable.

5 COLONEL HENLEY: Is that a change?

6 MR. SURIAN: Well, the whole program's a
7 change. I mean, we didn't have -- ten years ago we
8 didn't have sexual assault teams. We just had a
9 general crimes team and a property crime team and a
10 drug team. So yes, sir, it's a change.

11 MS. JAUS: After the victim discloses, at
12 what point, or is there ever a point, that she's
13 provided with a social worker, a victim advocate,
14 not the special victims counsel that I heard about,
15 but any kind of social worker or advocate, in the
16 process of the investigation? Like when the
17 specialized officer is interviewing her, is there
18 ever a -- does she ever get, or he, get a victim's
19 advocate or any kind of social worker?

20 MS. FERGUSON: Yes, ma'am, they do. They
21 initially get what is called a victim's advocate or
22 a SARC is assigned, a sexual assault response

1 coordinator. What they actually do -- and they
2 follow them through the entire process. They are
3 never alone. That's one of the great things that
4 has come out of some of the work that has been done
5 over the last few years, actually having SARC's and
6 victim advocates, even having the unit victim
7 advocates also within the units to be able to
8 support them through that process.

9 MS. JAUS: That happens right away?

10 MS. FERGUSON: Yes, ma'am.

11 MR. SURIAN: Yes, ma'am. If they don't
12 come to us, if they don't come to us with a victim
13 advocate or the SARC, then our policy is that the
14 agents won't do anything until they've contacted
15 the victim advocate or SARC and that person is
16 showing up.

17 MS. JAUS: Okay.

18 MR. SURIAN: Of course, realizing it's
19 the victim's call. If the victim says she doesn't
20 want the victim advocate in the interview, it's her
21 call; the victim advocate's not there. But if the
22 victim wants the victim advocate there, then yes,

1 they're there through the whole interview.

2 MR. STRAND: So in answer to Mr.
3 Fishman's two comments, the minimum standard of any
4 person that's going to respond to a sexual assault
5 to investigate it would be the 16 hours in the
6 CIDSAC course, and then the goal would be to train
7 as many agents in the SVUIC course, and then on top
8 all the other specialty courses.

9 MR. SURIAN: Well, yes. But if an agent
10 who hasn't been through the SVU course is going to
11 respond to it, he has to be supervised by an agent
12 who's actually been through the SVU course or is
13 one of our civilian special agents in charge.
14 We're not having just Joe Shmuck CID agent who's
15 been in for two years running out and doing it
16 without any supervision or oversight, close
17 supervision.

18 MR. STRAND: Then the answer to the other
19 question that I gleaned from your previous answer
20 is, based on the investigations report, you put out
21 an OPS memo across the field: Here's the
22 deficiencies, here's where we want you to get

1 better on, it's a special item of interest for the
2 IG to make sure that they look at that corrective
3 action? Would that be basically your answer?

4 MR. SURIAN: That's basically it, yes.

5 COLONEL HAM: Are victim advocates only
6 for sexual assault offenses or for other offenses
7 as well?

8 MR. VANCE: Domestic violence has, but
9 it's under another program.

10 MR. SURIAN: It's a bifurcated program.
11 If it's an adult sexual assault victim, then you
12 get, and it's a military member, then you get the
13 SARC and the VA. If it's somebody else, then you
14 get the family advocacy advocates that show up for
15 kids, show up for spouses, show up for those type
16 of cases.

17 COLONEL HAM: But an attempted homicide
18 without a sexual or domestic component does not get
19 a victim advocate at this point in time, is that
20 right?

21 MR. SURIAN: No.

22 COLONEL HAM: That's not right or that is

1 right?

2 MR. SURIAN: That is right.

3 MR. VANCE: Correct, there is not a
4 program at NCIS for that.

5 MR. STRAND: They will get a brochure on
6 a victim liaison.

7 MR. SURIAN: Yes, they get the victim
8 witness liaison. Now, if it's a spouse that
9 somebody tried to kill, then the family advocacy
10 folks would, at least in the Army, would be
11 involved.

12 MS. JAUS: Then it's domestic violence.

13 MR. SURIAN: Yes, that's domestic
14 violence. If it's just Soldier A trying to kill
15 Soldier B, then no, Soldier B doesn't get anybody.

16 GENERAL DUNN: I think we should probably
17 move.

18 MR. SURIAN: Yes, sorry. Kevin, I'm
19 sorry.

20 GENERAL DUNN: Move to the Air Force.

21 [Laughter.]

22 MR. POORMAN: My name's Kevin Poorman.

1 I'm with our headquarters out of Quantico. I
2 oversee OSI policy, training, and equipping issues
3 and funding requirements for criminal matters,
4 which includes all violent crimes and sexual
5 assaults. I've been in OSI about 33 years and I've
6 worked in a variety of capacities over that time,
7 so I welcome the opportunity to give you some
8 insight. I've provided some slides to you and I
9 will cover them just briefly.

10 Our numbers have gone up, too, as Guy
11 alluded to. They've been running, adult sexual
12 assaults, to include wrongful sexual contact prior
13 to June 12 UCMJ, now abusive and aggravated.
14 Effective with the publication of 5518, which is a
15 DOD instruction, we and NCIS now open on all cases.
16 So effective 1 March when we codified, we open on
17 all sexual assault investigations. So our numbers
18 have risen significantly, as the chart shows.

19 Most of that rise in the slide you have
20 is in the blue and that blue represents cases that
21 we now open on that we didn't open two years ago.
22 It isn't to say that they weren't being worked.

1 Those cases were conducted by largely the security
2 forces investigators, so they would have been
3 conducting cases for the Air Force. So it isn't
4 necessarily a rise in the number of reports in the
5 Air Force as much as it is which agency is running
6 those cases. So that's our numbers.

7 We are seeing a rise in the ones we did
8 always run, which is rape. It's up about 21
9 percent, which is always an interesting discussion
10 as to whether that's a good thing or a bad thing to
11 have rape numbers go up, because we know there's
12 such a significant number of unreported. We feel
13 in law enforcement that we'd like to get as many
14 cases as we can so we can work those.

15 That's just a kind of an entre to the
16 numbers that we have and a discussion of those. I
17 will keep those notes and -- let me go ahead and
18 address some of them because those are: What have
19 we done with the deficiencies? In the aftermath of
20 the DOD IG look, of course, they identified
21 deficiencies and it was the first real look by an
22 outside agency I think for any of us to get a peer

1 review.

2 Peer review is good. I think it was
3 painful at the front end. It would certainly cause
4 a lot of anxiety on the parts of everyone. But the
5 outcome is that we began to discuss issues that
6 probably needed to be discussed long ago, and we
7 began to benchmark and learn from each other some
8 best methods.

9 For example, we were called out, OSI was
10 called out, on not having processed some crime
11 scenes properly. It wasn't the crime scene where
12 there was a recent sexual assault and evidence
13 would be present, and you'd send your crime scene
14 investigators out and they would do what we train
15 them quite well to do. Ours were where CID had a
16 method and their best method was to -- you go back
17 even if there is no physical evidence. Let's say
18 it's a stale report, one that's three, four, five
19 months. And they would take a photograph and do a
20 sketch in some instances of the scene.

21 So OSI tend to think of those locations
22 as places you go to pick things up -- hair, fibers.

1 Their approach was, no, there's a scene and you
2 owe a fact finder a photograph of the room to show
3 the consistencies, inconsistencies with, are there
4 two windows on the south side of the room, are the
5 walls painted in a particular color of paint, that
6 is consistent, and just document it.

7 So we agree. Once we sat and looked at
8 it, we said, yes, fact finders deserve to get a
9 photo of a room and at least understand where the
10 bed was in relationship to the other items. So
11 we've instituted changes in our policy and our
12 training to accommodate that, and we look for that
13 now in cases.

14 That's one example of, say, crime scenes
15 that came out of it. We instituted quite a few
16 changes. We had an 11 percent deficiency, major
17 deficiency, in our investigations. Some of it was
18 outcry witnesses. Most of ours had to do with not
19 identifying as many witnesses that were named in a
20 case as they felt we should do, which brings you to
21 discussions about what is the right number and what
22 is sufficiency, because we've had discussions with

1 the DOD IG investigators or the assessors who are
2 investigators as to is this a sufficiency review,
3 where's sufficiency start and stop and where's
4 perfect kind of start and stop. That's a very
5 difficult thing.

6 We can sometimes agree, oftentimes agree,
7 that a certain number of people need to be
8 interviewed. But it's quite a separate question as
9 to whether those interviews were done well or not,
10 and that's the art side to some extent versus the
11 science side to that.

12 So those are the kinds of discussions we
13 instituted right after that requirement, in
14 general, to have all of our cases in sex assault
15 reviewed at the regional level. We have an
16 intermediate headquarters and it's called a region,
17 seven of them throughout the world. So a
18 detachment, our operating unit, has to submit the
19 cases up to a region. It has to get approval with
20 O6 buy-in to publishing that investigation. So
21 that's one thing we've done.

22 We developed a proofing tool that they

1 must all use. Every case has an investigative
2 plan, so we developed a proofing tool. It's
3 largely the elements of proof in the cases and how,
4 what activities you're going to accomplish.
5 There's only a finite number of activities. You
6 interview people, you search things. And you map
7 it. And they have to map that back and it becomes
8 their investigative plan against the fact set and
9 the elements as to what you're actually going to do
10 that's probative on your perishables to go to work.
11 So they have to complete that.

12 We now have a 15 percent pulse test on
13 all investigations and that includes sexual
14 assaults, at our headquarters. So all the cases
15 that were closed in October, for example, are being
16 15 percent randomly selected at our headquarters
17 right now and being reviewed this month, and then
18 essentially a report card is done on whether they
19 pass, fail, scores associated with that. It's
20 informed to senior leadership and they have
21 discussions with their line commanders over what
22 those numbers mean and what those findings are.

1 We now look at it in what we call an
2 NNRI. We have in our inspection shop, our IG shop,
3 no-notice inspections. We have the regular
4 inspections that come at 18-month intervals, but we
5 have for some time had no-notice inspections.
6 Those no-notice inspections are randomly selections
7 of a unit, and the IG team arrives on the doorstep
8 and says: We're here to look at your money, your
9 guns, your evidence, are largely the three that we
10 looked at.

11 But now: And we're here to look at your
12 pending sexual assault investigations. So at any
13 given time a unit can have the NNRI team arrive to
14 look at their ongoing investigations.

15 So those are the main changes. It's
16 increased oversight, which is good in that it
17 drives behavior and that the rank and file field
18 agents understand this is a high interest issue and
19 that attention must be given to it. It has been
20 something we've had to work through because any
21 time you push cases up for additional reviews it
22 can add time to your timeliness, which is something

1 we're struggling with right now, is how do we --
2 where is the sweet spot, if you will, between those
3 two, oversight and getting cases out the door in a
4 timely fashion.

5 So we're having to work through some of
6 that. In fact, I'm meeting today on how we'll work
7 through some of that.

8 In terms of our training, our basic
9 agents go through a 19-week program at the Federal
10 Law Enforcement Training Center. 11 weeks of that
11 is through the criminal investigative training
12 program. That's just the training program for all
13 federal law enforcement investigators regardless of
14 the agency that they come from.

15 The reason is most of that is very U.S.
16 Code 18-centric, in which they go through the over
17 100 chapters and then the sub-violations within the
18 U.S. Code. It's to train federal law enforcement
19 officials. We put our investigators through it.

20 Some of the training they get isn't
21 necessarily applicable to what they will have when
22 they get out as military criminal investigators.

1 For example, there are some that you get the
2 homicides, you get the sex abuses, you'll get
3 damaged aircraft violations, and then you'll get
4 the Endangered Species Act and plants and others
5 that others enforce, labor law and all. But our
6 folks get exposed to those violations, too, through
7 that.

8 But then they go on to our advanced
9 course and that's an eight-week that we put on top
10 of that course. That's where they get Uniform Code
11 of Military Justice, our own justice laws. So they
12 introduce all the articles, the military rules for
13 evidence that apply in cases. That's where they
14 get a lot more training -- I know the Navy I
15 believe is the same way -- in violent crime,
16 because they don't get a lot of training in the
17 handling of violent crime in the CITP, the one
18 that's taught at FLETC.

19 The reason for that largely is that most
20 violent crime in America is handled by state and
21 local government. It isn't handled by the federal
22 government, the federal law enforcement. So we,

1 being in military communities, having to spend a
2 tremendous amount more time dealing with your
3 regular crime scenes and the handling of violent
4 crime and those, because we own those violations on
5 our communities. So that's the reason we add an
6 additional eight weeks to our course.

7 In terms of specific training, our
8 primary course for sexual assault is our eight-day
9 OSI-specific sexual assault, sex crimes
10 investigation training program. We call it
11 "SCITP." That course is developed, was developed
12 in June -- the first course was in June of '12 --
13 in recognition of we need some advanced training,
14 one; two, we have a special victim capability that
15 we owe training to and how to develop it.

16 So we developed a joint course, or we
17 developed a course in which we jointly train OSI
18 agents and Air Force JAG's. We bring -- out of a
19 24-person class, 6 of those are JAG officers who
20 are handling sexual assaults and we bring in 18
21 investigators to work sexual assaults, and they
22 work together. There are a lot of interactive

1 exercises where they develop proofing case
2 assessments to try to develop those cases together.

3 We modeled a lot of our curriculum on
4 what the Army was teaching at the MP school, an
5 excellent program. We modified some of the
6 instruction. We give a lot more on crime scene
7 processing than I think the Army does because they
8 get a lot more in their basic than we do. So we
9 update on forensic techniques. We've got an entire
10 new light source, for example, on how you find
11 seminal fluids at the scene. So we have to train
12 on that.

13 We'll spend time on special victim
14 counsel because the Air Force has a special victim
15 counsel program now. So we have two hours of
16 instruction where the head of the special victim
17 counsels for the Air Force JA come in and explain
18 and have discussions with investigators. It's
19 unique to the Air Force at this point. It may
20 later go to the other services.

21 So a lot of training on that. We do
22 cognitive interviewing. Our approach we believe is

1 to use the cognitive interview technique. It's
2 been around 25 years. We use it as the foundation
3 for our child interviewing course and have used it
4 for many years. We've consulted extensively with
5 Dr. Ron Fisher, who's kind of the original
6 researcher on cognitive, and we like cognitive
7 interviewing. So we -- and so does the Federal Law
8 Enforcement Training Center has adopted cognitive
9 interviewing in their advanced courses, so we can
10 lean on some of the instruction staff also at FLETC
11 to come in and assist us when we do cognitive
12 interviewing.

13 All cognitive interviewing or FETI these
14 get to is a much more -- it's kind of a turning
15 point in our approach to investigations -- a much
16 more open-ended question approach to interviewing,
17 a much more narrative approach to interviewing.
18 It's more guiding in some ways in terms of guiding
19 the discussion, as opposed to necessarily
20 interviewing.

21 It's very helpful. It's recovering --
22 the research shows and our experience is that

1 you're getting 30 to 50 percent more information
2 than you would out of a standard police interview.

3 It's kind of counterintuitive because if you do it
4 well you're actually asking fewer questions.
5 You're guiding the interviewee in the direction of
6 recovering information.

7 You're slowing it down. You're giving
8 them more time to recover the information. You're
9 allowing them to understand that there may be
10 significant gaps within the information. It may
11 not connect, but that's okay. Provide as much
12 detail as you can give and have the investigator
13 ask questions in a much less leading type of way.

14 So you don't get the "How tall was he,
15 what color were his eyes" kind of questions. You
16 get: "Describe the individual to the extent that
17 you can, in as much detail as you're comfortable."

18 You prompt that, but you let it go. You go to
19 sensory questions where you ask, how were you
20 feeling at the time, what were you thinking at the
21 time; try to consider whether any smells, any
22 tactiles.

1 There are some very interesting
2 statements we've had, very descriptive, under
3 cognitive that we wouldn't have gotten otherwise,
4 very descriptive details about the texture of
5 sheets, for example, or the flooring that I was
6 lying on at the time that the assault occurred.
7 That's very rich and very helpful to corroborate
8 information and to provide some probative material
9 to the investigators.

10 So we've brought all of that in. We
11 continue to collaborate extensively with a variety
12 of experts. We've had Ann Munch come in, sit
13 through our course front to back, and critique.
14 We've used Barbara Craig in our courses. We've
15 used -- Ms. Scalzo has come in and taught blocks of
16 instruction with us.

17 We've done extensive consultation with
18 Dr. Fisher and others about cognitive interviewing
19 and how to best integrate that into -- because some
20 parts of cognitive are not appropriate for sexual
21 assault victims. Recounting in reverse order, for
22 example, is one of the techniques and we don't use

1 that in sexual assault investigations. We do in
2 other cases.

3 So that's the advanced, primary advanced
4 course. We have another course, it's a ten-day
5 course that's our general crimes investigations
6 course, an advanced course. That one's geared
7 largely to our supervisors. We bring them back in
8 before we put them in as supervisors within units
9 and we provide a variety of training, about four
10 days of that, similar training to what's provided
11 in SCITP.

12 This is probably one of our most
13 important courses. SCITP is very important and we
14 see significant changes in attitude and behavior
15 when we work agents through cognitive biases, for
16 example, which we believe is very, very important.

17 We're integrating cognitive bias training even
18 into some of our counterintelligence programs,
19 because the way agents filter information and their
20 preconceived notions has a great deal to do with
21 whether or not they're going to filter in or out
22 information and how they're going to weigh that

1 information.

2 It's amazing, most agents arrive either
3 at the SCITP or at AGCIC and if you'd asked them,
4 do you have cognitive biases, they might accept
5 that they have them, but they're fairly vague to
6 them and they couldn't describe those to you. But
7 through the training you kind of see the light
8 bulbs go off as they begin to appreciate that they
9 in fact do have cognitive biases.

10 It starts with questions: How many of
11 you, was spanking permitted in your family or not?
12 So from a physical assault standpoint you get
13 cognitive biases. People, how they grew up and
14 what they were around and what was normalized in
15 their worlds affect greatly how they process
16 information. So you'll get that.

17 You'll get agents -- we've had agents
18 who've had family members that were convicted of
19 sexual assault, and they always had some problem
20 with believing that justice hadn't been done
21 properly on the conviction. In the middle of a
22 course they'll come forward and say: I think this

1 is a filter for me; I think I'm looking at cases
2 now using my personal experiences that I've had in
3 my own life as to how I accept and weigh
4 information and evidence.

5 You're never going to get rid of some of
6 these biases. We will never. But to recognize you
7 have them and then to be able to set those aside
8 and understand how you work a professional case
9 knowing those exist, and giving agents -- as we
10 tell them, you have to have permission now to call
11 each other out when you think a bias is involved or
12 not, is just professional peer review that needs to
13 occur. It's been very healthy and helpful to
14 creating more of a culture of, it takes an
15 organization well trained to run these cases. It
16 isn't necessarily an individual that runs these
17 well. That we try to work through.

18 But AGCIC is very important because we
19 have to get to these middle managers out there.
20 Our biggest problem is we get a lot of young folks
21 and we train them and young people will accept this
22 much quicker because they are new and they don't

1 know any different, so they accept the material.
2 It's the old crusty ones that -- and I think Russ
3 is shaking his head; we've all had these
4 discussions -- that have to first get it, because
5 if they don't get it they're not going to allow
6 what their young folks have been trained to use
7 properly.

8 So we have to get to them and tell them,
9 whether you buy into all this is to some extent a
10 personal decision. You will or won't. Many do get
11 it. But if you don't and you don't accept what's
12 being presented, then please don't get in the way
13 of those that are trying to do the right thing. So
14 please do no harm out there.

15 But most get it. When you start exposing
16 the investigators to the new research which has
17 come along -- and I think this has been the biggest
18 change I've had to accept, is that there is more
19 acquaintance sexual assault than I think any of us
20 really realized, and that the numbers are pretty
21 scary in terms of what's out there.

22 But as you teach agents to -- and the

1 lawyers reinforce this in our training -- and a
2 certain percentage of those are repeat offenders.
3 Of the repeat offenders that are doing this,
4 they're running under the radar in many instances,
5 because we investigate an incident and we'll
6 investigate that incident, but once you begin to
7 incorporate the research and show it to
8 investigators, you say, now what's the possibility
9 that this individual has done it to other victims?

10 As you begin to go look for other
11 victims, you find other victims. As you find other
12 victims, then the prosecutability of that case
13 begins to rise because attorneys appreciate other
14 victims whenever they hear. How many
15 misunderstandings can you actually have had, sir?

16 MS. JAUS: What percentage of the cases
17 do you find are recidivists?

18 MR. POORMAN: We don't have the numbers
19 and I'd be -- I would say we'd have to lean on the
20 research, which if the Navy study is any indication
21 it could be up to 17 percent or more could be
22 recidivists in there. We don't have enough data

1 under our belts yet to really know what that is.

2 I know anecdotally our psychologists and
3 our case agents that sit on our criminals desks at
4 headquarters and do the oversight to cases are
5 hearing -- they'll come periodically, we had
6 another one, we had another one, where they went
7 and they looked and they found.

8 This is the best we can do, because
9 agents want to solve these things. I think
10 sometimes there's a misunderstanding that they want
11 to find a way not to investigate. Agents really
12 want to find bad people doing things to good
13 people. When they find that, when they go find
14 prior victims, it's the most reinforcing thing that
15 we can have, because now they realize they're there
16 and they go look for them.

17 So that's been a major change in how we
18 look at it. It's a much broader scope than what we
19 would have done if we had investigated the incident
20 before, and so we've expanded that. I credit
21 Russ and I credit a lot of the literature and the
22 Lisaks and the others out there to opening our eyes

1 on what that is and what exists there.

2 So that's a quick overview. The other
3 training that's come along is the JAG course. We
4 really think it's a great one. They've only held
5 it once. It's a five-day course in July and they
6 intend to hold it in the future. This is in an
7 attempt to build a special victim capability in
8 which we have defense attorneys, prosecuting
9 attorneys -- it's run by our JAG, at our JAG school
10 -- and investigators.

11 They come together and they take case
12 scenarios and they do proof analyses together and
13 work through. They have expert testimony that's
14 injected. They will do the cross-examinations of
15 the investigators on the stand and then they'll
16 critique each other and do their own peer review as
17 to how well or poorly they went at a particular
18 exercise.

19 As far as special victim capabilities,
20 just briefly, we have 24 special agents that we
21 consider to be the core of our special victim
22 capability. The Secretary of the Air Force

1 approved an end strength plus-up to our 1811's.
2 These are civilian investigators. They all go
3 through the SCITP course. Some have been through
4 the Army's SVU course.

5 We've placed them at bases that have the
6 highest incident of reports. In some cases we've
7 put them at base, more than one at a base. We have
8 three at Lackland. We have one at the Air Force
9 Academy. We have them in places like Ramstein and
10 Kadena, where historically we have a larger number
11 of reports.

12 They all have to go through SCITP
13 training to be in those positions. We have one of
14 the 24 that's assigned to Andrews and he's at the
15 same location with the head of the SVC capability
16 for the JAG Corps, and they're the two senior folks
17 and they collaborate regularly on cases. If
18 there's a big event that happens, for example, or a
19 particularly difficult case, Mark Walker, our agent
20 at Andrews, will work with Jen Holmes, who's the
21 head of the senior trial for them and they will
22 collaborate and work and provide advice and

1 assistance and coach our other 22 that are in the
2 field.

3 One of those agents is also assigned to
4 our training academy to develop our basic and
5 advanced curriculum associated with sexual assault
6 training. So they all collaborate regularly with
7 us to make sure the policy, training, and execution
8 is all going smoothly in the field.

9 Our end goal in putting through SCITP is
10 to get a trained special victim unit investigator
11 at one of our -- at all of our 76 primary
12 installations. We have agents at 200 locations,
13 but we have 76 that have large Air Force
14 populations, larger Air Force populations. So we
15 need an investigator at each of those locations,
16 who will either be the lead agent or a supervisor
17 to any cases that are conducted at those locations.

18 So with that, I'll rest and see if you
19 have any questions.

20 GENERAL DUNN: Thank you.

21 Mr. Vance.

22 MR. VANCE: Good morning, ma'am. Good

1 morning, ladies and gentlemen. My name is Bob
2 Vance. I'm a street agent. I work for NCIS and
3 somehow or another I found my way to programs and
4 policy about three and a half years ago. But I am
5 very happy to be here today and discuss all the
6 wonderful work that we're all doing in this arena.

7 In addition to being an NCIS agent for
8 the last ten years, prior to that I was a local law
9 enforcement officer for ten years. So I think I
10 have a pretty good wide aperture on this issue from
11 both the federal, the military, because I was also
12 an enlisted Marine for a while, and from the local
13 perspective as well.

14 Joining me today -- I want to let
15 everybody know that it might not have been on your
16 agenda, but I have Chief Warrant Officer Shannon
17 Wilson and Chief Amy Pearson. They're both here to
18 represent the Navy and the Marine Corps,
19 respectively. You need to understand that NCIS is
20 in the unique position because we work for the
21 Department of the Navy, but we are a civilian law
22 enforcement agency. We are an entity under the

1 Department of the Navy, unique. The same with the
2 Marine Corps and the same with the Navy. They both
3 have unique programs, unique missions. So I
4 thought it was important for these ladies to join
5 us today so that when you have questions about what
6 the Marine Corps and the Navy specifically are
7 doing as far as first responders and training these
8 folks can give those answers for you.

9 Hopefully, since I'm going third here,
10 I'll be able to articulate what I think you guys
11 are really looking to get at here, is that we are
12 much more similar than we are unique. There is a
13 lot of effort that has been expended and hopefully
14 I can bring that all together for you here this
15 morning.

16 I have three slides for you today. I'm
17 not going to spend any time on the first one
18 because it's metrics and you guys can read that.
19 It's the same message that Guy and Kevin already
20 put out there: Our numbers are up, significantly
21 up. The bottom line is this year we're looking at
22 a 52 percent increase.

1 We're losing folks as well. We're going
2 to take a 10 percent hit next year as far as
3 budget. That's going to probably -- we'll pay that
4 price primarily in manpower, is the way we're going
5 to do that. You guys understand that.

6 My second slide is on training and I want
7 to jump right into that. Kevin mentioned that OSI
8 sends their folks to the Federal Law Enforcement
9 Training Center in Georgia, the same place NCIS
10 sends our agents for basic training down there. So
11 I'm not going to spend much time on that portion of
12 it.

13 Just understand, the way it's been
14 explained to me when I first got there is the
15 mission of the criminal investigator training
16 program down there is to produce that four-door
17 white Chevrolet sedan. That's what it does. You
18 don't get the power windows, you don't get the
19 power lock package, any of that stuff. It's just
20 the basic investigator.

21 So along those lines, we have a follow-on
22 academy just like the Air Force does, so those

1 agents will graduate the basic school on a Friday
2 afternoon, they're told, have a good time Saturday
3 and Sunday, report back Monday morning for the NCIS
4 add-on academy. They don't leave the center, they
5 don't even change rooms, they don't do anything.
6 The only thing they do is they go down, turn out
7 one set of BDU's and pick up another set of BDU's
8 because it's a different color.

9 They go through 46 days of training as
10 part of our add-on program. It's just like Kevin
11 said, this is about teaching that basic
12 investigator now how to apply those basic skills to
13 the military environment. So that's the primary
14 mission of the add-on.

15 But there is something there I want to
16 point out that I think is very important for this
17 conversation today. One of the major features of
18 our add-on is what we call our continuing case
19 practical exercise. That continuing case exercise
20 begins on the first day of the training and it
21 concludes in the last week. What it is is it's a
22 real life, if you will, practical scenario where

1 these investigators get to apply their skills.

2 Since 2007 -- it's been a while. 2007 is
3 way before this kind of groundswell that we have
4 now of sexual assault. Since 2007, that continuing
5 case exercise has been focused on a sexual assault
6 investigation. The way that works out in a
7 practical sense is those agents will show up on a
8 Monday, they'll get their in-brief; on Tuesday,
9 Wednesday, they will get duty calls. Wake them up,
10 say, respond down to this clinic for a sexual
11 assault investigation.

12 So the practical exercise will begin
13 there, and for the next nine weeks they will work a
14 sexual assault investigation as part of the
15 practical exercise continuing case from beginning
16 to end, every element of it from beginning, the
17 initial response to the clinic, where they interact
18 with the SANE, a victim advocate, to the mock trial
19 at the end.

20 That's been since 2007. Every agent
21 that's come through since 2007 has worked a sexual
22 assault investigation. They are mentored there by

1 tenured agents, not just the instructor staff.
2 They break it down into basically three squads.
3 Each squad is assigned a supervisory agent who acts
4 like a first-line supervisor and helps them through
5 this process as well.

6 So it's a pretty unique feature. We're
7 pretty proud of that. So when they come out of
8 there, they're not in a position where they are
9 going to go out and operate on their own in the
10 real world, but they really don't have any excuse
11 for not understanding conceptually what's expected
12 and being able to know how to apply the specific
13 skills that they received.

14 Other than that, I don't think there's
15 much different than what Kevin said about the add-
16 on. Again, it's just learning the military
17 culture, UCMJ, and basically how to survive in the
18 Department of the Navy.

19 GENERAL DUNN: What about the
20 understanding that Mr. Poorman and Mr. Surian both
21 described on different and better interview
22 techniques for victims, etcetera? Certainly

1 there's been a sea change in that since 2007 to now
2 2013.

3 MR. VANCE: Yes, ma'am. Russ will be the
4 first one to point out to you that historically in
5 law enforcement victim interview techniques really
6 come from what interrogation techniques were. So
7 it was just the facts, ma'am, the who, what, when,
8 and where.

9 We've moved on from that, that old school
10 approach, a while ago. We do not as an agency
11 subscribe to one specific interviewing technique.
12 You've heard the FETI technique, you've heard of
13 cognitive. What we like to do is we like to expose
14 our agents to what's available out there, with the
15 understanding that most people will use a hybrid
16 under certain circumstances.

17 But the core elements of it are, the
18 important parts of it they both alluded to, is
19 understanding what you're receiving from the victim
20 and how to draw it out in a way that's not damaging
21 or prohibits them from sharing all the information
22 they can. So that part we totally agree on. But

1 you won't find any NCIS policy that says we are 100
2 percent requiring our agents to use a cognitive
3 style, or we're 100 percent going to make them do
4 the FETI style.

5 If they are good at it, if they are
6 masters of using either style or a hybrid of it,
7 we're good with that.

8 GENERAL DUNN: But they get the training
9 --

10 MR. VANCE: Yes, ma'am.

11 GENERAL DUNN: -- on victim trauma?

12 MR. VANCE: Oh, yes, ma'am. Beyond that,
13 we are receiving all the training on the science,
14 which for us has been huge because for us
15 individually as an agency our biggest issue was the
16 personal bias that was being brought into these
17 investigations. We could point at some
18 deficiencies in crime scene examinations or
19 deficiencies in witness interviews. It boiled down
20 to the agent did not believe what they were
21 receiving from the victim and it tainted the entire
22 investigation.

1 So we saw that as our core problem. Our
2 agents know how to do crime scenes. Our agents
3 know how to do witness interviews. It was, for
4 whatever reason, through their bias or their own
5 filters, they weren't applying themselves the way
6 they should have been. So that's what we've looked
7 to correct.

8 Through the trainings that we're going
9 through, we spent a lot of time on understanding
10 the science behind the issue or the victimology, as
11 it's often referred to.

12 GENERAL DUNN: So in this sexual assault
13 case that your agents go through in the basic
14 training program add-on --

15 MR. VANCE: Yes, ma'am.

16 GENERAL DUNN: -- do they get that piece
17 of that?

18 MR. VANCE: Yes, ma'am.

19 GENERAL DUNN: That training in
20 understanding about victims' reactions and all of
21 that?

22 MR. VANCE: Yes, ma'am.

1 GENERAL DUNN: When you said they're
2 mentored by senior agents, that sort of raised a
3 red flag in my head, crusty old guys who need to
4 change their own perspective.

5 MR. VANCE: We have that as well, ma'am.
6 But no, that's not the way I meant to articulate
7 it. By mentoring, it's just like they're a squad
8 leader and kind of help them through the process.
9 But everyone that goes down there for the mentors,
10 it's a selection process as well.

11 Just being candid, not all special agents
12 are created equal. So we try to get the right
13 folks in the right positions, and mentoring is
14 obviously a huge deal, ma'am.

15 MS. FERGUSON: Ma'am, we host actually
16 courses for the Navy as well at FLETC. Of the 12
17 that we do each year, we specifically do two for
18 the Navy at FLETC specifically, and it's synonymous
19 to everything that they do within that as well.
20 Plus there are those that come to Fort Leonard Wood
21 as well, to the training, the other ten courses
22 that we actually have there also. So there's 12

1 courses a year and they are inundated in those
2 trainings also.

3 MR. VANCE: I'll just continue down that
4 path, then, ma'am. Basically, it's been about two
5 years now that we've already been in lockstep with
6 the Army with their course and basically trying to
7 leverage what they've already created and having
8 our agents go to it.

9 That decision to join and cooperate with
10 the Army really stemmed from what I just said
11 previously, what our fundamental problem was with
12 the bias in our agent corps. Having spoken to
13 people like Russ and some of the other people over
14 at the school, that's exactly what they saw a few
15 years prior. So it was just a natural link for us
16 to go ahead and join with them, because we had
17 similar problems and we were hoping to get to the
18 same end state.

19 So we have basically been sending agents
20 to Fort Leonard Wood, Missouri, since I want to say
21 the end of 2011 time frame. Then we've actually
22 developed that relationship, like Donna said, to

1 the point now where that schoolhouse exports that
2 course to FLETC, which is beneficial to us, exports
3 it to FLETC, where we can have that twice a year.
4 I think it's only going to expand.

5 That's also a big point because you're
6 all aware of the GAO findings from a few years ago
7 where one of their recommendations were there needs
8 to be better cooperation and leveraging of assets
9 and resources. Again, this helps us basically
10 address those recommendations as well, and it's
11 just a good business practice.

12 MS. JAUS: Can I ask a question? Do you
13 have a piece in any of your courses on rape trauma
14 syndrome, the syndrome that victims of sexual
15 assault go through, specifically the recantations
16 and denial, the counterintuitive behavior?

17 MS. FERGUSON: Yes, ma'am.

18 MS. JAUS: And if so, have you ever used
19 that kind of testimony at trial? Do you ever have
20 like experts testifying about --

21 MS. FERGUSON: We actually have that.
22 Specifically, that's where Dr. Lisak, Dr. Harper

1 actually come in and talk about the impacts, which
2 is called counterintuitive, we call common victim
3 behaviors, and the recantations and how that's not
4 abnormal. So we don't have a lot of evidence where
5 -- because it is new, that we've been doing only
6 for about two years now within the course. We
7 don't have a large number of cases where we've seen
8 it happen yet in that specific. But that's
9 something we're beginning to try to track to see
10 what's happening actually with the cases.

11 COLONEL HAM: Colonel Henley was the
12 chief trial judge of the Army. Sir, did you see a
13 lot of that? It seemed to have waxed and waned
14 since the early nineties.

15 COLONEL HENLEY: Yes, I think -- we also
16 have the chief prosecutor here. It's not a flavor
17 of the day, but it's sort of a technique at trial
18 and we would see it. Some counsel were very
19 aggressive in getting that expert testimony before
20 the factfinder and some believed it wasn't required
21 to get a conviction.

22 I think the danger is when you use it

1 just for use sake and it's not tied to a particular
2 strategy at a trial. I think that is what we were
3 seeing. It's certainly terrific evidence, but it
4 needs to fit within the theory of your case, and I
5 think the criticism was prosecutors or trial
6 counsel were using it just because they could.

7 COLONEL HAM: It seemed to be very
8 popular in the early nineties, I think, early-mid
9 nineties.

10 MS. JAUS: Especially in child sexual
11 assault cases.

12 COLONEL HAM: Child sexual assault cases,
13 the same flavor.

14 MS. JAUS: It's a little more
15 controversial, but the rape trauma syndrome for
16 recantations, delayed outcry, counterintuitive
17 behavior, is something that's still held in high
18 regard, certainly not for every case. I was just
19 curious if you had it in your training.

20 MS. FERGUSON: Yes, it is inclusive in
21 the training that we actually do. Those are very
22 specific areas that have to be discussed, because

1 it does happen. And a lot of agents will assume
2 that if the victim recants, okay, evidently she was
3 lying. And they have found that they haven't. So
4 it's an expectation that there's a potential for
5 them to do that; well, let's look at why, what
6 actually occurs. So we talk about that through the
7 credibility and the challenges of the victim.

8 MR. SURIAN: As I recall, all three
9 MCIO's have policies in place that require the
10 agents to question any recantation of a sexual
11 assault victim right off the bat, not just to take
12 it and say thank you and close the case. So we've
13 all got policies, I believe, that require the
14 agents to investigate that recantation to see if
15 the victim is trying to opt out or if it's a real
16 recantation. So we don't accept it any more at
17 face value, which we might have done ten years ago.

18 COLONEL HENLEY: Can I follow up? A
19 consistent theme appears to be -- and I wrote it
20 down -- "fundamental problem, bias in our agent
21 corps," this cultural bias. I write down,
22 "identified a few years prior." What led you to

1 that? Did something change? Was it the focus now
2 from the Congressional oversight? This can't be a
3 new problem. The problem must have existed 15, 20
4 years ago.

5 FLETC, did they not identify this as a
6 potential problem the way you, quote, "interrogate"
7 or interview your victims? What led you to this
8 shift in focus and changing the agents' perception
9 on how you approach sexual assault investigations?

10 MR. VANCE: Sir, from my perspective,
11 it's just been an explosion in the research and the
12 understanding of trauma as a whole.

13 COLONEL HENLEY: So the training that was
14 being done was correct for the time?

15 MR. VANCE: Yes, sir.

16 COLONEL HENLEY: And now it's not?

17 MR. VANCE: We were not unique to the law
18 enforcement community as a whole in the country up
19 to that point.

20 COLONEL HENLEY: And you came to this
21 without this explosion in the press, the media, and
22 Congressional oversight? Was that the evolution or

1 --

2 MS. FERGUSON: We were actually, sir --
3 actually, neuroscience. In the field of
4 psychology, the emergence of neuroscience has
5 really played an intricate role in this and
6 understanding the brain, understanding such things
7 as the prefrontal cortex or the amygdala and how
8 the emotions are transcended. When the research
9 began in the neuroscience field to explode, what
10 happened was the criminal justice arena began to
11 look at their interview techniques and saying, wait
12 a minute; this is how we've always done it. Now
13 there's an emergence in psychology, even in the
14 field of counseling, on how they actually do some
15 of their counseling techniques, from the narrative
16 therapy to the cognitive therapy, and said, look
17 what we now have found because of the evolution of
18 the brain. So that was really the thing that
19 caused the emergence to actually occur.

20 COLONEL HENLEY: So this was not unique
21 to the military culture; is that what you found in
22 your experience? I'm trying to understand why the

1 military has this change now in training, focusing
2 on --

3 MS. FERGUSON: Even the civilian --

4 MR. VANCE: Part of ours, sir, was, like
5 I said, in about 2009 time frame we pulled a bunch
6 of our sexual assault cases and we had some highly
7 qualified experts come in and look at them -- Ann
8 Munch, a bunch of attorneys.

9 MS. FERGUSON: Clinical psychologists.

10 MR. VANCE: -- clinical people, looked at
11 the cases that we had and specifically looked at
12 the cases where we said the victim was a liar,
13 pulled those cases very heavy and said: Look at
14 these cases and see if we made the right call.

15 They looked at them and they said, no,
16 you guys are missing it. They explained why we
17 were missing it. That was the real genesis for
18 doing the training -- changing our training at the
19 USAMPS in how to do it, is that the experts were
20 looking at these cases and saying, no, this is how
21 -- this is what law enforcement has always done, it
22 looks the same as Fairfax County or somebody else.

1 COLONEL HENLEY: That's my question.

2 MR. VANCE: You need to do better. So
3 that was our aha moment, if you will, was when we
4 had them come in and look at our cases.

5 MS. FERGUSON: I actually put a slide in
6 there for you, I think one of the last slides I
7 had. Really, the civilian sector has been coming
8 to the military community. I listed some of the
9 agencies in there. The New York State Police
10 Academy has called and said: What you're doing is
11 phenomenal; can you come train and let us allow
12 this as a part, an intricate part of our
13 interviews?

14 The Pennsylvania Coalition Against Rape,
15 Battered Women's Justice Project, even recently the
16 International Association of Chiefs of Police have
17 called upon the military community and said: Can
18 you assist us with this; what you're doing is
19 accurate; we haven't been doing this. And they're
20 now looking at having it as a part of their program
21 of instruction as well.

22 So it wasn't just a military thing. It

1 was a law enforcement piece, and now they're
2 actually calling on the military community to
3 assist them actually as it relates to these
4 particular types of interview techniques and what
5 we're finding from neuroscience and how it actually
6 transcends into that which we do in the criminal
7 justice arena.

8 MR. POORMAN: I think a lot of the reason
9 that we're just coming to this is that we
10 understand a lot about stranger rapes because
11 that's who we caught in the past. Those are pretty
12 clear and everybody knows what they look like and
13 then they're incarcerated and then we go do studies
14 on them and we interview them and we find a lot of
15 information about what those look like.

16 The research is starting to -- is pretty
17 overwhelming now that the acquaintance rapist is
18 just much more prevalent and is more manipulative
19 and uses alcohol and is very careful in how they
20 construct it. It's analogous to me almost to where
21 we were 30 years ago on child sexual assault, in
22 which a victim would come forward and you'd almost

1 ask the question, what's going on in Billy's life,
2 the reportee, the child, because preachers don't do
3 those kind of things to children, kind of a bias, I
4 mean a blind that we had to that kind of behavior.

5 Now, what we've learned from this over
6 time is not only when a child reports something
7 like that do we say there's a good possibility that
8 it happened, but that we also immediately start
9 thinking serial, in that he's probably done it. If
10 he did it to this child, he's probably done it to
11 somebody else.

12 That was a change. Now I think we're
13 kind of at that tipping point also on the
14 acquaintance side of this understanding, that gets
15 us there.

16 Too, I think the other piece is how
17 memory gets laid down is something we've learned a
18 lot about and we've had to help investigators
19 understand that this isn't like a homicide or a
20 physical assault. A physical assault, you get a
21 story from the victim, but it's usually
22 corroborated or the veracity of it's strengthened

1 by the fact that, boy, you really are beaten up
2 pretty badly, you have injuries here. So if there
3 are any inconsistencies on the part of the victim
4 in that one, we tend to overcome that with the
5 physical injuries and the other evidence.

6 In most of your acquaintance serials or
7 acquaintance situations, you don't have the
8 injuries. You have the story and it was in a
9 private place and all you have is the story to work
10 on. And investigators, there's something about us,
11 but we pounce on inconsistencies. We don't like
12 inconsistencies.

13 What's come along is a better
14 understanding out of the psychologists and others
15 that have studied this to say, no, what trauma
16 looks like in a victim is inconsistencies. Expect
17 to see it. It's not going to be a clean, linear
18 laydown of memory, so don't expect to have that.
19 There will be some minor inconsistencies. They're
20 confused. They're focusing on how they're feeling,
21 how I'm going to get out of here. They may not
22 have some of the fine details that you would if we

1 were talking about lunch today or yesterday, so
2 don't expect to get that. There are explanations
3 why, under circumstances where a sexual assault
4 occurred, they wouldn't have that kind of memory
5 laydown consistent with what you would regularly
6 expect.

7 As you kind of put those two together,
8 it's more prevalent and memory isn't getting laid
9 down, we begin to realize that we've been missing
10 some stuff here. I think it just all started to
11 kind of come together. It wasn't even the DOG IG
12 review that brought us to that. They came in and
13 looked at the cases from a, is this technically
14 correct, did you interview the right people,
15 collect the right things. Understanding the
16 suspect profile of this and how memory gets laid,
17 it's all kind of come together within the last
18 couple, three years for us. I think it came along
19 earlier for the Army. They were ahead of us on
20 this.

21 MS. FERGUSON: We were actually asking
22 victims to be witnesses to their own crime. So

1 with the new techniques, now you're not asking them
2 to be a witness to their own crime. You're simply
3 having that conversation and pulling and retrieving
4 that psycho-physiological evidence, which gives you
5 everything you need, instead of giving them point-
6 blank as a victim to something they were actually
7 involved in.

8 So the psychology of it has really
9 assisted us.

10 MR. SURIAN: I think there's two other
11 major components that came along as well. The UCMJ
12 became much more sophisticated on what we look for
13 and what the elements of proof are of the various
14 types of crimes, the non-normal forcible rape
15 cases, much more sophisticated case law.

16 But the other I think major leap forward
17 is forever we've been studying incarcerated
18 offenders and we've been getting their techniques
19 and we've been typologizing them and that's what we
20 kind of were looking for. Then the suspects that
21 we would see, the kinds of cases we were getting,
22 didn't fit that, so we didn't think that was a

1 crime.

2 But because of Dr. Lisak and so many
3 other great researchers, Anna Salter, we started
4 looking beyond that to the ones that weren't
5 caught, but the vast majority of them who are never
6 going to be caught or who aren't caught typically,
7 and how they think and their methodologies. So
8 we're getting a much broader picture of what sexual
9 assault is, and I think that all has come together
10 over the last five to ten years significantly to
11 change our focus on what we would typically think
12 is a rape case or a rape investigation. It's been
13 significantly broadened in how we investigate and
14 how we look at it and then what kind of evidence we
15 collect.

16 MR. POORMAN: This is really exciting
17 stuff because in authority-based sex assaults, if
18 it's sex assault, which is consensual under some
19 circumstances, say an MTI case, where it's just a
20 violation of an instruction that says you can't
21 have a relationship, but some of those turn into
22 very manipulative circumstances in which consent

1 probably isn't involved.

2 But we're having to look at those from an
3 investigative standpoint much differently. That
4 is, when we get an indication that maybe something
5 has happened, when we go back and ask questions
6 about the perpetrator, they aren't unlike child sex
7 abusers. They have methods of operation. They
8 don't just jump out from behind a door and grab a
9 recruit and have sex with them.

10 They find -- it's opportunity,
11 capability, motivation, the three requisites to any
12 crime. So they have to create an crime. So you'll
13 find where they develop a relationship. They'll
14 find a reason to have a private mentoring session
15 in their office. They may appoint them to be their
16 flight lead, say at MTI school, because under those
17 circumstances they can mentor them on leadership in
18 their office.

19 Then there might be a touch and see how
20 far that goes. This is not unlike children, where
21 they bring out the coloring books and then there
22 are the coloring books with nude photos, and then

1 there's videotapes, and they normalize and
2 desensitize this person to the behavior.

3 Those are all -- so we don't have to go
4 back and ask other possible victims, did this MTI
5 sexually assault you? That's kind of
6 unsophisticated and a little clumsy. But you can
7 go and start asking questions: Were there any
8 situations in which he found opportunities to have
9 private mentoring sessions with you? If so, that
10 starts to, oh, he did, okay? Then in any of those
11 mentoring sessions were there any discussions of
12 inappropriate content? Were there any touchings
13 that occurred?

14 The more you start getting yesses to
15 that, now you know, okay, he has begun to groom you
16 to his intent, and that's a more sophisticated
17 approach to how we would go at looking at it. But
18 we have to understand all this a lot better, much
19 as we've done in child sexual assault. So there's
20 a lot of research that can be done to help
21 investigators I think get to some of this.

22 The same thing with acquaintances. For

1 someone that's had multiple "misunderstandings,"
2 were the MO's similar in those multiple
3 misunderstandings? Was alcohol involved? How was
4 it introduced? When was it introduced, under what
5 circumstances?

6 GENERAL COOKE: We're all acutely aware
7 of resource constraints these days, so I'd like to
8 ask each of you: First, if you could pick a
9 resource -- people, training dollars, technology --
10 what would you want?

11 Secondly, related to that is, there's
12 obviously been a degree of sharing and integration
13 of much of what you've done in terms of training
14 and learning lessons and so forth. There are also
15 variations that we've seen. So my question is:
16 What more leverage can you make of working
17 together? The flip side of that is: Why do you
18 need to be different? To what degree do you need
19 to be different?

20 MR. POORMAN: We're not that different.
21 I think at the end of the day we're not that
22 different. This came up actually a couple months

1 ago at the House Armed Services Subcommittee, at
2 which 13 members showed up, and they asked the same
3 question. We kind of looked at each other, the
4 three reps. Guy was there. We said: You know,
5 realistically, if we had a sexual assault that just
6 happened and the three of us or even there
7 investigators from our agencies had to go out and
8 handle that crime scene and work that case, I think
9 you would find that, yes, we may use a DAX-7000
10 Nikon camera, you may use a different kind of
11 camera, but we're going to process that scene,
12 interview folks, and we're going to be able to use
13 the results of that to any of our three agencies
14 out there.

15 So in the high 90 percent is what we do
16 in these cases is very similar. We do have some
17 different organizational approaches to the same
18 issues. We may approach crime scenes with a little
19 different kind of equipment. We do, for example,
20 record all our subject interviews. We think that's
21 the way to go.

22 But to the extent that those are

1 different, I think they're also strengths, because
2 it gives us an opportunity to try different
3 approaches, still within acceptable limits, and
4 learn from each other on how we do that. We've
5 imported a lot of what the Army course has in what
6 they provide training on. We've shared a lot on
7 how we do recorded interviews and why we do
8 recorded interviews.

9 So I don't know that that's --

10 GENERAL COOKE: What about, what's your
11 wish list? What's at the top of your wish list?

12 MR. POORMAN: Well, agents are our
13 primary weapon system. And I will say in the area
14 of sexual assault in particular and knowledge
15 interviews, to do these right not only are we
16 looking for more victims, but to do a good
17 cognitive interview or a good FETI interview it
18 takes more time.

19 I think that's why cognitive hasn't
20 caught on and some of these haven't caught on in
21 civilian law enforcement to the extent that it has
22 with us, is we have a little more time. Our

1 incident rate isn't nearly what it is in many --
2 but it's going to take more time to do these cases
3 properly.

4 So dollars for training to make sure our
5 courses don't dry up and agents to work the cases
6 are the two primaries for us.

7 MR. SURIAN: I agree.

8 MR. VANCE: General, I would say, with
9 the first part about the differences, very minimal
10 and they're easily overcome because it's basically
11 just language, but we're talking about the same
12 thing; we're just calling a rose by a different
13 name, if you will.

14 The big resource in addition might not be
15 as obvious, is time. I don't want to use time like
16 Kevin did. My folks in the field need time from
17 all the new programs and oversight and trying to
18 try new things. We don't have a chance to catch
19 our breath, work our cases, and see what we already
20 have in the field or on line to see if it can even
21 work. So that would be the time that I would
22 request.

1 I know there's an extreme amount of
2 scrutiny and pressure and oversight. But I don't
3 know if we really know what's going to work and
4 what's not working yet because there is just this
5 call for something new and some more pressure. So
6 it would be nice to let some programs take hold and
7 see if we can get some time and see what works.

8 COLONEL HAM: Is your sexual assault
9 training a special budget item, line item, do you
10 know? For example, I think training of prosecutors
11 is a special budget item in the millions of
12 dollars. Are you using your regular training
13 dollars or do you have special training dollars for
14 sexual assault?

15 MR. POORMAN: We get a little bit of
16 special money, SAPR, SAPR money, through the system
17 to pay for some of our training, but it isn't very
18 much. We get some of that same money to help pay
19 for some DNA analysts down at the crime laboratory
20 to help improve the DNA turn times, a little, but
21 not a lot.

22 To piggyback, I think that's very

1 important. We've had a lot of recommendations and
2 improved things come through on us, and we're
3 trying to execute and also accommodate those. Some
4 of them have been good and some of them haven't,
5 and there have been some irritants that have come
6 along. Like five-year retention of all evidence
7 with almost no exception to whether we can give it
8 back, I think everybody looks at it -- to include a
9 victim's cellphone and clothing, and even if she
10 wants it back we can't give it back except under
11 some very narrow circumstances.

12 We are working through some challenges
13 that I think we can handle internally. But for
14 example, the requirement to advise a victim of her
15 rights for collateral misconduct on alcohol.
16 That's problematic sometimes. We understand why,
17 but we're in the felony investigative business and
18 early into any situation where the victim comes in,
19 and they're a minor and they've been consuming, we
20 start getting locked into the requirement to
21 advise, and the victims don't quite understand that
22 and it's very difficult for investigators, because

1 you've got to deal with it. Because alcohol is an
2 impairment issue, you're going to have to deal with
3 it very early on. So you've got to work through
4 that.

5 So we're trying to figure out, is that an
6 immunity issue, how do we work it and still be
7 within I think it's 305 for the requirement for
8 investigators to advise that we're having to work
9 through.

10 So some of those processes and procedural
11 issues. We're working through the difficulties --
12 I think we've got it in the DOD-I, but recording
13 pretext phone calls, consensual eavesdrops, is
14 really important in these cases. It can make or
15 break a case, where the victim gets on the phone
16 or, more often, texts these days with the suspect
17 and asks questions that are incriminating and we
18 can then recover.

19 Trying to get the approvals for recording
20 that is very, very difficult. It's mostly a DOD IG
21 issue that we're trying to work through, but it
22 requires approvals of a certain level within the

1 command and then it requires a legal review for
2 that to happen. We think we've gotten it pushed
3 down for approval to the region commander, which is
4 where we want it -- the same time zone as the
5 location where it's happening -- but then we're
6 still having to reach out for the legal review.

7 But some of these things are process and
8 policy issues to give us the tools in our toolbox.

9 MR. SURIAN: That all falls under the
10 wiretapping regulations.

11 MR. POORMAN: Yes, electronic eavesdrop.

12 MR. SURIAN: Each of the services are
13 tougher on the pretext phone calls. The Army is
14 probably the most strict, where we have to actually
15 go to Army General Counsel to get approval to
16 record a phone call.

17 MS. JAUS: A conversation between the
18 victim and the defendant?

19 MR. SURIAN: Yes.

20 MR. STRAND: It has to go from the agent
21 to the group, to a lawyer, in the middle of the
22 night, which doesn't happen.

1 Here's my biggest concern. I think one
2 of our charters is to make recommendations. My
3 biggest concern right now is it seems with your
4 statistics and with the manpower and womanpower you
5 currently have and with the resources you currently
6 have you're barely keeping up with the demand right
7 now. The DOD goal is to significantly increase
8 sexual assaults even more than the 50 to 20 percent
9 this year, between 2012 and 2013 --

10 GENERAL DUNN: Not assaults, but assault
11 reporting.

12 MR. STRAND: Assault reporting.

13 [Laughter.]

14 MR. STRAND: The reports. So if DOD does
15 their job right collectively, all of us, and the
16 reports significantly go up even more than they
17 already have, that are straining each one of you,
18 what would you need if the reports went up 200, 300
19 capability over the next three, four years, which
20 quite frankly is the goal?

21 CHIEF WARRANT OFFICER WILSON: If I
22 could, the Marine Corps is structured a lot

1 differently than the Navy is. We have criminal
2 investigators who go to Army CID school. Up until
3 the new directives came out, we were working those
4 sexual assaults in the indecent assault area. Lack
5 of penetration, lack of assault weapon, things of
6 that nature, we'd work those for NCIS.

7 The reason -- we're not an MCIO because
8 we don't have the structure and the resources.
9 That's NCIS's job. But I think that we have an
10 asset that's being underutilized in the Marine
11 Corps that could contribute to the fight against
12 sexual assault. Things that we do to enhance our
13 abilities -- we have an MSA program with NCIS, so
14 we have 25 Marines at any given time that belong to
15 NCIS offices throughout the Marine Corps. They
16 spend three years there. They work in the family
17 sexual violence units. They work sexual assault
18 investigations. They bring that back and they
19 teach that to the younger CID agents on the Marine
20 Corps side.

21 We also recently in 2012 assigned
22 investigators to the prosecution teams throughout

1 the Marine Corps. They're there to look at
2 investigations when they come in with the
3 prosecutor, do an overview of them, identify maybe
4 some holes or some issues, go back to that law
5 enforcement agency and say, hey, we've identified
6 these issues that the prosecutor wants fixed.

7 Either that law enforcement agency can
8 fix that or that investigator is cleared to go
9 ahead and accomplish those tasks. That includes
10 sexual assault investigations. It's been very
11 beneficial in the first 12 months that it's been in
12 existence.

13 So I think that we have been left out
14 because we're not an MCIO, but we are that level
15 trained and it's a resource that NCIS would love to
16 tap into and we'd love to help. So I don't know
17 how we get to that point, but if that's something
18 you guys could help us out with I know it would
19 help NCIS and I think we have a resource to use.

20 MR. VANCE: I think it goes back to the
21 instruction where it's very, very clear that only
22 an MCIO can initiate an investigation. So with the

1 literal interpretation of that, we've kind of lost
2 a very, very good asset.

3 MR. SURIAN: Kevin, You and I have both
4 talked about this, recruiting our security forces
5 or military police as part of a team.

6 MR. SURIAN: Yes. We've looked
7 internally. Assuming that the resources aren't
8 just going to arrive in this day and age, it is now
9 -- because when we took on all the sexual assault
10 investigations, the touching cases in addition,
11 then security forces frankly in some places is kind
12 of idle. They've got capacity, but they don't have
13 the case work.

14 So we've entered into discussions about
15 how we're going to have to reorganize the peas and
16 carrots on the plate a little. You may have to
17 take only use and possession in drug cases now, to
18 relieve us of that so that we can -- so this is
19 just a reallocation of resources to try to work
20 through.

21 We've talked through and this afternoon
22 I'll have a discussion with my senior leadership on

1 could we at certain locations use some of the
2 security force investigators to develop a team
3 where they come in, we open, we oversee, we're
4 responsible for the quality of the investigation,
5 but there are certain investigative activities they
6 could accomplish for us as part of this OSI team as
7 security force investigators.

8 There definitely are. We may keep the
9 subject interview, the victim interviews, and some
10 of the important components, but the records checks
11 and some of the witness interviews that are not
12 particularly, we don't think, probative or
13 perishable, they could work through that, to help
14 augment that, to develop that.

15 MS. FERGUSON: I think, too, in doing the
16 funding, because sometimes, depending on what's
17 happening, the funding is only sustained for a
18 brief period of time. What's going to happen in
19 three years or five years? Where is the sexual
20 assault funding going to lead?

21 So one of the most critical points we're
22 going to have to really, with this initiation, is

1 is there going to be enduring funding, because
2 sexual assault cases are never going to go away.
3 They've always been here, they're always going to
4 be there. And with the increase now and not having
5 the personnel or the resources to be able to
6 accommodate it, that's going to be critical for us
7 when it comes to those two particular areas.

8 COLONEL SCHOLZ: Right. But don't you
9 think you guys would save time and resources and
10 money by consolidating the training in some
11 regards? You say you're all alike, there's very
12 little difference. But I see a lot of training
13 being done in lots of different places and areas
14 and by different departments, Air Force, Army,
15 Navy. Everybody's doing a little something
16 different.

17 Is there a way to consolidate and save
18 resources in that area?

19 MR. POORMAN: I don't know that you would
20 save much. You might save -- a class size is a
21 class size and the TDY to get the students. So the
22 primary cost associated with any of this is the

1 students, is the throughput. There are probably
2 ways you could cross-leverage structures and others
3 to assist in some of that.

4 That's one of the reasons we moved down
5 to FLETC particularly, is to begin to leverage many
6 of the FLETC resources. You've got agencies. You
7 can draw on a Customs inspector, you can draw on a
8 lot of other investigators and agencies to come in
9 and assist you with cognitive interviewing, for
10 example.

11 COLONEL SCHOLZ: Just setting up the
12 class, though, for everybody, that's a lot of time
13 and energy, just bringing in all these experts and
14 stuff. It seems to me if there was some
15 consolidation --

16 MR. VANCE: We are attending the same
17 school with the same experts, so we have
18 consolidated.

19 MR. SURIAN: Currently the Army CID, the
20 Marine Corps CID, the NCIS, the Coast Guard
21 Investigative Services, JAG Corps from all the
22 services, the DOD IG sends their agents, as well as

1 the Peace Corps has also sent agents, and the State
2 Department is interesting in sending agents. So
3 all of that is currently consolidated. We have had
4 some Air Force OSI attend as well, and they're kind
5 of looking at different things. But generally
6 that's a joint course.

7 COLONEL SCHOLZ: Well, when you looked at
8 these slides there's a whole bunch of different
9 courses giving sexual assault training, but it's
10 kind of spread out.

11 MR. POORMAN: Here's one of the dilemmas
12 I think we face. We have this advanced training
13 that's not ideal. Ideal is basic training. I have
14 agents that they come out of week one and they get
15 a duty call and they go out and hopefully there's a
16 senior agent around to help them. But they have to
17 come out of the academy understanding how to handle
18 sexual assaults.

19 So that's why increasingly -- this last
20 week, we backed cognitive bias training into our
21 basic course. I don't want to be dealing with that
22 two years, three years downrange. I need to have

1 agents coming out of the academy with it. I
2 perceive we'll be doing cognitive interviewing in
3 our basic course at some point, because it's our
4 number one case category. This is the number one
5 case category for Air Force OSI. It's our primary
6 case type. So I've got to have new agents that
7 know how to handle it.

8 Now, there will always be advanced
9 material. It just won't stick in the minds of a
10 young three-level, as we call it, investigator.
11 We'll have to have some of that. But I don't think
12 it'll be AT's in the future. I think we'll be
13 turning out an agent who's ready to handle sexual
14 assaults better from the beginning.

15 MR. VANCE: We're doing the same thing.
16 You asked about the training, the training
17 evaluation or assessment that the IG did. One of
18 the things that we started doing was more
19 aggressively folding in the requirements that are
20 enumerated in the various instructions about the
21 topics that have to be covered for these sexual
22 assault investigations. They're being folded into

1 our basic academy as well in our add-on, not the
2 CITP, but our add-on portion of it.

3 But we're slightly different. Since
4 we're a civilian organization, when we come out,
5 when our agent comes out, we actually then have a
6 training agent program as well where they're
7 assigned a senior agent that they basically are
8 mentored by for 90 days, and then they're on a
9 probationary period for a two-year period of time.
10 So we're slightly different about that, but that's
11 the difference about being a civilian agency and a
12 military organization.

13 MR. STRAND: So you're not training the
14 brand-new MP soldier who comes in all the way up to
15 MPI and then CID and the officer stuff and
16 everything else. So that's why some of that is
17 different.

18 Also, there are some differences between
19 the MCIO's. NCIS and OSI have a dual purpose.
20 Theirs is counterintelligence and criminal
21 investigation.

22 MR. VANCE: Yes, we have three distinct

1 mission funding streams. I wish I could say that
2 the director of NCIS -- excuse me, Russ, for
3 butting in. But that's a huge thing for us. We
4 don't control our own budget. We receive funding
5 from national intelligence sources, military
6 intelligence sources, that cover counterterrorism
7 and counterintelligence issues and stuff like that,
8 in addition to our criminal mission.

9 The folks who fund those other streams,
10 they're not willing to back off and say, okay, you
11 guys can go work sexual assault now. The director
12 can't come in here and face you guys and say, yeah,
13 I'm going to switch all these folks, because he
14 doesn't have the ability.

15 MR. STRAND: CID doesn't have a
16 counterintelligence mission at all.

17 MR. POORMAN: That's why they have a
18 little more room to do some of the advanced crime
19 scene work, because our plate's pretty full with
20 counterintelligence.

21 MR. STRAND: Which is the primary reason
22 they didn't go to FLETC to begin with. When the

1 study was done to bring everybody there, they
2 determined it was going to cost the money \$2
3 million a year more to go to FLETC. So it wasn't
4 going to be a cost savings. It was actually going
5 to create more funding problems, because the
6 mission sets are slightly different, different
7 enough.

8 The thing that we have in common as far
9 as sexual assault is the law enforcement mission,
10 the investigative mission. But from that point on,
11 it's really different. So it's a huge challenge to
12 try to get, because if you fix this part of the
13 training, say we just look at it from the sexual
14 assault standpoint, yes, everybody should train
15 together, what other missions are you going to harm
16 by doing that?

17 COLONEL SCHOLZ: Now the JAG's are having
18 training. It seems to me we're going to be
19 spending a lot of money with new courses.

20 MS. FERGUSON: We have JAG's that
21 actually train actually concurrent with the agents
22 simultaneously.

1 COLONEL SCHOLZ: Right.

2 MR. VANCE: But I would like to get away
3 from some of that, though, because for your
4 specific professionals, like prosecuting alcohol-
5 facilitated sexual assault in the justice school,
6 those professionals need to go get that
7 development. I think it's boiled down to almost
8 bare bones now, to where we've decided or assessed
9 what a professional needs in each one of these
10 lanes to get the position. So I can't see much
11 more cutting or consolidating at this point.

12 GENERAL DUNN: I think one thing that we
13 can't lose sight of in this discussion is that when
14 you look at that basic enlisted military police
15 person, regardless of which service they are in,
16 their missions when they are deployed are vastly
17 different between the services.

18 So maybe when you get to the level of
19 being an NCIS agent or a CID agent or an OSI agent,
20 it seems to me you are doing more consolidated
21 training at that level, or at least thinking about
22 it. But I think that's a different issue than how

1 you do that basic initial training, which is what
2 you were talking about a few minutes ago about
3 making sure that, not an NCIS agent, but whoever
4 does your basic law enforcement in the Navy is
5 prepared to at least recognize and secure and
6 handle a sexual assault team's scene until someone
7 with more experience can get on, can get to the
8 location.

9 MR. STRAND: There's a huge difference
10 between that and civilians, because in most
11 civilian police departments it's that first
12 responder that's going to actually conduct the
13 investigation in many jurisdictions. A lot of
14 sheriff's deputies, they'll be brand new out of the
15 academy, they're going to be running that rape
16 investigation.

17 MS. JAUS: But in any big city the police
18 department has specialized personnel.

19 MR. STRAND: Right, in big cities. But
20 most of our cities aren't big cities.

21 MS. JAUS: In most cases, I guess. It's
22 not just the big cities. It's a lot of cities

1 across the United States have specialized
2 detectives, because to have a uniformed police
3 officer, nothing against them, conduct a sexual
4 assault investigation, you would have the same
5 problems you have everywhere. It's just too
6 specialized.

7 MR. STRAND: One of the problems that ICP
8 has is that they've found that most of the civilian
9 police departments, they do have their patrolmen
10 responding and investigating. And it's not until
11 you get to a moderately --

12 MS. JAUS: Medium-sized.

13 MR. STRAND: -- financed city. We live
14 in a county in Phelps County where they can't even
15 hire a detective. They don't even have one single
16 detective in the whole county, so it's patrolmen.
17 And that's not unusual in some states.

18 So I think the big difference, though, is
19 the master at arms, the security forces, the
20 responding MP, they don't have a responsibility to
21 make determinations. They don't have a
22 responsibility to do an interview. They don't have

1 a responsibility to do any of that, so they don't
2 need that level of training.

3 But what they do need is to know what
4 their responsibilities are, what they need to do at
5 that point, where they can mess it up. They have
6 to understand victim advocacy, they have to
7 understand victim impact, they have to understand
8 sex offenders, crime scenes, and things like that,
9 so they can maintain until a trained agent can get
10 there.

11 COLONEL HAM: I think Colonel Morris had
12 a question.

13 COLONEL MORRIS: Just a different and
14 briefly, since I know we're running out of time.
15 What do you hear from commanders, who are still
16 your customers? Do you hear anything directly in
17 terms of what they have seen in this approach,
18 whether they're underwriting it, resisting it? Is
19 it all transparent to them?

20 MR. POORMAN: In terms of?

21 COLONEL MORRIS: In terms whether the
22 investigative approach that you have shifted to has

1 resulted in their higher confidence in you,
2 questions about how you're going at investigating
3 their people, anything that bubbles up to your
4 level, if anything at all?

5 MR. POORMAN: I think there are two
6 things that I've heard occasionally, and that's
7 you're not able to attend to some of the other
8 cases to the extent that you were, use and
9 possession of drugs. They still like to have those
10 run, but we have to refer those to security forces
11 sometimes. But they understand. They understand
12 the math kind of.

13 The second piece is that, because we now
14 have a broader, wider scope, in some of our cases
15 we're looking for suspects -- prior victims,
16 rather, of those suspects. In the upper-level case
17 reviews, timeliness, they're very concerned with
18 the timeliness turn with these cases, because it
19 has crept up for us.

20 COLONEL MORRIS: You're talking about
21 within the AFOSI?

22 MR. POORMAN: Yes.

1 COLONEL MORRIS: I'm thinking more of the
2 commanders in the field, as opposed to your
3 internal commanders.

4 MR. POORMAN: That's what I mean, our
5 customer. The customer would like the cases done
6 quicker. But because of the DOD IG sufficiency,
7 the focus on sufficiency, we're thinking in the
8 interest of sufficiency that usually expands the
9 scope, and then the upper-level reviews to ensure
10 the scope -- this is just creating more time on
11 cases. So it is the customer that's getting this
12 concern.

13 And the wing commanders', for the Air
14 Force, concern is that they're not able to call on
15 us for some of the lower level cases that they used
16 to be able to, drug cases, because of the work on
17 sexual assaults.

18 MR. VANCE: For us, one of the things
19 that we are hearing a lot of positive feedback on
20 is, since we've established, similar to what we
21 heard Guy saying, established teams that are in our
22 large fleet concentration areas where we have our

1 greatest volume of reports and investigations,
2 we've established dedicated teams. So the
3 commanders are responding back that they are much
4 more comfortable with having the same consistent
5 faces and names that they are dealing with, whereas
6 in the past where it might be a duty call from
7 someone on Monday night, but then they had a sexual
8 assault on Tuesday night and a different face shows
9 up. So we're getting positive feedback on the
10 consistency.

11 I don't think we'll ever meet the mark of
12 being fast enough for any commander. So they're
13 the two things we're hearing, positive on the
14 consistency. They do like the fact that, from the
15 commander's viewpoint, there isn't any deciding or
16 assessment of, well, is this a base police
17 investigation or an NCIS investigation, because the
18 DOD instructions made it now that it at least comes
19 to us to start with. So again, it goes back to
20 that consistency issue.

21 MS. FERGUSON: Sir, for us, I actually
22 put a slide in there titled "Training Support to

1 the Field." It's two slides from the end. One of
2 the things that we have done out in the military
3 police is not just training military agents; we
4 have now been training military senior leaders
5 regardless. We've been going to the Air Force
6 Academy, we've been going to West Point, and
7 traveling to each of the military installations,
8 giving them a better understanding, understanding
9 sex offenders, understanding the impact.

10 It's very collaborative. This year
11 alone, we've got 17 sessions just for fiscal year
12 2014. We trained this year alone over 20,000 as it
13 relates to that, going to other military
14 installations, training those commanders and
15 educating them. All the senior military leaders,
16 especially across the Army, have said: Here's the
17 time frame, it's a requirement for our senior
18 leaders. They've been shutting down, bringing all
19 their commanders in, and allowing us to actually be
20 able to educate them.

21 But not even just for those commanders.
22 We've been actually working with the Academy of

1 Health Sciences, with the SARC's. So we've been
2 working very closely with them, even the DA and DOD
3 IG, the Armed Forces Institute of Pathology. So
4 we've been transcending in all of those areas to
5 bring us together into alignment and understanding
6 and clarity. These are opportunities for them to
7 ask questions and have better understanding. So it
8 has been working actually really well for us.

9 GENERAL DUNN: I have a specific question
10 for the Navy. I'm sorry, we do need to wrap up
11 here. I am on an aircraft carrier on a six-month
12 deployment or four-month deployment. Who is on
13 that carrier in terms of law enforcement?

14 CHIEF PEARSON: The aircraft carrier
15 itself will generally have an NCIS agent on board.
16 The other ships do not. So if I'm on a destroyer,
17 we have one MA on board, and if there's an incident
18 on that deployed independent steaming destroyer
19 your course of action, if I'm master at arms on
20 board I'm going to contact my strike group NCIS
21 agent and seek guidance.

22 But then again, you're also, you're going

1 to get pressure from your commanding officer. It
2 really depends where you're at. If you're out to
3 sea, you have the medical facilities on board, so
4 medical can use those kits. But the actual
5 investigation itself, you're going to get your
6 guidance from your strike group NCIS agent. And it
7 may not be -- you may not be doing everything
8 exactly as an NCIS agent would. And there is that
9 pressure from the commanding officer as well.

10 GENERAL DUNN: To move it along.

11 But how long would a destroyer be out
12 without coming back into port or being someplace
13 where there's -- can that go on four to six months,
14 just like the carrier?

15 CHIEF PEARSON: You're going to pull in
16 somewhere, but there is always the possibility
17 you're going to pull in somewhere where we don't
18 have -- you can go six months without pulling in
19 somewhere that we have agents.

20 GENERAL DUNN: So it can be that long.
21 And what's the communication like between, the
22 physical ability to communicate? Is that easy

1 enough between you and NCIS?

2 CHIEF PEARSON: It is if your ship, if
3 your command is supporting that, that line of
4 communication.

5 GENERAL DUNN: And how is the Navy doing
6 with that focus?

7 CHIEF PEARSON: Some commanders are
8 great, some ships are great about it. I just got
9 off a nine-month deployment; I had no issues. I
10 was able to communicate with whoever I needed to
11 communicate with, be it the strike group or be it
12 destroyer squadron level. I had that ability.

13 If you get a master at arms that maybe is
14 a lower rank, they might feel a little
15 uncomfortable battling the command and saying, no,
16 I need to do this, whereas myself as a chief or
17 above, I don't really have those issues, where
18 someone first class may not be able to go to that
19 captain: I need to contact this NCIS agent. No,
20 no, you're good; just wrap up what you have. That
21 can be an issue.

22 But the ability to communicate is there.

1 CHIEF WARRANT OFFICER WILSON: On those
2 ships the Marine Expeditionary Unit are on, we do
3 have CID agents on those now. So if NCIS can't get
4 there, we can either secure the scene or
5 investigate, because again we are MCIO-level
6 trained, based on their guidance and direction.

7 GENERAL DUNN: Okay.

8 MR. VANCE: It's a difficult scenario,
9 ma'am. I think you might be trying to get at the
10 worst case scenario that you're thinking about, one
11 of those submarines that are going to be gone for a
12 while and you have an assault on there. You'd have
13 to talk to one of those commanders, but the mission
14 takes priority. I hate to say that, and they're
15 not going to come up until they come up.

16 GENERAL DUNN: And I know that this is
17 not really your purview because you are running the
18 investigative agencies, not the services. But is
19 your sensing that the training that is going on
20 across the services for senior officers and
21 commanders and for their senior enlisted
22 counterparts is at least addressing some of these

1 issues?

2 I mean, it's talking about sexual
3 assault. I know that the Army is doing it. I just
4 wonder about the Navy and the Marine Corps, when
5 you are deployed and you are out there on those
6 ships, whether those who are ultimately responsible
7 have had at least some minimal discussion,
8 training, etcetera.

9 MR. VANCE: From my perspective, for a
10 commander, to come forward and say, I didn't
11 understand the processes, I would find that
12 deceptive. I would find that they were not telling
13 the truth, because the training and the procedures
14 and processes are so invasive and everything that's
15 going on right now. For someone to come forward
16 and say they were unaware of what they should do
17 next at that level, I would have a hard time
18 believing that.

19 GENERAL DUNN: Okay.

20 GENERAL COOKE: Just to clarify, the
21 reluctance of the commander to let you communicate,
22 is that simply due to the technical limitations of

1 the communications network?

2 CHIEF PEARSON: I think it would actually
3 be more on the individual security force personnel
4 and their inability to communicate that need to
5 their chain of command. Some people are, I don't
6 want to say, I don't know how to do this on my own,
7 because there is definitely a different level of
8 training that our Navy security personnel are
9 receiving after their initial in-school training.
10 They do receive follow-on training, but it really
11 varies on your particular assignment, how long
12 you've been in, where you've been, and what your
13 specific duties have been.

14 So it's possible that I could go five
15 years post-A school without any follow-on training
16 specific to first response to a sexual assault.
17 That possibility is there. If I went to a harbor
18 patrol, harbor security, and then I go to this ship
19 where I end up in that situation and I've gone
20 five, six years without any follow-on training,
21 that's where I think it would be, not with the
22 actual command itself.

1 COLONEL SCHOLZ: So they might be shy
2 about asking if they need help.

3 CHIEF PEARSON: And maybe they're not
4 understanding what they need help with
5 specifically.

6 CHIEF WARRANT OFFICER WILSON: They never
7 actually worked it, so they don't understand what
8 the steps are to get where they need to get.
9 They're not getting that training before they go
10 out.

11 MR. VANCE: They don't know what they
12 don't know.

13 CHIEF PEARSON: Yes, because not all our
14 independent duty master on a ship, not all of them
15 have been to military police investigator school.
16 Some of them have. The guys on the bigger ships,
17 the amphibs, the carriers, definitely will have a
18 police investigator. Your amphibs will. Cruisers,
19 the smaller, no.

20 GENERAL COOKE: So it's not like there's
21 only so much bandwidth and the commander doesn't
22 like to give it up.

1 CHIEF PEARSON: That comes up, but those
2 are temporary. That could be 24 hours you're not
3 going to be able to, for that period of time, based
4 on our mission, we don't have a phone available.
5 But those are so short in duration time.

6 GENERAL DUNN: What is the -- just going
7 with E1, E2, E3, E4 ranks so that we have a common
8 basis here, what is the most junior person who
9 could be alone from a criminal investigative
10 perspective on a ship.

11 CHIEF PEARSON: An E6, ma'am.

12 GENERAL DUNN: An E6, okay. So it's not
13 somebody who's completely wet behind the ears.

14 CHIEF PEARSON: No.

15 GENERAL DUNN: It's somebody who has
16 several years experience in the service before they
17 would be alone on a ship.

18 CHIEF PEARSON: Yes.

19 GENERAL DUNN: Thank you.

20 MR. STRAND: Two quick questions. In any
21 of your services, is the commander allowed to tell
22 any of your agents not to conduct an investigation

1 of a sexual assault?

2 MR. SURIAN: No.

3 MR. POORMAN: No.

4 MR. VANCE: No.

5 MR. STRAND: I need to clarify that
6 because there's a lot of misunderstanding. What
7 would happen if a commander tried to order one of
8 your agents to either not conduct or cease an
9 investigation?

10 MR. POORMAN: Well, we have a requirement
11 that the only one that can tell us to stop an
12 investigation is the Secretary of the Air Force.
13 So if they persist and begin to interfere with the
14 case, then we'd have to handle that as an
15 interference issue. But we're a separate chain of
16 command for that reason.

17 MR. SURIAN: CID is the same way. Only
18 the Secretary of the Army can tell us to stop an
19 investigation and he never has.

20 MR. STRAND: And I'm assuming the Navy is
21 the same way?

22 MR. VANCE: The Director of NCIS reports

1 to SECNAV.

2 MR. STRAND: Okay.

3 MR. POORMAN: I will have to say, I have
4 not had in all of my years someone come directly at
5 that. I don't see that.

6 MR. STRAND: The last question I have is,
7 do you have a sense of what percentage of cases
8 that you worked that were already turned down,
9 couldn't be worked, weren't investigated by local
10 police, that you've taken on as an investigation?

11 MR. POORMAN: The local police -- and I
12 think back to the point -- they triage these cases
13 differently and they will not open on some cases
14 that we open on. I would say maybe we see ten
15 percent of the cases that involve locals that we
16 end up running our own because they aren't
17 interested in working them. At least ten percent,
18 they'll give them right back to us. They'll look
19 at it and the victim will recant and that'll be the
20 end of the case for San Antonio Police Department
21 and it comes back.

22 MR. VANCE: I have the sense for us it's

1 more than ten percent.

2 MR. POORMAN: Yes, it could be higher.

3 MR. VANCE: More than ten percent. We
4 just have so many that occur out in town. The
5 statistics are out there, on base and off base. So
6 any time you see an off-base incident, you've got
7 to bring that other jurisdiction into the picture.

8

9 Now, whether they are good, forthright
10 local law enforcement agency that's going to do
11 things thoroughly, I can't say from these
12 statistics. But there are plenty of them out there
13 that will sit on it for weeks at a time, not
14 communicate well. It's usually personality-driven
15 from the top. So then you end up getting back an
16 investigation that has really just languished for a
17 while and trying to rehabilitate that, especially
18 with any communication with the victim at that
19 level. It's very difficult.

20 MR. POORMAN: In defense of locals,
21 sometimes they will tell you: You have more time
22 to work these things than we do.

1 MS. JAUS: They probably have to give it
2 to you because they're overworked.

3 MR. POORMAN: They've got a crime on
4 person call every 15 minutes. They'll say: We
5 could open on it, but it's going to sit on
6 someone's desk and get prioritized down here. You
7 probably could work that.

8 MR. STRAND: Some of the cases we work,
9 they don't have laws that cover it.

10 MR. VANCE: Right. There's no statute
11 for it.

12 MR. SURIAN: Some of the cases have no
13 local interest. If it's a soldier on a soldier
14 downtown, they're not paying taxes in the county or
15 the state, they're not from the county or the
16 state, they're just there. I'm thinking from a
17 financial standpoint the district attorney's
18 probably got bigger fish to fry, and he knows the
19 military can prosecute them. So why even waste
20 time and effort of his tax dollars for his citizens
21 to do something we can do?

22 COLONEL HAM: All of your on-base

1 offenses have another potential prosecutor, too,
2 the assistant United States attorney. And the Army
3 has the felony prosecutor program, so they could --
4 if for some reason the Army wasn't prosecuting a
5 case, the felony prosecutor could take it to
6 federal district court.

7 MR. VANCE: Sex offenses are not very
8 easy in that avenue, though. That would be a last-
9 ditch effort from us, at least from what we've
10 seen. It just doesn't fit well in the U.S. Code.

11 MR. SURIAN: About the only ones who
12 could take U.S. Code would be the ones that are
13 picked up under METJA, the Military
14 Extraterritorial Jurisdiction Act, where it occurs
15 overseas and we drag them back here and prosecute
16 them.

17 MR. STRAND: Are you aware of any cases,
18 METJA sexual assault cases, that have been
19 successfully prosecuted?

20 MR. SURIAN: Yes.

21 MR. STRAND: Okay.

22 MR. SURIAN: At least one that I know of.

1 COLONEL HAM: Steven Green.

2 MR. SURIAN: Thank you, ma'am.

3 COLONEL HAM: Rape, multiple murder, did
4 not get capital punishment. North Carolina, I
5 think.

6 GENERAL DUNN: Is there anything else
7 that you think we missed that any of you would like
8 to contribute to this discussion before we break?

9 [No response.]

10 CHIEF WARRANT OFFICER WILSON: Are you
11 interested in civilian law enforcement programs,
12 because our active duty corps goes through the MP
13 school, but our civilians go to local academies.
14 They go to Camp Pendleton and they get their own
15 separate training. So it's similar to what we get
16 at MP school, but it's done by contractors and GS
17 employees.

18 So there is a separation. They don't
19 train together, unfortunately, at this time for the
20 Marine Corps. Our civilians and Marines are
21 trained separately at different locations. We're
22 trying to fix that, but as of right now that's the

1 way it is.

2 MR. STRAND: Do you know if they get the
3 basic minimums under the DOD instructions?

4 CHIEF WARRANT OFFICER WILSON: They get
5 the two and a half hours, they get the overarching
6 basic law enforcement specialties. But yes, they
7 get a two and a half hour course on sexual assault.

8 MR. STRAND: And the same thing with the
9 Department of the Army police?

10 MS. FERGUSON: The basic military police
11 is two hours.

12 MR. STRAND: But the Department of the
13 Army civilian police, they have their own academy?

14 MS. FERGUSON: Yes, they absolutely do.

15 MR. STRAND: And do they cover the DOD
16 instruction requirements?

17 MS. FERGUSON: The DOD instruction, yes.

18 CHIEF PEARSON: The Navy is the same way.

19 GENERAL DUNN: All right, thank you all
20 very much for your time. We really appreciate it.

21 We'll take a break and get our lunches.

22 [Recess from 12:23 p.m. to 12:38 p.m.]

23

1 AFTERNOON SESSION

2 [12:38 p.m.]

3 DISCUSSION WITH MEMBERS WHO WENT ON

4 SITE VISIT TO DFSC/USACIL AND GBI LABS

5 MR. STRAND: What we'd like to do during
6 our luncheon working meeting, as you can see on the
7 agenda, is for us to give you a back brief on our
8 trip last week to the defense crime lab and to
9 Georgia Bureau of Investigation Crime Lab. The
10 first thing I'll say is that the members that were
11 there was General Dunn, General Cooke, and Colonel
12 Morris.

13 So we had a really good opportunity to
14 sit down with the director of the crime lab, Jeff
15 Salyards, Dr. Salyards, and his staff and just had
16 a really good briefing. I think the briefing that
17 went on before was excellent as far as giving us a
18 good overview on some of the work that they're
19 doing, where they've come from, where they're
20 going.

21 We had a really, really good tour of the
22 crime lab, where we actually suited up and went

1 into the DNA part, and we were able to ask a lot of
2 questions in each section. They primarily focused
3 us on the sections that dealt mostly with sexual
4 assaults, and I believe most of our questions were
5 answered on the tour that we hadn't already done.

6 Then during lunch they brought in a
7 couple of the research folks, which they discussed
8 some of their ongoing research, some of the
9 research they'd like to do across the board. I
10 think that was extremely helpful to us in
11 understanding some of the things that they're
12 looking forward and leaning forward on.

13 Then we had an opportunity to go to the
14 Georgia Bureau of Investigation Lab. We didn't
15 have as much time in the afternoon to tour all
16 those little sections that we were able to with the
17 defense crime lab, but they were very helpful in
18 providing some really good information about the
19 different sections.

20 There were a lot of similarities in what
21 they did and how they did it. Obviously, the
22 science is pretty much the same. They use the same

1 robots, they use the same, I think, the same
2 scientific minimums and requirements that all crime
3 labs do.

4 For me, and then I'll open up, we've got
5 a report that I think everybody will get a copy of.

6 We've got a report that you've got to read through
7 on your own, but I'll give an opportunity for us to
8 discuss impressions and everything else that we
9 can't necessarily discuss in the report from what I
10 understand, but we can discuss comparisons and
11 things like that. The trip report doesn't cover
12 our opinions or anything like that.

13 MS. CHAYT: No, that's just the facts.

14 MR. STRAND: Yes, this is just the facts.

15 MS. CHAYT: This is just the facts.

16 MR. STRAND: This is our opportunity, I
17 think, to have closure on that, discuss some of the
18 things that we've seen, some of our impressions,
19 maybe even some recommendations along those lines.

20 So I think the biggest takeaway that I had and the
21 biggest linchpin is what's your turnaround time for
22 lab stuff. We got from the crime lab their

1 turnaround for a case, because they look at it
2 differently than the Georgia Bureau of
3 Investigation Lab, their turnaround time for the
4 crime lab started out at somewhere 120 days and it
5 went all the way down to, I think it was, 60 on
6 average for the whole case, which is important,
7 because then we get over to the Georgia Bureau of
8 Investigation Lab and their turnaround time is 30-
9 some days for this.

10 Well, their turnaround time starts every
11 time a section gets a service. So if it goes into
12 the crime lab and it goes in the DNA -- if it goes
13 into Trace, their turnaround time starts and ends
14 when it goes into Trace and leaves Trace. Then a
15 new clock starts when it goes into DNA, and then
16 the DNA clock stops when they get done with the
17 sexual assault kit. And if they have to examine
18 the woman's, or the victim's, clothing, the clock
19 starts again, and if they have to examine the
20 suspect's clothing it starts again, and it goes to
21 another section.

22 MS. JAUS: So you can't compare the two.

1 MR. STRAND: No. So when you hear from
2 other crime labs their turnaround time is this, we
3 have to ask specific questions, is it for service,
4 is it for a section, is it a piece of evidence, or
5 is it the case? The crime lab, the way the defense
6 crime lab, the way they cover it is by the whole
7 case from start to finish.

8 Another interesting thing I saw is all
9 the lockers. When we came in, they had a locker
10 for DNA, they had a locker for Trace, they had a
11 locker for this. I think some of the police
12 officers and the investigators, they separate the
13 evidence before it gets in the lab on what they
14 want examined in that specific thing. They get
15 that done and they get it back and then they submit
16 another one, which is different than the way that
17 we do it as far as the Department of Defense.

18 The Department of Defense, we package it
19 all up and it goes there together. It seemed to me
20 that they don't encourage that.

21 GENERAL DUNN: Correct. He said
22 specifically -- for example, at the DOD crime lab a

1 large box will come in, in a sexual assault case,
2 and it'll have the rape kit and it will have
3 clothing, victim's and suspect's clothing. It will
4 have bed linens if those are relevant to the case,
5 all in one box, all sent to the lab at the same
6 time.

7 At the Georgia Bureau of Investigation,
8 it was pretty clear that, in terms of bed linens,
9 for example, those -- the first thing that comes in
10 is the rape kit. If they can make the connection,
11 make a connection with the rape kit, then that's
12 it. If they don't, then they talk to the
13 investigator, who may then send something else, and
14 then send something else. So the processing is
15 really --

16 MS. JAUS: That's the way they do it in
17 New York. They'll do all the kit, every kit. Then
18 you have to ask them specifically with a reason to
19 do a piece of evidence. That's a problem.

20 MR. STRAND: Whereas the defense crime
21 won't go through that process. They'll just --
22 they'll do it.

1 MS. JAUS: That's good.

2 GENERAL DUNN: They don't necessarily do
3 all the testing. They have the evidence in the
4 lab. They may do the rape kit first, and if it's a
5 stranger rape and they make the connection with the
6 DNA, uh-huh, that's it, they don't need to get into
7 the hair evidence or the fingerprint evidence,
8 etcetera, etcetera.

9 MS. JAUS: But they will do it on
10 request.

11 GENERAL DUNN: Right, they will do it on
12 request.

13 MS. JAUS: And they upload to the DNA
14 databank?

15 MR. STRAND: CODIS, yes.

16 MS. JAUS: Everything?

17 MR. STRAND: Everything.

18 MS. JAUS: Okay.

19 MR. STRAND: Another significant
20 difference was what the crime lab, the DOD crime
21 lab, was doing in terms of research and the lack of
22 research the GBI was doing, basically none. I

1 think the crime lab had between five to seven
2 ongoing projects that were going to be significant
3 to changing the scientific field in DNA.

4 One of the things they brought up was
5 mixed samples. They are getting very -- the GBI
6 would not even touch a seven-person mix. The DOD
7 crime lab was actively working a seven-person mix.

8 MS. JAUS: Wow. That's good. They
9 should be.

10 MR. STRAND: They should be.

11 The GBI might do a two-person mix or a
12 three-person mix, but beyond that they didn't
13 really want to do that.

14 GENERAL DUNN: DOD was not particularly
15 confident that they could sort out seven people,
16 but they were certainly willing to try.

17 MR. STRAND: Right.

18 GENERAL DUNN: To see how, just to see.

19 MS. JAUS: Great.

20 COLONEL HENLEY: Why wouldn't GBI do it?

21 MR. STRAND: Pardon?

22 COLONEL HENLEY: Why wouldn't GBI do it?

1 GENERAL DUNN: It's kind of a law of
2 diminishing returns.

3 GENERAL COOKE: Your chances of making a
4 match go down exponentially as you get more.

5 GENERAL DUNN: Adding another person. So
6 two is doable, three maybe.

7 MS. JAUS: It's time intensive.

8 COLONEL HENLEY: So it's not that they
9 can't; they choose not to.

10 GENERAL DUNN: It's so resource
11 intensive.

12 MR. STRAND: I think the other difference
13 -- and I'll get back to the research -- the other
14 difference is some of the examiners that gave us
15 the tour came from other labs and they were
16 astounded that there's no real constraints as far
17 as how many tests in a case you can do. Some of
18 the labs that they came from, you could only do
19 five tests per case, or you could only do certain
20 tests, and then they had financial constraints,
21 where in the DOD crime lab they had -- they didn't
22 have those constraints.

1 MS. JAUS: Do you know how many loci they
2 used to make an ID?

3 MR. STRAND: Eight.

4 GENERAL DUNN: How many what?

5 MS. JAUS: How many loci they use to make
6 an ID.

7 MR. STRAND: No, I'm confusing the 8 and
8 the 32 on something else.

9 MS. JAUS: The reason they use more is so
10 they can get a bigger number, like one out of five
11 trillion.

12 MR. STRAND: The research they're doing
13 is not only in rapid DNA -- so they're also doing
14 the rapid DNA. They're working with the FBI and
15 some other labs on rapid DNA, where their hope is
16 within the next -- the science is already there.
17 Getting it to CODIS-compliant is about three to
18 five years out.

19 But they already can within an hour or
20 two get the DNA, but making it CODIS-compliant with
21 some regulations.

22 The other maybe thing was on the mixed

1 samples. They got some software from some other
2 country -- was it New Zealand -- and they got
3 permission to use that software and they're doing
4 research on the software which is actually probably
5 going to revolutionize how you get those mixed
6 samples and how you can differentiate between
7 certain things, significantly.

8 COLONEL HAM: Do they test cases where
9 the sexual activity is not in question? Are they
10 still testing the DNA in those cases, or do they
11 prioritize in any way where the sexual activity is
12 in contention?

13 GENERAL DUNN: Both labs talked about
14 that. I think at the GBI they won't do it. The
15 DOD lab, they have a lot of conversations with
16 prosecutors and investigators about that issue. If
17 the sexual contact is not in issue, it is a time-
18 resource-money issue for us to go ahead and do it.

19 MR. STRAND: Right. You may also talk to
20 the defense attorneys as well, if need be.

21 GENERAL DUNN: Right, and explain to the
22 defense attorneys.

1 MS. JAUS: In the materials that you sent
2 from the police departments they were making the
3 point that both kits should be tested because you
4 never know. Maybe in this particular case it's not
5 in issue, but in other cases in the future it may
6 hit, another person's sample might hit that, and
7 it's important to test all kits. And down the line
8 all the police chiefs were making, in the materials
9 that you sent out -- maybe that's something that
10 DOD could look at.

11 MR. STRAND: Am I confused? I thought
12 they tested all kits.

13 MS. JAUS: Regardless of whether the sex
14 was in question?

15 MR. STRAND: But going beyond, I don't
16 know. I could be confused about that. I do know
17 they have another separate lab in the lab for the
18 CODIS lab for every apprehension that met the
19 criteria.

20 MS. JAUS: Right.

21 MR. STRAND: And they were collecting
22 that as well.

1 MS. JAUS: Have they had any problems
2 with quality control, any mistakes? And how do you
3 handle it? Everybody has mistakes. Nothing's
4 perfect. How you handle it, letting everybody know
5 and doing quality control to make sure it doesn't
6 happen again. All labs have problems. Have they
7 had that?

8 MR. STRAND: Not that they brought up.
9 But they are certified and they get routine
10 inspections and things like that. So they maintain
11 all their certifications.

12 GENERAL DUNN: Have 100 percent peer
13 review.

14 MR. STRAND: Right, 100 percent peer
15 review, both labs.

16 GENERAL DUNN: Both labs had 100 percent
17 peer review.

18 MR. STRAND: Wasn't that in handwriting?

19 COLONEL HAM: No, it was in DNA.

20 MR. STRAND: It was in DNA.

21 MS. JAUS: Things happen. It's just the
22 way you handle it.

1 COLONEL HAM: They had to do a Brady
2 notification.

3 GENERAL DUNN: Was that nine, nine or ten
4 years ago?

5 COLONEL HAM: Yes. The last cases -- it
6 was in our highest court in the last couple of
7 years.

8 MR. STRAND: It wasn't necessarily due to
9 the procedure. It was due to --

10 COLONEL HAM: It was the examiner.

11 MS. JAUS: It happens.

12 COLONEL MORRIS: It was just outright
13 fraud.

14 COLONEL HAM: And he had I believe a
15 discipline before; is that correct?

16 GENERAL DUNN: Yes.

17 MS. JAUS: And you're saying it was
18 handled with Brady and everybody was made aware of
19 it?

20 COLONEL HAM: But it affected many, many,
21 many, many cases.

22 COLONEL SCHOLZ: Well, 120 days, that's

1 the average?

2 MR. STRAND: That was where it came from.
3 That was in the seventies. That's the whole case.

4 MS. JAUS: That's excellent. That's very
5 good.

6 GENERAL COOKE: They also made a point of
7 saying the numbers had gone up a little bit because
8 of furloughs and sequestration. They've been hit
9 by all those same resource problems.

10 GENERAL DUNN: And the additional
11 reporting that we think everybody is seeing across
12 the board.

13 MS. JAUS: There's more kits and more
14 material.

15 MR. STRAND: We asked them for
16 recommendations, which they haven't given to us
17 yet. We asked them to tell us what they are doing
18 that's different, to kind of differentiate between
19 some of their challenges and some of the
20 recommendations they would ask us to consider. I
21 asked them the same questions that we asked them
22 here: If the caseloads continue to increase

1 significantly, can you handle it? And the answer
2 is no; it's going to reduce the turnaround time
3 significantly.

4 GENERAL DUNN: Increase turnaround time.

5 MR. STRAND: Increase turnaround time
6 significantly. We have to start looking at that
7 because, again, if we're successful in DOD, and it
8 seems like we are, if we have a 50 percent increase
9 in sexual assault reports from 2012 to 2013 --

10 MS. JAUS: That's incredible.

11 MR. STRAND: -- the hope is that it's
12 going to continue, because we're nowhere near the
13 prevalence. Is the crime lab prepared? They're
14 doing what they can now. I believe they're kind of
15 indicating they're at maximum in what they can do
16 to keep that turnaround time where it's at, but if
17 we have another increase in cases, if we go through
18 another furlough, if they lose slots due to
19 downsizing, it's going to significantly impact.

20 GENERAL DUNN: On that point, one thing
21 that was really interesting was that during each
22 furlough there was a great effort made to exempt

1 all sexual assault personnel from the furlough, the
2 victim's advocates and SAPRO and the investigators.
3 They furloughed the lab people, so they couldn't
4 do the testing.

5 That was a significant point and
6 something I think, something we might note in the
7 resourcing piece of our report.

8 MR. STRAND: Right, that when you
9 consider exceptions for furloughs for sexual
10 assault, you need to consider the labs.

11 I noticed trainers were also furloughed,
12 people conducting sexual assault training, people
13 conducting certain things. I believe some of the
14 SANE nurses were also furloughed. I don't know,
15 but I know the hospital was furloughed.

16 GENERAL DUNN: Well, you can understand
17 them furloughing the trainers because there was
18 nobody there for them to train. In terms of if
19 they were training civilian workforce, etcetera,
20 they were all furloughed.

21 MR. STRAND: No, most of the trainers
22 were training military.

1 GENERAL DUNN: Well, then --

2 MR. STRAND: So then if the trainers are
3 furloughed and the agents who are going through the
4 training and the prosecutors who are going through
5 the training can't, that's an impact which needs to
6 be considered as well.

7 COLONEL HENLEY: Don't you think the
8 likelihood of another furlough is pretty slim?

9 GENERAL COOKE: That's what we thought
10 the last time.

11 GENERAL DUNN: The next time they'll
12 furlough the admin law judges exclusively.

13 COLONEL HENLEY: More than the 21 days
14 already?

15 [Laughter.]

16 MR. STRAND: That's a great question. I
17 would have bet 100 percent that we would not have
18 shut down the government, because after the
19 furloughs that we went through and everything else
20 I would have, if I was a betting man, I would have
21 said we're not going to furlough or we're not going
22 to close down. But it happened. I was surprised.

1 So I can't answer your question any more.

2 COLONEL HENLEY: I want a guarantee.

3 [Laughter.]

4 COLONEL HENLEY: But that's the arbitrary
5 nature of who's excepted. That's a problem.

6 MR. STRAND: Right. And it was very -- I
7 don't think -- I think the intent was to not
8 furlough anybody supporting the sexual assault
9 mission, but the way people look at the wording and
10 then examine and analyze the wording and what that
11 really means, I think people make their own
12 decisions unless it's specific, unless you
13 specifically say anybody supporting sexual assault
14 response, investigations, training --

15 GENERAL DUNN: Laboratory.

16 MR. STRAND: -- laboratory.

17 You've got to be more specific or else
18 people will, because people want to do the right
19 thing -- they want to furlough the people they have
20 to furlough, and unless it's more specific and
21 drawn out I think it's going to be important.

22 COLONEL HAM: I think you have the

1 proportionate impact of sexual assault DNA kits
2 being tested during a furlough, but a homicide DNA
3 kit lying fallow. So you don't want that to
4 happen.

5 MR. STRAND: Right. But I'd rather have
6 that happen than none of it tested.

7 GENERAL DUNN: That's right, because it
8 will reduce their backlog when they come back up.

9 COLONEL HAM: But what the backlog was,
10 that was a question that came up earlier.

11 MR. STRAND: The backlog created by the
12 furloughs.

13 GENERAL DUNN: There was a backlog, there
14 was a backlog of, what did they say, a thousand
15 cases or so a few years ago. And they have
16 additional DNA lab personnel now, etcetera, and
17 they now have no backlog. They're working the
18 cases they have. Their turnaround time is
19 averaging 77 days. That's where they are now.

20 But another furlough and the increased
21 reporting makes them nervous about that turnaround
22 time.

1 MS. CHAYT: The GBI lab commented they
2 don't expect any change in the numbers. They
3 expect it to continue as it is, and they reduced
4 their backlog because of a grant that they received
5 and they're hoping that that grant money becomes
6 internalized and permanent so that they can stay at
7 the level they're at, to have the numbers going out
8 in the time period that it is.

9 Our crime lab, several of our increases
10 in examiners was from SAPRO, but again they're
11 working: Is that going to become permanent. So
12 those are some of the challenges.

13 MR. STRAND: The other interesting part
14 about that tour was the level of training, the
15 amount of training that the defense crime lab does.
16 They bring in agents from all the MCIO's four
17 times a year or more at their SALT course. "SALT"
18 stands for --

19 MS. CHAYT: Special Agent Laboratory
20 Training.

21 MR. STRAND: Special Agent Laboratory
22 Training course, where they actually take the

1 agents, 24 at a time, and they put them into groups
2 and they walk them through the different sections
3 and they have them work with the scientists and
4 understand how their collection efforts really pay
5 off and some of the things that they need to do
6 better.

7 COLONEL SCHOLZ: Wow. We didn't hear
8 about that from them. I'm surprised.

9 MR. STRAND: Well, that's not what
10 they're doing. That's what the lab's doing for
11 them.

12 COLONEL SCHOLZ: I know.

13 MR. STRAND: I know, yes. But it's
14 really important. They also train attorneys. They
15 train the defense attorneys and the prosecuting
16 attorneys on capabilities and some of those things.
17 They also train the victims -- the SANE nurses.

18 MS. CHAYT: Yes. Commander Robson will
19 talk about that. They've got a VTC in a few weeks
20 that they're doing. She was talking about it in
21 there.

22 Yes, that's a very, very big piece of

1 what they do, is all the training.

2 MR. STRAND: But my sense is that's at a
3 high and as budgets continue to be stretched that
4 may not be -- and also, the agency sending the
5 agents has to pay for the agents. So there's no
6 centralized funding for that as well.

7 MS. CHAYT: They are providing us a slide
8 deck with the briefings they gave us. They
9 realized after they presented it to us that there
10 was some information on individuals outside of the
11 crime lab whose work with them they might not be
12 allowed to release because it belongs to someone
13 else. So their lawyers are going back through to
14 see if they have to take some minor bits of
15 information, none of the big data, nothing like
16 that -- they had some little things in there that
17 probably they shouldn't have released.

18 So we should have that within a week and
19 it will be posted to all of you.

20 MR. STRAND: They also collaborate with
21 the Army Training and Doctrine Command and also the
22 Federal Law Enforcement Training Center on trends

1 and issues, because each of those organizations
2 trains specifically on crime scenes, the collection
3 of evidence, and so they coordinate routinely with
4 them to talk about trends and make sure that what
5 they're seeing as problems are corrected in
6 training.

7 GENERAL COOKE: I was going to say, I was
8 surprised that virtually all this training is done
9 face to face. They do very little distance
10 training, which some of this would seem to lend
11 itself to that.

12 MS. CHAYT: They did mention the advanced
13 warrant officer courses, they actually do a VTC
14 training for that, rather than bring that class in,
15 because it's at Leonard Wood. They have a VTC
16 training for each one of those iterations where
17 they can discuss things with one of the senior
18 scientists and the class.

19 MS. JAUS: So it sounds like all in all
20 it was very impressive.

21 MR. STRAND: It was very impressive.

22 COLONEL SCHOLZ: You mentioned

1 prevalence. What were you talking about when you
2 said we're not at the prevalence?

3 MR. STRAND: The prevalence is actually
4 the incidence versus the reports.

5 COLONEL SCHOLZ: Okay.

6 MR. STRAND: Sexual assault across the
7 board, inside and outside the military, is the most
8 underreported. So what we're intentionally doing
9 is gaining more trust, confidence, support with the
10 victims, so that we can encourage not only them to
11 report, but others to report.

12 We're also, as the MCIO's mentioned,
13 we're looking at other potential victims, other
14 potential crimes, things like that, which is
15 getting at more of the actual incidence as well.
16 So if we can bring the incidence rates down, which
17 is part of the goal, and bring the report rates up,
18 that's going to be a significant increase in
19 workload for everybody responding, investigating,
20 and examining the evidence.

21 COLONEL SCHOLZ: What is the prevalence?
22 Do you have any clue what the prevalence is on the

1 incidence of the reported cases? Is there some way
2 to figure that out?

3 MR. STRAND: I think at the next meeting
4 there's going to be a statistician, I think on the
5 11th in the afternoon, going through some of that.
6 I'm going to bring up some of the prevalence
7 research as far as prevalence of sex offenders and
8 sex offenses.

9 It's significantly high. The report rate
10 on average in the civilian world is somewhere
11 around 18 to 19, 20 percent report rates between
12 what actually occurs and what's reported. So
13 you've got an 80 percent spread. It was similar in
14 the military, but our report rates have risen so
15 much I think we've really closed that gap to
16 somewhere around we're well above 24 to 25 percent
17 report rates, to where we're I think in some of the
18 services it might even be up around 30 percent
19 report rates.

20 MS. JAUS: In the United States, college-
21 age women report that 18 to 20 percent, 18 to 20
22 percent of college-age women are sexually

1 assaulted, either raped or sexually assaulted,
2 touched improperly, etcetera, in college. So it's
3 consistent.

4 MR. STRAND: Right.

5 MS. JAUS: That's a recent stat.

6 COLONEL HAM: I think that colleges have
7 a 5 percent reporting rate, we've learned in
8 another assessment.

9 MS. JAUS: It's a hard thing to gauge
10 because if they're not reporting how do we really
11 know who was sexually assaulted?

12 MR. STRAND: Through prevalence research,
13 through prevalence research, where they ask --

14 MS. JAUS: It's not exact.

15 MR. STRAND: It's not exact. That's one
16 of the problems that we've had with all the
17 prevalence research, and that's why I'm going to
18 give you right and left boundaries, here's the low
19 number, here's the high number. It's somewhere
20 probably in between there, because it depends on
21 what questions you ask, how you ask the questions.

22 MS. JAUS: And what you mean by "sexual

1 assault."

2 MR. STRAND: Right. Well, if you just
3 ask were you sexually assaulted that's a very bad
4 survey. If you ask, during this last year did this
5 specifically happen to you or did you do this, ask
6 specific questions, it's much better and more
7 specific.

8 MS. JAUS: Sure.

9 MR. STRAND: You've taken it out of terms
10 of criminal behaviors and criminal definitions and
11 things like that and put it into actual behaviors.
12 It's much more accurate.

13 COLONEL HENLEY: So 18 to 20 percent are
14 sexually assaulted and 5 percent of those report,
15 is that what you mean?

16 MS. JAUS: The stat that I know is that
17 college-women, of the women who are in college now,
18 18 to 20 percent of them are sexually assaulted on
19 college campuses.

20 COLONEL HENLEY: Right.

21 MS. JAUS: And that's kind of your age
22 group also, that 18 to 22-year-old. So let's say

1 20 percent of women are saying that they report and
2 that they've been sexually assaulted.

3 COLONEL HENLEY: Okay.

4 COLONEL HAM: That's consistent with -- I
5 don't know about the 5 percent. That I don't know.
6 But Mr. Lisak went over the different populations
7 and the percentage that report, not to say they
8 were sexually assaulted in a survey, but that have
9 reported it, and that college has the lowest
10 reporting rate in the nation from that standpoint.

11 COLONEL HENLEY: Correct. How does that
12 compare, if you know?

13 COLONEL HAM: If I recall -- I don't know
14 if you've read that preparatory -- I think the
15 military was about a 20 percent reporting rate.

16 MS. JAUS: So it's really similar.

17 COLONEL HAM: No, reporting rate, report
18 the event.

19 MR. STRAND: No, the reporting rate in
20 college, as opposed to 20 percent reporting rate.

21 MS. CHAYT: Reporting or were sexually
22 assaulted?

1 MR. STRAND: Well, it depends on -- they
2 might be reporting to a researcher, but not
3 reporting to police.

4 MS. JAUS: Okay. I'm not sure who the
5 report was to, that's true. You said reported. I
6 don't know how it was reported.

7 GENERAL DUNN: Then you also have, we
8 have the ongoing difference, Rhonnie, with rape
9 being reported on college campuses versus the
10 reports of sexual assault in the military, which
11 can be anything from a pat on the butt on up to
12 rape. Frequently there's an apples and oranges
13 issue with the numbers on that.

14 MR. STRAND: Our reporting rates include
15 all of that.

16 MS. JAUS: Right. And I do believe that
17 -- well, no, this 18 to 20 percent was rape and
18 sexual assault, but what do they mean by "sexual
19 assault"? Is it just a touching?

20 MR. STRAND: Well, generally, most
21 "sexual assault" definitions are completed sexual
22 acts, not necessarily rape, which could include

1 intercourse, but not considered forcible rape.

2 MS. JAUS: Right.

3 MR. STRAND: And then the Uniform Crime -
4 - the Uniform Crime Report definition is different
5 as well, when you look at police reports versus --
6 and how they interpret in the various states and
7 jurisdictions.

8 MS. JAUS: The Uniform Crime stat has now
9 added digital penetration as rape as well.

10 MR. STRAND: It just added in 2012
11 digital penetration.

12 MS. JAUS: Yes.

13 MR. STRAND: Which we've always --

14 MS. JAUS: Now they're calling it rape.

15 MR. STRAND: -- had.

16 MS. JAUS: And the military has had that.

17 COLONEL HAM: The UCR, I think it's rape,
18 sodomy --

19 MR. STRAND: Right.

20 MS. JAUS: All rapes, sodomies, and any
21 penetration --

22 MR. STRAND: Penetration.

1 MS. JAUS: -- any part of your body,
2 vaginal and anal.

3 MR. STRAND: But that's a smaller
4 percentage of our reports. Most of our reports are
5 non-penetration cases. They're what we consider
6 aggravated sexual assaults or wrongful sexual
7 contact, those types of things, where in the
8 Uniform Crime Report it's really specific
9 penetration crimes. Then when you compare that
10 with us, it's really skewed; it's apples and meat,
11 it's not apples and oranges.

12 MS. JAUS: See, in New York you don't
13 even have penetration; you have contact, just a
14 touching. We're trying to actually move away from
15 penetration on our web site, just to contact.

16 COLONEL HAM: That's what the military's
17 tracking.

18 MS. JAUS: What is the military? Is it
19 contact? Could sodomy be just contact or is
20 penetration?

21 MR. STRAND: Sodomy is penetration.

22 COLONEL SCHOLZ: For the crime. But for

1 reporting purposes we're doing contact.

2 MR. STRAND: Right. We have wrongful
3 sexual contact, we have aggravated sexual assault.
4 We have several different levels of sexual assault
5 that many jurisdictions don't have. We also have
6 the consent issue versus force, so a lot of our
7 consent crimes wouldn't come under the UCR
8 definition because they're not forcible. But
9 that's included in our statistics as well.

10 MS. JAUS: But the UCR took away the
11 consent, the forcible thing. Now they're including
12 people who are incapable of consent, thank God,
13 since 2012.

14 MR. STRAND: And it's going to take a
15 while for them to get it. Plus with the UCR I
16 think part of the problem is that they don't get
17 accurate reports from all the jurisdictions.

18 MS. JAUS: Definitely.

19 MR. STRAND: It's hit and miss with some.

20 Now, there's another difference between -
21 - I was going to ask them, but I didn't, if I'm a
22 patrolman or a detective in a civilian police

1 department and somebody reports a sexual assault to
2 me, in many jurisdictions I can determine whether
3 or not I'm going to take a report. In the military
4 there's no discretion. There will be a report if
5 it's reported to law enforcement, period. There's
6 no discretion at all.

7 That's a huge -- that's another huge
8 difference in the statistics.

9 COLONEL HAM: I think we want to bring in
10 the next group.

11 GENERAL DUNN: Yes. Is there anything
12 else?

13 MR. STRAND: Any other questions on the
14 lab visits?

15 GENERAL DUNN: Anything to contribute to
16 the lab visit discussion?

17 GENERAL COOKE: That was a great visit.

18 GENERAL DUNN: It was.

19 COLONEL HAM: For FACA purposes, what the
20 site visit is is it's called a preparatory work
21 session. You do not need a Designated Federal
22 Official present, but you are only permitted to

1 gather facts. You are not permitted to deliberate
2 and discuss the issues amongst yourselves, because
3 for that you would need a Designated Federal
4 Official.

5 MS. FRIED: What you just did was in the
6 subcommittee setting with my presence, and that's
7 okay.

8 MR. STRAND: We didn't do any of this on
9 the trip.

10 MS. CHAYT: Except to say that was cool.

11 MR. STRAND: Yes, that was cool.

12 GENERAL DUNN: Please, bring them in.

13 BRIEFING BY SERVICES' SANES AND MEDICAL
14 PROVIDERS

15 GENERAL DUNN: Good afternoon, ladies and
16 gentlemen. We very much appreciate your taking the
17 time to be here with us. We're going to wait one
18 moment for Ms. Jaus to return.

19 MS. FRIED: Ms. Jaus said she has to make
20 a phone call, but she said go ahead.

21 GENERAL DUNN: Okay, we will proceed
22 then.

1 As I think you all know, we are a
2 subcommittee of a panel that's looking at the
3 general issue of response systems to adult sexual
4 assault crimes within the military context, and
5 this particular panel is looking at comparative
6 systems, in other words how do we handle all
7 aspects of sexual assault within the military, how
8 is it handled within the civilian community from
9 investigation to prosecution. Clearly, you are
10 part of that.

11 We have been starting from my left --
12 from my right to my left. This time we'll switch,
13 so how about if we start with you, Commander
14 Robson, and move down the row. We'll interrupt you
15 with questions as people have them.

16 COMMANDER ROBSON: If it's okay, I'll
17 pretty much lay out an introduction of myself, go
18 through what program we have from background to
19 current ops to future ops.

20 GENERAL DUNN: And make sure you identify
21 your service as you go through, because it's
22 obvious to some people at the table and not so

1 obvious to other people.

2

3 COMMANDER ROBSON: Absolutely. Thank
4 you, General.

5 My name is Commander Kristie Robson. I
6 serve in the United States Navy. I have been in
7 for 12 years. I'm an emergency medicine physician.
8 I have served in Afghanistan and Iraq. My
9 background is a general surgery internship,
10 emergency medicine, flight surgery, and a couple
11 fun fellowships in global emergency preparedness,
12 disaster response, as well as countering weapons of
13 mass destruction, and handling sexual assault feels
14 like it's been a little bit of a challenge to all
15 of my background.

16 I am very proud to be working at the
17 Bureau of Medicine and Surgery. I am the
18 department head of clinical programs, and within
19 clinical programs falls my appointed job as the
20 Bureau of Medicine and Surgery Sexual Assault
21 Medical Program Manager.

22 The background on how I come to be

1 sitting in front of you is the fact that in May
2 2013 our three-star, Surgeon General, signed
3 6310.11A, which has essentially established the
4 sexual assault forensic exam program for the Navy.

5 Our Surgeon General in May essentially challenged
6 our entire Navy medical enterprise to stand up a
7 program that will provide forensic exam capability
8 around the globe.

9 So from May to September 30, this
10 instruction and this program has been responsible
11 for training 852 SAFE providers. 97 of our MTF's
12 around the globe are SAFE-capable at this time.
13 When we talk about our fleet assets, the Navy of
14 course has ships, subs, expeditionary commands. We
15 have a total of -- I'm sorry, I have to cheat --
16 123 U.S. fleet forces, assets, that are SAFE-
17 capable, 142 PACFLEET assets that are capable, as
18 well as our Military Sealift Command. The way that
19 we come into contact with Military Sealift Command
20 is of course they are the drivers of our hospital
21 ships. They too have SAFE providers.

22 This program that was established in May,

1 that I've had the challenge of establishing around
2 the globe, is 14.5 hours of standardized training
3 at the minimum, 14.5 hours of DVD training that is
4 mapped against the Department of Justice national
5 protocol for care of adult victims of sexual
6 assault, with the additional time in there for the
7 Navy training.

8 Under future ops I'll talk about what
9 we're rolling out in March, because this, again,
10 this was a May 2013 instruction.

11 Why are we out there, for background? We
12 call this in every single instruction from the DODI
13 to the SECNAV to the OPNAV to the BUMED
14 instruction, victims of sexual assault are
15 emergency cases. So in essence, we have to be able
16 to provide an emergency response everywhere, and
17 that's essentially the challenge that our Surgeon
18 General gave us.

19 That pretty much is the background of
20 what the instruction is and how many we trained up.

21 The best part of September 30 coming is that we
22 met that challenge, and thank God the world didn't

1 end that day, which as we were weekly metric-ing
2 and calling all over the place trying to get, where
3 are your numbers at, what's trained -- we met that
4 response.

5 So now I'm in the part that I enjoy the
6 most as an attending physician. This is in the
7 proficiency, the competence-building phase, and
8 this is really -- this is where the excitement's at
9 in my mind.

10 August 2013, the SECNAV instruction came
11 out calling for victim care protocols at all MTF's,
12 all medical departments. So the victim care
13 protocols have to be in place so everyone provides
14 a coordinated response. So our medical providers
15 are a piece in that. This is where we drill at
16 this point. So victim care protocols in place that
17 when a victim walks into your medical facility, how
18 do you handle them from triage to disposition,
19 ensuring that they have follow-up care. That's
20 current ops.

21 From the SAFE program, we do monthly
22 stakeholder meetings. So in order to run a program

1 of this size, I have regions on the line, I have
2 our training centers on the line, I have my fleet
3 point of contacts from both coasts, the Marines as
4 well. We continue to talk about updates and where
5 we're going and where we're at right now.

6 Proficiency training comes down not only
7 in instruction, but it comes down in taskers. So
8 in MAVMEDEAST we're reporting on mock drills and
9 the mock drills are based on your victim care
10 protocols, because it's one thing to have a plan
11 written down, it's another thing to be testing it,
12 updating and ensuring that it works.

13 My favorite thing -- and I heard that you
14 were talking about them at lunch -- is the
15 connection with USACIL. USACIL is United States
16 Army Criminal Investigative Lab. I've had the
17 fortune to have a feedback loop established for at
18 least the next three months on every single Navy
19 SAFE kit that is sent to them. They're giving me
20 feedback on what the quality of the SAFE kit that
21 was delivered to them, because you have to imagine
22 having on paper 859 providers that are brand new to

1 this. You want to ensure and tell them you're
2 doing it right or we need to improve. Again, as a
3 new program they're certainly my allies in this.

4 They're also --

5 COLONEL SCHOLZ: Can I back you up just a
6 second?

7 COMMANDER ROBSON: Yes, ma'am.

8 COLONEL SCHOLZ: You said USACIL is
9 providing you feedback on all the SAFE kits. When
10 you have a SAFE provider, tell me really what that
11 means?

12 COMMANDER ROBSON: Oh, I'm sorry, ma'am.
13 The words "SAFE" and "SANE" are sometimes
14 intermixed. But to be a SANE you have to be a
15 nurse. The problem is in our platforms we don't
16 have nurses on every platform. So we can't have a
17 SANE program overall. We have to have a SAFE
18 program, because just like we have various
19 missions, we have various health care providers
20 that are meeting these missions. For that reason
21 we train physicians, physician assistants, nurses,
22 nurse practitioners.

1 In contingency operations, we have IDC's,
2 which are independent duty corpsmen, that are able
3 to do the exam as well. They are only able to do
4 it with physician supervision, signoff,
5 credentialing, and an understanding that they're
6 going to do it right. But when you're at the
7 bottom of the ocean on a sub, that's it. I can't
8 sub down a nurse to you to do it.

9 COLONEL SCHOLZ: This was one of our
10 previous questions. We wondered what was on a ship
11 when things like this happen. So it's helpful.

12 COMMANDER ROBSON: I look at this mission
13 like, as I train interns and you show up day one,
14 you're not always, you're not at the top of your
15 game, okay, but we're going to get you there and
16 we're going to get your confidence there, and we're
17 going to ask you to do some extraordinary things
18 and do them in an accountable fashion. And if
19 you're not doing it in an accountable fashion,
20 we're going to correct you. As you know, Colonel,
21 that's the military way.

22 Those are what SAFE providers are. I'm

1 sorry, it sometimes gets confusing when you're
2 answering all these panels. But this has been the
3 mission and we have a variety of people that are
4 able to carry this mission out.

5 MR. STRAND: How are your SAFE examiners
6 selected to come to training?

7 COMMANDER ROBSON: I think my favorite
8 comment from one of the program managers down at
9 Jacksonville was, she said: "You're the cream of
10 the crop." They have a number of applications, and
11 we're set up according to the instruction with
12 roles and responsibilities. I'm at the headquarter
13 level. There is regional level program managers
14 and then MTF program manager levels, military
15 treatment facilities, which they sometimes have
16 branch clinics attached to them.

17 MR. STRAND: So they're all volunteers,
18 and then they go through a screening process?

19 COMMANDER ROBSON: Yes. They're chosen
20 based on motivation and smarts, of course. They're
21 interviewed by their program managers and they have
22 to have an understanding that you're filling a

1 watch bill that you're accountable for.

2 In terms of where, again, current ops, we
3 are tracking at this point, since SAFE exams again
4 are, at least for the Navy, this is new as of
5 October 1. It wasn't in all of our regular SAPR
6 metrics, and so at this point I have monthly
7 taskers out to find out, what's our baseline at
8 this point? I don't have a baseline of data to
9 analyze.

10 We had 24 total in the month of October
11 SAFE kits that were performed. This is my first
12 month of looking at it and I don't know if this is
13 something that, through all of the efforts that, of
14 course, I'm sure the panel is aware of across the
15 military -- our SAPR, SARC -- I would account it to
16 body armor. As we continue to try to protect and
17 heal and prevent, is it going to eventually mean
18 that my number of SAFE kits go down with this? Or
19 do they go up because we know we have the
20 capability? I don't know that yet. So that's part
21 of our tracking of data, and that's something
22 that's coming from the Bureau of Medicine and

1 Surgery.

2 In terms of stakeholders, we also get
3 information out through monthly newsletters that,
4 as you roll out these programs and you look at all
5 the different instructions, you like one source to
6 be able to kind of go over questions and answers,
7 so we push that out as well.

8 In terms of future ops, excited to say
9 we're getting ready to roll out the next training
10 evolution of Navy SAFE training that complements
11 the Dartmouth 11.5 hour standard training, and we
12 had a Navy supplemental. We're turning that Navy
13 supplemental training into a video and we're right
14 now evaluating, doing the scripts at this point.
15 Production is supposed to start in February.

16 COLONEL SCHOLZ: Can I ask you a
17 question? As part of the kit, do you use a
18 colposcope when you do the exam on the female
19 victims?

20 COMMANDER ROBSON: You mean on like
21 ships?

22 COLONEL SCHOLZ: Not on ships.

1 COMMANDER ROBSON: So what is our
2 standardized response to that?

3 COLONEL SCHOLZ: Yes.

4 COMMANDER ROBSON: It all comes down to
5 what the provider's credentialing is.

6 COLONEL SCHOLZ: If you're in a hospital,
7 let's say you're not on a ship or an environment
8 where they would be a colposcope, is it part of the
9 protocol for the kit to use a colposcope on
10 victims?

11 COMMANDER ROBSON: I think it's similar
12 to the Department of Justice national protocol.
13 You use what you have. We can't mandate that you
14 will use the most expensive cameras out there, and
15 on our ships we can't mandate that you use
16 toluidine blue. So it comes down to you will have
17 the kit, you will have the appropriate lighting,
18 you will have your cameras.

19 I'll tell you, the smallest parts of this
20 exam, you learn how many different people in the
21 military exist to make your job difficult. By that
22 I mean you would think it's easy to just transfer

1 photos. Oh, no. Oh, no. And on a ship and on a
2 sub -- I have learned more stuff about that.

3 COLONEL SCHOLZ: What about the suspect
4 kits? Have you been doing that?

5 COMMANDER ROBSON: The suspect -- the
6 kits are the same. The DOD kit remains the same.

7 COLONEL SCHOLZ: Right, the suspect
8 portion.

9 COMMANDER ROBSON: Yes, the suspect
10 portion, and it's nice. Our 2911 has the 2911
11 suspect exam instruction. So no matter where
12 you're at you're able to understand where the exam
13 differs. You're not going through the same exact
14 questions that you're asking your patient who is a
15 victim --

16 I keep trying to avoid saying "victim," but it
17 comes out too easy -- your patient following a
18 sexual assault. You're not asking the same
19 questions as you're asking the alleged suspect.

20 It's just the different parts of the 2911
21 are filled out a little bit differently for the
22 suspect versus for your patient. But the chain of

1 custody has to be preserved --

2 COLONEL SCHOLZ: The suspect kits, how
3 often do you do those suspect kits?

4 COMMANDER ROBSON: I'll tell you, we had
5 one suspect exam out of the entire in October. And
6 I'm tracking that, too, ma'am. I'm tracking
7 restricted, unrestricted, and suspect. So I get
8 answer for one month: one suspect.

9 The neat part -- and I'm sure USACIL
10 talked to you about this -- and I know you want to
11 talk about comparative between civilian and
12 military. Secondary to the UCMJ and the 120-day
13 speed trial rule, that's what USACIL is held to.
14 120 days, you've got to be ready to go to court.
15 So USACIL's turnaround time is 71 to 77 days for
16 the entire kit.

17 When we look at what the civilian world
18 does, certainly the times can be up to 155 days and
19 plus, and they don't do everything in the kit. The
20 military does that --

21 MS. JAUS: With the kit, all the DNA
22 evidence is excludable time in the civilian world.

1 It's not counted in the time to be ready for
2 trial. It's excludable time.

3 COMMANDER ROBSON: My only point is that
4 we do the entire kit. We will do as many kits as
5 come to it, and we'll do it in a fast fashion. I
6 think that's something that, when we say, well,
7 we're going to send out to someone else, I can't --
8 you don't have that same amount of accountability
9 that you do in the military to say -- and that's
10 their time -- 71 to 77 days.

11 This is all part of discovery that I just
12 find -- I find interesting. I feel that when you
13 come to us we're able to offer you all that the
14 military medical resources have. If you come to --
15 our ID docs are there, our behavioral health docs
16 are there, our chaplain corps is there to help, our
17 SARC's, our SAPR's. We have an enormous amount of
18 people that are manning the response that all, per
19 protocol, are coming.

20 And that's something that I don't know on
21 the civilian side if they get that same level of
22 response.

1 That's pretty much all I have.

2 GENERAL DUNN: Thank you.

3 COMMANDER ROBSON: I hope that covers it.

4 GENERAL DUNN: Thank you.

5 Colonel Poindexter.

6 COLONEL POINDEXTER: Yes, ma'am. My name
7 is Colonel Todd Poindexter, U.S. Air Force, and I'm
8 the Chief of Clinical Operations in the Air Force
9 Medical Support Agency, which is part of the Office
10 of the Surgeon General.

11 I'm actually here on behalf of Colonel
12 Christine Pierce, who is our main POC. But I
13 actually am the POC for the policy that I'm going
14 to talk about, and it'll come out in a second.

15 I think Commander Robson did a great job
16 of describing a lot of the same things that you're
17 going to hear, so I will try to tailor somewhat
18 what I'm saying not to be repetitive, but to talk
19 about maybe where the Air Force is different. The
20 Air Force is different; I would say one of our
21 major areas is the size of the facilities that the
22 Air Force has are traditionally a lot smaller and a

1 lot more spread out geographically than what you
2 will see with the Army or with the Navy. They tend
3 to have larger facilities, more people collocated.

4 So in looking at that, the Air Force has
5 52 of our facilities that actually do not perform
6 SAFE exams and they have memorandums of
7 understanding with civilians who are the ones who
8 will do those SAFE exams for our patients. There
9 are another 12 where we do actually provide SAFE
10 exams. The majority of those are overseas, where
11 there is no alternative. And then there are ten
12 facilities that are actually collocated with
13 another larger DOD facility and they actually use
14 that larger DOD facility.

15 So our governing Air Force Instruction is
16 44102. It actually -- the current version that we
17 have was published in January of 2012 and it
18 describes how we respond to sexual assaults. In
19 that it describes the level of training that's
20 required for those that we do actually perform on
21 our installation, and we typically will have one of
22 two levels of provider, just as the Navy.

1 We will have medical providers, as in
2 physicians, or nurse practitioners, who can do the
3 exam as a SAFE exam; or we will have SANE-trained
4 nurses who will do the exam. That's for those 12
5 facilities.

6 We also do the same training that the
7 Navy does in relation to DOD-mandated training for
8 first responders. We make sure that all of our --
9 we also have a requirement that for every one of
10 the civilian facilities there has to be -- there
11 must be an MOU. There's a standardized amount of
12 information that must be included. They must make
13 sure that they can ensure that the kits are used as
14 the DOD kit, so they're using the same DOD kits.
15 They coordinate with legal to make sure that the
16 kits are processed in the same way that they would
17 be if they were on the installation.

18 We also make sure that, just as the Navy,
19 that when we are doing our exams that we make sure
20 that the people are trained, that they are
21 following the procedures as required.

22 In addition, in the deployed environment,

1 which probably for the Air Force would be
2 equivalent to the Navy with their ships, but
3 probably not -- probably the Navy has a little
4 greater challenge because some of their ships are
5 much smaller than I would say where Air Force
6 personnel are deployed. But it is a requirement
7 for an expeditionary medical facility in the Air
8 Force that they have to have a written plan in how
9 they're going to provide a SAFE exam.

10 In the majority of those, they have to
11 have actual providers who are willing -- who are
12 able to do that exam. The way they ensure that is
13 they make sure that before any individual actually
14 deploys that they pre-identify someone who actually
15 can meet the qualifications in order to ensure that
16 a SAFE exam will be available.

17 In the rarest instances, for instance at
18 a very small forward operating base, there is the
19 ability to air-evacuate someone to a larger
20 facility if that is necessary.

21 Regarding the training that we use, that
22 is spelled out in our Air Force Instruction, which

1 actually is under revision and currently will be
2 probably shortly on the heels of theirs. The main
3 changes that have occurred is that we're making
4 sure that we are further defining the level of
5 training. We're also ensuring that, though we were
6 always following the Department of Justice national
7 protocols, we are actually making sure that that
8 reference is specifically listed. In addition, we
9 are adjusting somewhat some of the level of
10 training to make sure that we can maintain currency
11 and competency.

12 One of the things that we have found is a
13 challenge, even in those 12 where you perform
14 exams, especially in an overseas environment, and
15 so it becomes extremely difficult to maintain
16 currency. Plus, typically overseas rotations,
17 you're rotating every three years potentially at a
18 base. So you may have a cadre of trained
19 individuals and then one assignment cycle and then
20 suddenly you do not.

21 So we are making sure that we are putting
22 in place the policies that would be necessary to

1 ensure that no matter where an Air Force member is,
2 whether they would be in an overseas deployed
3 environment, whether they're stateside in a very
4 small remote facility or in a large installation,
5 that they actually have the access to the SAFE
6 exam.

7 The other thing I think that's important
8 -- and she mentioned as well -- is that the SAFE
9 exam is one portion of what we do as medics, and
10 from a medical perspective in some sense it is
11 important, but clearly for us taking care of the
12 whole person is what can be considered our most
13 important priority.

14 So we also need to make sure that we have
15 appropriate referrals in place if necessary for any
16 kind of support that they may need, such as mental
17 health and other types of things as well. Those
18 are things that are also important that we make
19 sure that actually do occur, follow-up exams and
20 other things that fall into the purely medical and
21 not be part of the kit.

22 So again, I think what you'll find is

1 from the Air Force the big difference is that,
2 because of our smaller size and facilities sizes,
3 we have leaned much more heavily towards using our
4 civilian counterparts, who clearly can provide very
5 competent, very current providers to do the exam.

6 I brought Major Foster because we didn't
7 get the exact -- it was a little bit late --
8 exactly what you wanted. So she can speak if you
9 have specific questions about the kit or if you
10 want to go to the next person, we can do that as
11 well, whatever the panel would prefer.

12 GENERAL DUNN: I do have one question in
13 terms of the use of all the civilian providers. Do
14 you have any feedback from USACIL on the quality of
15 the kits that come from civilian providers relative
16 to the quality of kits that may come from Wilford
17 Hall or something?

18 COLONEL POINDEXTER: Right. We've
19 actually received no feedback that they have
20 detected any problems in the difference between the
21 two. A lot of -- and my understanding is, having
22 in the distant past actually performed the kits

1 themselves, they are, though very -- the
2 instructions are relatively straightforward, and if
3 you know another type of kit typically you can do
4 reasonably well with following the kit that's
5 provided.

6 GENERAL COOKE: Will those civilian
7 facilities also do suspects?

8 COLONEL POINDEXTER: They will in
9 general, and that's one of the areas that we are
10 working on that we have discovered that sometimes
11 can be a challenge. Some will do suspects, some
12 will not, in which case then we have to find
13 alternatives in relation to the suspects.

14 MS. JAUS: Because we find in the
15 civilian world that some people refuse to do the
16 suspect kits because it's a difficult area. A lot
17 of people, SANE nurses, are not comfortable doing
18 that.

19 COLONEL POINDEXTER: Exactly. And what
20 we'll find, too, is some of the facilities that we
21 use have an entire specialized lane, so to speak,
22 for response to sexual assault survivors and they

1 don't want to mix a patient who is considered an
2 alleged perpetrator in the same lane as that
3 support mechanism. So we have to make sure we find
4 alternatives.

5 MR. STRAND: In your MOU's do you talk
6 about wait time and patient care and those type of
7 things as criteria?

8 COLONEL POINDEXTER: We do not mandate
9 specific wait times in the sense that we lay out,
10 no different than that we don't in our own
11 expectations. Our expectation is that they do need
12 to make sure they are treated as a priority. But
13 the civilians typically have no problem with that
14 and see -- that's clearly one of the things that we
15 have seen. They respond very quickly to any of our
16 patients when it comes to this type of event.

17 MS. JAUS: There's a lot of pressure, for
18 example in New York, with these programs that a
19 victim has to be seen within an hour, and they're
20 tracked.

21 COLONEL POINDEXTER: Right.

22 MS. JAUS: And everybody's looking at

1 that number constantly. So you don't have that?

2 COMMANDER ROBSON: We have it in our
3 SECNAV Instruction 1752.1 that once it is dictated
4 by a health care provider or a law enforcement, I
5 think -- they call it a funny name instead of "law
6 enforcement" -- you will respond within an hour.
7 And that's why when we -- and I don't mean to
8 interrupt -- when we stood up our program we may
9 have an MTF here, a huge center here, multiple
10 branch clinics, and some of the ones that are very
11 close, they didn't have to get the SAFE capability,
12 but the ones that were going to be longer than an
13 hour to get it to this main medical center, you're
14 having it during working hours and then you're
15 making sure that you could still get it within this
16 instruction. They're all held to the same
17 instruction.

18 COLONEL SCHOLZ: We do have that.

19 COMMANDER ROBSON: That's the SECNAV. I
20 don't know that the DODI says that, because the
21 Secretary of the Navy tells us what to do, the
22 Secretary of the Army tells the Colonel what to do.

1 But in SECNAV 1752 --

2 COLONEL POINDEXTER: We're the Air Force.

3 [Laughter.]

4 COLONEL POINDEXTER: That was a Freudian
5 slip, you know, like the soon to be purple Joint
6 Medical Command.

7 [Laughter.]

8 MR. STRAND: You used to be part of the
9 Army.

10 COLONEL POINDEXTER: Right. We're going
11 back.

12 COLONEL HAM: How do you determine
13 whether you're going to have a capability in the
14 military treatment facility or in the community?
15 I'll tell you why I'm asking. Some of the members
16 are going to go to Fort Hood next month, which is a
17 huge installation with a hospital and no SANE, and
18 they've contracted with somewhere 30 to 45 minutes
19 away.

20 MS. HAIG: Can I answer specifically to
21 that, because I'm representing the Army? Carol
22 Haig.

1 Interestingly enough, we struggled with
2 the same thing. About two months ago we were
3 charged with the same thing: Why does a large
4 installation with a large troop population not have
5 a forensic exam program? Fast forward six weeks as
6 we're trying to answer that question, because then
7 we had to answer it for every facility. A victim
8 was presented to the chief of staff of the Army who
9 said: I had to drive an hour and a half to get my
10 forensic exam and I don't want to drive that far.
11 I really want to stay close to home.

12 Then another victim says: I stayed close
13 to home and I had a forensic exam done, but 80
14 percent of the kit was thrown out of court because
15 it wasn't done right. So we shouldn't be doing
16 them at all at any MTF, was sort of the next charge
17 to us.

18 So we just sort of pulled back and said:
19 Let's develop what right looks like in terms of
20 the forensic exam piece and then look at how we
21 execute it, whether that's in conjunction with the
22 civilian agencies or not, because it really went

1 180 back and forth. Every time somebody heard from
2 a different victim, we were charged with different
3 things to take care of.

4 So it's a challenge, and it's
5 counterintuitive to think your largest troop
6 population, with a large med center, doesn't have
7 that capability. But the standards within the
8 state of Texas are very, very, very rigorous and
9 they are almost -- it's almost like we wouldn't
10 even think about trying to do them because they do
11 -- at one facility, like in San Antonio -- I think
12 you are traveling to San Antonio, too -- Methodist
13 Hospital performs 800 forensic exams a year. Well,
14 we haven't done that many in the Army in a year.

15 So how do you maintain the competency
16 with your forensic examiners when you have a low
17 volume area and a high specificity and a high
18 sensitivity exam? That's what we're struggling
19 with, honestly, is how do we ensure that we keep
20 the right trained teams available at different
21 locations. So that's what we're currently trying
22 to develop.

1 COLONEL SCHOLZ: What about deployed
2 locations? Is there a SANE capability at the
3 deployed?

4 MS. HAIG: There is, and CENTCOM directs,
5 because it's a joint environment, directs all of us
6 how we will execute the capability. It's our
7 responsibility to make sure we have trained
8 personnel, that when they're tagged to go the units
9 have to prepare to send the right amount of
10 forensic examiners downrange based upon the CENTCOM
11 guidance.

12 MS. JAUS: Is there
13 any exception to your hour requirement in a
14 deployed location?

15 MS. HAIG: That's a Navy requirement, the
16 hours.

17 COMMANDER ROBSON: This is the thing in
18 the combat zone, and this is what I struggle with.
19 I'm an echelon two. I coordinate with the fleet,
20 but I don't tell them what you're going to do, and
21 I sure don't tell CENTCOM what they're going to do,
22 as an echelon one.

Can I find out the info? Yes, of course.

1 I called my ER doc who's the second surgeon, you
2 bet, and they haven't had any SAFE kits performed
3 since July since he has been there, both Kandahar
4 or at Leatherneck.

5 In terms of what training they have out
6 there, I don't have the same eyes that I do in my
7 MTF's and in the organic medical departments on
8 ships, subs, and they expeditionary forces. But
9 the other trick, though, of course, in the combat
10 zone -- and I've served in Iraq, I've served in
11 Afghanistan -- they are treated as emergency
12 patients everywhere, again per instruction.

13 But it comes down to safety. It comes
14 down to the safety of the patient, it comes down to
15 the safety of the crew, and we're going to get you
16 to where you need to get to get this done, but
17 we're going to do it in a safe fashion and I'm
18 going to treat you the same as I treat everybody
19 that I've had to take care of there in terms of
20 trauma.

21 MR. STRAND: Are restricted cases in
22 deployed environments treated the same as emergency

1 care, and how do you manage? If it's restricted,
2 how do you get all the widgets to --

3 COMMANDER ROBSON: That is a challenge
4 that we're hearing back from the fleet. And all of
5 this is being done with incredibly good intentions,
6 because again you think about strategy, you think
7 overall what's the goal and what's the capability I
8 need to build to meet the goal.

9 Our capability as the Navy is that we're
10 going to have the SAFE capability out there. Done.
11 Now you need to figure out how to make it truly
12 happen. So the restricted challenge on ships and
13 subs is, yes, we could keep this restricted, we'll
14 get the RRCN number out to you, we'll get this
15 taken care of.

16 The challenge comes down to if this
17 patient now needs further care, and that's just
18 being honest, because that sub doesn't have
19 behavioral health. Certainly it's going to have
20 emergency contraception, it's going to have HIV
21 prophylaxis. The problem then is if we need to
22 surface, break mission, and get you off of that sub

1 or ship. Then it's really hard to keep this
2 restricted.

3 That's the feedback I'm getting, and
4 that's just the honest feedback. Can they get it
5 done? I have no doubt our commanders will figure
6 out a way to get it done, whether they have to call
7 it a code or something. But that's the honest
8 answer to the difficulties in the fleet when you're
9 commanding officer of a ship and you have your IDC
10 trying to say, I want to get this person to higher
11 care, and the only way you could do it is the way
12 we move any patient: full social security while
13 you're moving them and their name. And that right
14 there violates the restricted.

15 Are they going to get the same care?
16 Yes, you bet. They're going to do their best to
17 make sure that they get the follow-up care they
18 need. But just like whether you walk into an MTF
19 we can't always keep it restricted if an outside
20 facility -- I mean, that's how our instructions are
21 written. If we do a restricted exam, we try to
22 keep everything restricted, and now the local

1 police are banging on the CO's door to find out if
2 this person could be part of an investigation
3 because there's a serial rapist out there. You
4 can't keep that restricted now. There's outside
5 sources.

6 MAJOR FOSTER: For me, a nurse midwife by
7 trade, and I have served and did SAFE exams there.
8 The thing is, it's part of our skills checklist to
9 be trained to be able to do a SAFE exam. So it's
10 part of my readiness training. I've been SANE
11 trained. I'm not a SANE, though, but I am a SAFE
12 examiner.

13 So performing the exams, it was the same
14 as if I was in CONUS or in a deployed location as
15 far as the restricted reporting. I was able to
16 keep that chain of custody. Everything was under
17 lock as far as the medical records, keeping the
18 medical records separate. So I didn't notice a
19 difference at all.

20 MR. STRAND: How about if they were on a
21 FOB, though, and they had to be brought in? Then
22 it creates more of a problem, right?

1 MAJOR FOSTER: Well, any patient that
2 came went straight to the ER and the ER escorted
3 them right over. Basically, all the SAFE exams
4 were performed in the women's health clinic. I was
5 the chief of the women's health clinic, and
6 basically they were our number one priority. So
7 even if we had another patient, we stopped that and
8 took care of it.

9 It could be anywhere from one hour all
10 the way up to six hours. Again, as Colonel
11 Poindexter and the Commander said, it's about
12 taking care of the patients. So even if they
13 didn't want -- if they came in and said, well, I
14 don't know if I want to report, I don't know if I
15 even want an exam, we still want to take care of
16 you as a patient and make sure you're doing okay.

17 MR. STRAND: Your male victims were
18 brought into the women's health clinic as well?

19 MAJOR FOSTER: Yes.

20 MR. STRAND: Okay.

21 COLONEL POINDEXTER: We try to avoid that
22 stateside.

1 MR. STRAND: Sure.

2 COLONEL POINDEXTER: That's a specific
3 requirement, is they need to be gender specific.

4 GENERAL DUNN: Okay. Anything else from
5 the Air Force, anything in addition?

6 [No response.]

7 GENERAL DUNN: All right.

8 DR. ROTOLO: I'm Dr. Sue Rotolo. I'm
9 representing the civilian side of things. Just
10 background on me. I'm a nurse. I have a Ph.D.
11 I'm not a medical doctor. I've been a nurse for 38
12 years and the last 23 I have been a SANE nurse.

13 I've worked for the last 22 years at
14 Inova Fairfax Hospital right up the street, and we
15 perform examinations on adults, children, suspects,
16 at our facility. We provide about 700 exams a
17 year, so it's a busy facility.

18 We've also worked with the military in
19 our response. We have MOU's set up with Fort
20 Belvoir and we have a response with Fort Belvoir
21 that we would go to their women's center if our
22 nurse was available to travel there. That would be

1 our first hope. But if she was just starting an
2 examination at Fairfax, it was easier for the
3 patient to travel to us, and we would ask them to
4 come to us.

5 We also have MOU's with Fort Myer and
6 Henderson Hall and those patients would come to us.

7 Fort Belvoir purchased the equipment that we
8 needed to maintain the same quality of care that
9 they were going to get if they came to Inova
10 Fairfax.

11 I know we're talking a lot about the
12 collection of evidence and the kit collection, but
13 I think it's really a broader issue of a holistic
14 approach to this patient. It's not just the
15 collection of the kit. That's one piece of it.
16 But we have a patient that is coming into our
17 facility, or a patient that we are responding to if
18 we go to another facility, who has a myriad of
19 needs at that time, and the collection of evidence
20 is one piece of it.

21 All of the nurses that are SANE nurses --
22 Maryland calls them "SAFE" and it doesn't really

1 matter, civilian world, if it's "SANE" or "SAFE" --
2 but they have a minimum of 40 hours of training in
3 the field of sexual assault plus clinical
4 requirements.

5 So they have very in-depth training on
6 the collection of evidence piece. But it's also
7 the part that we have to worry about afterwards is
8 are the patient needs met and then what's going to
9 happen with that patient if it ends up going to a
10 courtroom setting? The nurses that are trained are
11 very, I want to say, savvy in the courtroom world
12 on what needs to be done to make sure this evidence
13 gets in, to make sure our testimony gets in, to
14 make sure that the documentation is the right
15 documentation, to make sure that it will make it
16 into court.

17 So we look at it in a bigger picture than
18 just the evidence collection. So I think that
19 that's probably one of the biggest differences
20 between some of the exams that are done with
21 deployment. You have to do the best you can when
22 they're deployed. We also do a lot of

1 telemedicine, where there is a standard of care
2 with a type of a colposcope that should be utilized
3 on all patients, with photographs. Photographs are
4 becoming the standard of care in forensic
5 examinations. It has to be done for competency
6 reasons. It needs to be done for peer review
7 reasons. It needs to be done for the courtroom
8 reasons.

9 So we've set up with some individuals
10 that are smaller jurisdictions an ability to do a
11 peer review with an expert to make sure that
12 injuries are identified as injuries, medical
13 conditions are identified as medical conditions,
14 and before that patient leaves to make sure that
15 everything is done in the proper manner to make
16 sure that it's being done at the highest quality
17 possible for these patients.

18 You only get one chance at these
19 patients. So it comes down to competency of the
20 examiner and the number of exams they do and the
21 ability to do it right. So from the civilian
22 perspective it's a little bit different, but we do

1 offer at our hospital -- we offer suspect
2 examinations. I think that that was critical to
3 the forensic program to be able to do that, because
4 they're trained as the best, as the experts, in the
5 collection of evidence. So why are we going to
6 provide the patient with the best evidence
7 collection and then on the suspect say, no, not so
8 much?

9 So I think it has to go hand in hand with
10 a civilian department that they offer both. I just
11 think that that's -- and I can give you story after
12 story about why it's important for a medical person
13 to do these exams that have been trained
14 appropriately.

15 We've had a really good response with our
16 MOU's with patients coming in either restricted or
17 non-restricted. It's worked pretty well for those
18 patients to be able to come to our facility. I
19 find that the ones that do not want to report it to
20 law enforcement, they have a bigger need sometimes
21 to come off base and come to a civilian hospital,
22 because I think that they feel that it's a better

1 chance of not getting out to other people in the
2 military installation.

3 So we've had a big response of our
4 patients that do not want to report it to anyone
5 that the UVA's or your advocates have been bringing
6 the patient to us and we've been able to maintain
7 that with our patients, and I think that that's
8 gone over really well. We've had a good response
9 with getting all of the aftermath with the
10 patients, whether it's mental health counseling,
11 medications. It's worked real well. Whether it's
12 the civilian hospital doing it or we go to that
13 facility, it's worked really well for that.

14 COLONEL SCHOLZ: So Fort Belvoir does not
15 have a SANE capability?

16 DR. ROTOLO: They do not. They have a
17 room up on the women's floor and it's equipped with
18 the equipment. They debated whether or not, but
19 it's some of the same issues that I talked about,
20 is the competency and is there always going to be
21 someone available. And to have someone available
22 24-7 is sometimes difficult for someone who is

1 trained.

2 COLONEL SCHOLZ: It would seem to me
3 transporting somebody somewhere is risky, too,
4 because when people show up they don't want to do
5 this to start with, and then to say, oh, we're
6 taking you to another hospital.

7 DR. ROTOLO: We give the patient that
8 choice at Fort Belvoir, because we do have -- we
9 did say if you want us to come to your facility you
10 need to have all of these things that we have, so
11 it's the same level of care. And we let the
12 patient make that decision.

13 Once in a while they'll say she's going
14 to have to wait because we're just finishing up an
15 exam, but we'll certainly travel there; but if she
16 would wish to come to the hospital that is her
17 choice. But I do find that those that do not want
18 to report it, they like to come off base. So given
19 that choice -- but it's all about a victim-centered
20 approach and letting them have the say in their
21 care.

22 But as you were saying about exams, 80

1 percent of it not making it into court, that's not
2 acceptable to us. So I'm a firm believer in that
3 strict requirement of what gets collected, how it
4 gets collected, how it gets packaged, and then all
5 the follow-up, like you said, for offering patients
6 a follow-up examination, their medications, and
7 then the critical piece, which is the courtroom
8 testimony.

9 COLONEL SCHOLZ: So what percentage of
10 your 700 exams last year were military or from
11 military?

12 DR. ROTOLO: I think the year before,
13 because I left Inova last year, last October -- I
14 retired from Inova and I do private consulting now.
15 But in the year prior, we probably saw 15
16 patients.

17 COLONEL SCHOLZ: 15.

18 DR. ROTOLO: 12 to 15.

19 GENERAL COOKE: How many people on the
20 staff at Inova, how many are there, SANE or SAFE-
21 qualified people are there?

22 DR. ROTOLO: When I left there were 12.

1 GENERAL COOKE: 12.

2 DR. ROTOLO: So we had a response 24-7.
3 So a patient would come to us, our hospital, or we
4 would go to them if it was at Fort Belvoir, and we
5 had a 45-minute response to get to the hospital
6 once we were called.

7 COLONEL SCHOLZ: That's terrific.

8 DR. ROTOLO: We firmly believe that the
9 sooner you can get to that patient the better it is
10 for evidence collection, the better it is for
11 mental health. They're not sitting around in the
12 clothing that they were just assaulted in. So the
13 faster response the better.

14 So we have a huge staff, and then we also
15 have a child advocacy center, which also has a
16 backup system there. So if one nurse is busy doing
17 an examination, a second nurse could be called in
18 to prevent a backlog. So we're trying to think of
19 all the best practices there.

20 COLONEL HENLEY: How many hospitals in
21 Fairfax County are set up to --

22 DR. ROTOLO: Fairfax Hospital is the only

1 one.

2 COLONEL HENLEY: So you handle all of
3 Fairfax County?

4 DR. ROTOLO: All of northern Virginia.

5 COLONEL HENLEY: All of northern
6 Virginia?

7 DR. ROTOLO: Yes. So our response is
8 Fairfax County, Arlington, Alexandria, Loudoun,
9 Leesburg, down to Fredericksburg, Prince William
10 County.

11 GENERAL DUNN: So in the civilian
12 community, if I'm living in Fredericksburg and I
13 get sexually assaulted I don't have an option of
14 asking you to come to Fredericksburg. I'm in the
15 vehicle and on my way to Inova Fairfax to get my
16 treatment.

17 DR. ROTOLO: But they do have a SANE
18 program in Fredericksburg at one hospital, and
19 actually I just trained nurses, five nurses, to
20 start a SANE program in the new Spotsylvania
21 Hospital.

22 GENERAL DUNN: So it's starting to

1 spread.

2 DR. ROTOLO: It's starting to spread. I
3 think -- I don't think every single hospital should
4 have a SANE program because I think it's about
5 competency. I think there should be areas of
6 competency. So Fairfax Hospital has a private exam
7 room -- actually, it's two exam rooms -- all of the
8 equipment that is needed, all the supplies that are
9 needed, a staff that's dedicated to that response,
10 so patients travel to a regional center.

11 People respond to Harrisonburg, people
12 respond to Fredericksburg, Spotsylvania. So there
13 needs to be centers of excellence where the patient
14 doesn't have to travel a great distance, and that's
15 the hope, but not to have one at Fairfax Hospital,
16 one at Fair Oaks Hospital, one at Mount Vernon.
17 It's not cost effective and then you spread out
18 that competency of that staff.

19 That's one of the reasons why SANE
20 programs were started, is because you'd have one
21 patient go to this hospital, one to this one, and
22 the standard of care would be different.

1 GENERAL DUNN: But my point is, based on
2 our discussion about having somebody travel from
3 Fort Belvoir to Inova Fairfax, somebody's going to
4 be traveling from Leesburg to Inova Fairfax if
5 they're a civilian. So in terms of a comparison.

6 COMMANDER ROBSON: Somehow that makes me
7 sad when I keep hearing of this transferring. This
8 victim sounds alone and our system is not set up
9 for a victim who's been assaulted to be traveling
10 anywhere alone. Safe health line, victim advocate,
11 at your door helping bring you to an appropriate
12 facility and a nurse to understand.

13 MR. STRAND: Isn't there a problem in the
14 Army with victim advocates transporting people.
15 They don't have transportation, so it's often not
16 coordinated well ahead of time. So it sometimes is
17 the victim trying to get their way there because
18 the victim advocate can't drive them.

19 COMMANDER ROBSON: I'm just saying, that
20 part -- we're really golden. The response from
21 SARC to SAPR's, this is a huge response, and there
22 are a lot of people that are being employed to

1 help. To me it just kind of sounds like -- I know
2 when people are just like, I've been assaulted in
3 the military, I don't want to go to the military,
4 leave me alone. I have to truly, and I'm the one
5 wearing the uniform, tell you that there's a lot of
6 good people out there that their full job is to
7 make sure that that patient is getting patient-
8 centered care, and just the thought of someone
9 driving on their own to get this type of exam --

10 GENERAL DUNN: So that would be a
11 recommendation that you have, and that where the
12 Air Force has MOU's with local hospitals or where
13 the Army has MOU's in the national capital region,
14 that part of the program should be to make sure
15 that the victim is not alone.

16 COMMANDER ROBSON: Right.

17 DR. ROTOLO: We really use our UVA's with
18 the military to make sure that they're there
19 through the whole process, whether it is in the
20 waiting room giving them emotional support prior to
21 the exam, coming in during the examination if that
22 is what the patient desires. So they're never left

1 alone. A patient is never alone at our facility at
2 all.

3 GENERAL DUNN: Okay. Now, what if you
4 have -- because again we're doing this comparative
5 thing. So if you have a military victim coming in
6 from Fort Belvoir, generally a victim advocate with
7 them. What about a teenager coming in from Loudoun
8 County? Who is with them?

9 DR. ROTOLO: It depends on the
10 jurisdiction, and I'll tell you that in Loudoun
11 County they do not have a hospital response. So we
12 rely on -- we have during certain hours, we do have
13 an advocate present at the hospital.

14 GENERAL DUNN: At Inova Fairfax who will
15 --

16 DR. ROTOLO: Right.

17 GENERAL DUNN: But when that person is
18 coming to there with their mother, a policeman,
19 whoever?

20 DR. ROTOLO: Whatever support they can
21 get in the civilian world. Now, in Alexandria
22 there's a fabulous victim advocacy program and they

1 never let that patient alone. So it depends on
2 jurisdiction to jurisdiction. I will say that the
3 military does the UVA's as well. There's always an
4 advocate with the military patient.

5 MAJOR FOSTER: As a volunteer, I have
6 volunteered in multiple states as a victim
7 advocate. So it is very state-specific. In
8 Kentucky, if there was a sexual assault we got
9 called to come in, so as soon as they hit the door
10 we'd have a -- whoever's on call, we would go right
11 in and be there with the victim, just like you
12 said, from the waiting room into the examining room
13 if they want us, all the way to the courtroom. We
14 followed them from the beginning to the end.

15 COLONEL HAM: Is there a distinction -- I
16 think I've heard in one of the presentations -- in
17 many civilian systems the victim advocates are from
18 nongovernmental organizations that are not
19 affiliated with the police or the prosecution or
20 anything.

21 DR. ROTOLO: We have two types of
22 advocates. One is the victim witness advocate that

1 is part of usually the prosecutor's office. Then
2 we have a community-based advocate. Those are I
3 think closer to the UVA for the military. A victim
4 witness person is, since they are part of either
5 law enforcement or the prosecutor's office, they
6 are bound to turn over some things to law
7 enforcement during the investigation.

8 MS. JAUS: Notes that they take.

9 DR. ROTOLO: Right. So as the community-
10 based advocate they're there with confidentiality
11 really for the emotional support to that person, to
12 make sure that services are offered.

13 COLONEL HAM: Can I ask one more
14 question? You mentioned the 40 hours of training
15 that your SANE folks get. Is that a national
16 standard? Does the military do the same thing?

17 DR. ROTOLO: It is, yes.

18 COLONEL HAM: Is it nationally accredited
19 training?

20 DR. ROTOLO: There's an organization
21 called the International Association of Forensic
22 Nurses and for you to become a SANE or a SAFE you

1 have to go through the 40 hours of training. And
2 they outline what has to be covered in that
3 training. So it's a minimum of 40 plus clinical.

4 COLONEL HAM: And is the SANE protocol --
5 we learned about the DOD one a little today -- is
6 that a -- is there a national standard for that?
7 They vary from jurisdiction to jurisdiction, but is
8 there some national standard that has to be met?

9 DR. ROTOLO: We use the DOJ. That's the
10 only national guideline for forensic examiners, and
11 it just was revised last April. They came out with
12 the revised standard. But we use that as a basis
13 because they just, for example, this last April
14 they updated information about HIV medication and
15 emergency contraception. Emergency contraception
16 didn't make it into the first protocol, so they've
17 updated that.

18 So we use that protocol as our basis and
19 then use the International Association of Forensic
20 Nurses guideline on what has to be taught.

21 COMMANDER ROBSON: Can I comment on that,
22 if that's okay. Because you're going to say,

1 what's the difference. If the Navy is just doing
2 14.5 hours and everyone is doing 40, I feel like we
3 have to comment on that.

4 When you take an ACOS class or a CPR
5 class or a BLS type thing, the American Heart
6 Association has that same exact content everywhere
7 you go. So if you take BLS at Portsmouth it's got
8 to be the same as San Diego. The IAFN says you
9 will have this content, but it's not the same
10 product.

11 So we were finding that, you know, with
12 the SANE courses taught here at Portsmouth, it may
13 differ than what's taught at Bremerton, it may
14 differ with what's taught at Jacks. So our Navy
15 answer was: You're going to watch the same 11.5
16 hours of SAFE DVD that is mapped against the
17 Department of Justice national protocol, and that
18 way all of our providers will have the same
19 baseline, in addition to the same Navy training,
20 and that's the minimum.

21 Then you could do, your program managers
22 are responsible for doing skill training, mock

1 drills, and testing, what Dr. Rotolo brought up,
2 the whole legal aspect of it. That's where we're
3 working with our JAG's at the MTF, getting people
4 prepped, working with the victim's legal
5 assistance, getting people prepped, because we
6 recognize as well, and it is in our training, the
7 importance of being able to give testimony that is
8 factual.

9 We're not training expert witnesses.
10 We're training factual witnesses.

11 MS. JAUS: Also not to say pejorative
12 things in the medical records.

13 COMMANDER ROBSON: Right.

14 MS. JAUS: Like referring to the victim
15 as "The victim claims" or "alleges." It's
16 important to be neutral. It's very important.

17 MR. STRAND: "The victim was
18 uncooperative."

19 DR. ROTOLO: We were talking as we were
20 waiting. I take care of patients and the majority
21 of those patients that come in reporting a sexual
22 assault are victims, but that's for the court to

1 determine. I take care of a patient. I take care
2 of a patient from head to toe. So it's very
3 important that those kinds of things get out into
4 the court system, and there's this whole big
5 proffer thing that came out -- I think it was back
6 in 2004 -- about what a nurse can say, about
7 whether it's testimonial.

8 MS. JAUS: Not just a nurse. Anybody.

9 DR. ROTOLO: Right, whether it's for
10 medical diagnosis and treatment. So that's a big
11 part of the training for all examiners to
12 understand how we document it so those statements,
13 if necessary, can come in.

14 MS. JAUS: One of the biggest problems we
15 had many years ago in New York when this first got
16 started is that people would write, nurses or
17 doctors or anyone, would write "alleged,"
18 "Diagnosis: Alleged sexual assault." And we had
19 to do this city-wide training to just get that word
20 "alleged" out. The patient says she was sexually
21 assaulted. Why are we putting a value judgment in
22 there?

1 DR. ROTOLO: Yes. We don't say she
2 alleges she's having a heart attack. We don't say
3 she alleged this, an alleged stomach ache.
4 "Alleged" is one of the worst words in the
5 language.

6 COMMANDER ROBSON: Is the ICD-9
7 connection in there?

8 DR. ROTOLO: Yes, but you can get around
9 it. We have.

10 MS. JAUS: Just state the facts. Victim
11 says this is what happened, and don't put a value
12 judgment on it, and that's the best thing. But it
13 requires a lot of training in a multi-disciplinary
14 area.

15 DR. ROTOLO: Yes, a lot of training.

16 GENERAL DUNN: I think we need to hear
17 from Ms. Haig before we run ourselves out of time
18 here.

19 MS. HAIG: Don't be fooled by the stack
20 of papers here. I still need these, unfortunately.
21 I did kind of prepare some opening remarks to give
22 a comprehensive overview of what Army medicine is

1 doing.

2 So good afternoon. My name is Carol
3 Haig. I'm a retired Army Colonel and duly
4 certified as a women's health nurse practitioner
5 and a nurse midwife, and work at the Office of the
6 Surgeon General. I've provided care to patients
7 for over 30 years and served specifically as a
8 sexual assault clinical provider.

9 COLONEL SCHOLZ: You wear your years
10 well.

11 MS. HAIG: Thank you. Must have been all
12 that good Army training.

13 So I have been serving as the deputy for
14 the Office of the Surgeon General in a Medical
15 Command sexual assault and assault response and
16 prevention work group since May. This work group
17 was established by the Surgeon General, Lieutenant
18 General Patricia Horoho, in order to review the
19 policies and procedures to determine if changes are
20 needed in the treatment of patients following
21 sexual assault, and to assist our SHARP Medical
22 Command team in compliance with the most recent

1 directives, initiatives, policy changes that have
2 flooded our offices.

3 I have provided the committee with my
4 full bio for further details regarding my
5 credentials and education. Thank you for the
6 opportunity to share Army Medicine's role in the
7 provision of care to sexual assault patients.

8 The Army Chief of Staff outlined the
9 prevention of sexual assault and soldier resiliency
10 as top priorities for the Army. This enforces a
11 strong climate of zero tolerance for sexual assault
12 in the Army and reduces barriers to soldiers
13 requesting these services.

14 Sexual assault is a crime and an
15 unacceptable problem for our Army and our society
16 and a betrayal of our Army values. Army Medicine
17 has a dual mission of command-wide prevention and
18 response victim advocacy services and medical
19 management of sexual assault patients.

20 Sexual harassment and assault have no
21 place in Army medicine. So just a side note: The
22 Army program has harassment in their overall SHARP

1 program, which is a little different than the other
2 services do.

3 Commanders are held accountable for
4 fostering an environment of mutual respect,
5 dignity, and trust at every level. All leaders are
6 responsible for providing a safe and healthy
7 environment throughout the Army Medical Command.
8 Medical commanders hold offenders accountable
9 through judicial and administrative actions, using
10 facts and circumstances to assess each case
11 individually.

12 The Army Medical Command is committed to
13 achieving a cultural change and encouraging all
14 members of our command to take an active role in
15 caring for others. When sexual assault does occur,
16 Army medicine is committed to providing the full
17 spectrum of care to all victims in an expedient,
18 dignified, respectful, and compassionate way. This
19 care crosses all ages and beneficiary categories.
20 Our health care providers play a vital role as part
21 of the Army's sexual assault response team for
22 immediate and long-term health care.

1 We strive to be caring patient advocates
2 who are trained in accordance with national
3 protocols and guidelines in the evaluation and
4 treatment of sexual assault, sensitive to both
5 physical and psychological needs following trauma.

6 I'd like to take some time to outline the
7 Army Surgeon General's provision of services for
8 patients presenting as victims of sexual assault
9 and the current model of care. I'll then also
10 describe current initiatives Army medicine is doing
11 to enhance and improve the model and the team
12 approach.

13 Army medicine has a robust sexual assault
14 medical management team to support patients. Every
15 medical treatment facility has a sexual assault
16 medical management program, overseen by the deputy
17 commander for clinical services, sexual assault
18 care coordinator, called the SACC, a sexual assault
19 clinical provider, called the SACP. This team
20 works with all sexual assault response
21 coordinators, your SARC's, and victim advocates,
22 VA's, to ensure comprehensive, coordinated,

1 compassionate care to
2 patients following a sexual assault.

3 The SARC is the commander's liaison, who
4 manages the sexual harassment, assault response
5 prevention program for the brigade commander in
6 support of soldiers, family members, Department of
7 Army civilians OCONUS, and contractor personnel
8 authorized to accompany U.S. forces OCONUS in
9 contingency operations.

10 The SARC emphasizes commitment to
11 maintain a workplace environment that rejects
12 sexual harassment, sexual assault, and attitudes
13 that promote such behaviors. They provide program
14 direction and guidance to all concerning reporting
15 procedures, confidentiality, training, safety tips,
16 and resources.

17 The sexual assault victim advocate
18 provides comprehensive assistance -- I think we've
19 spoken to that -- and liaison to victims of sexual
20 assault and sexual harassment. They provide
21 advocacy and educational services primarily to Army
22 personnel, family members, DOD civilians OCONUS,

1 and contractor personnel in a deployed environment
2 outside the brigade.

3 When victims report their sexual assault
4 within the medical treatment facility, the SARC is
5 called first. The SARC or the VA is responsible
6 for working with the victim to determine restricted
7 versus unrestricted reporting options and knitting
8 together all of the support for the victim until
9 the case is closed. The SARC and the VA work with
10 health care teams to protect the integrity of the
11 report, regardless of option, patient privacy, and,
12 if a restricted report, patient identity.

13 Unrestricted reporting allows a sexually
14 assaulted adult family member or soldier to obtain
15 medical treatment, sexual assault forensic exams,
16 counseling, and an official investigation of an
17 allegation through current reporting channels.

18 Restricted reporting allows a sexually
19 assaulted adult family member or soldier on a
20 confidential basis to disclose the details of an
21 assault to specifically identified individuals, the
22 SARC, victim advocate, or health care provider and

1 receive medical treatment, sexual assault forensic
2 exam, and counseling without triggering the
3 official investigative process.

4 Patients will not be victimized again
5 through loss of privacy and dignity. Whether the
6 patient elects restricted or unrestricted
7 reporting, confidentiality of medical information
8 will be maintained in accordance with Health
9 Insurance Portability and Accountability Act,
10 HIPPA, guidelines.

11 The sexual assault care coordinator is
12 currently -- I say "currently"; I'll describe later
13 on how it's going to change -- is currently a
14 social worker, bachelor's or master's-trained, or a
15 nurse, whether an LPN or an RN, trained in sexual
16 assault victim dynamics, medical treatment facility
17 procedures, and knowledgeable on community
18 resources for victims and their families.

19 The sexual assault clinical provider is a
20 privileged health care provider in the MTF, whether
21 that be a physical, advanced practice nurse, or a
22 PA, who is designated by the deputy commander for

1 clinical services to manage sexual assault
2 patients' medical treatment to the incident from
3 initial presentation to completion of all follow-up
4 care.

5 A critical function within the Army SHARP
6 medical management team is the sexual assault
7 medical forensic examiner. We call them "SAMFE's,"
8 S-A-M-F-E. The SAMFE is a health care provider,
9 whether that be a nurse, a physician, advanced
10 practice nurse, or physician assistant,
11 specifically trained to conduct a sexual assault
12 forensic examination.

13 Providers functioning in this role
14 require a specialized education and clinical
15 experience in the collection of forensic evidence
16 and the treatment of sexual assault patients for
17 the victim and suspect. A successful SAMFE is
18 committed to providing compassionate quality care
19 to patients who disclose sexual assault and must
20 demonstrate the ability to collect evidence
21 competently as well as being willing and able to
22 testify in a court of law.

1 For sexual assault forensic examinations,
2 the Army adheres to the national protocols outlined
3 in the most recent version of the Department of
4 Justice national protocols for sexual assault
5 medical forensic examinations for adults and
6 adolescents. Our own MEDCOM Regulation 40-36,
7 Medical Facility Management of Sexual Assault, was
8 last revised in January of 2009 and directs all the
9 health care providers in responding to sexual
10 assault patients.

11 This regulation emphasizes the provision
12 of timely, accessible, and comprehensive medical
13 management to patients who present at Army MTF's.
14 Sexual assault victims are given expert emergency
15 treatment. Regardless of evidence of physical
16 injury, all patients presenting to a medical
17 treatment facility with an allegation of a sexual
18 assault are treated as emergency cases and receive
19 comprehensive standard of care treatment.

20 They are offered a sexual assault
21 forensic examination, completed by a caring,
22 trained SAMFE provider at the MTF or at a local

1 facility through a memorandum of agreement. All
2 exams are completed in accordance, again, with the
3 DOJ protocols and guidelines, even in the case of a
4 restricted report.

5 Although called a forensic examination,
6 the sexual assault forensic exam includes much more
7 than just evidence collection. We know that
8 effective collection of evidence is of paramount
9 importance to successfully prosecuting sex
10 offenders. However, we know that it is a spectrum
11 of care that includes a team of health care
12 providers who assess patients for acute medical
13 needs and provide stabilization, treatment, and-or
14 consultation.

15 The forensic examiners perform the
16 medical forensic exam, gather information for the
17 forensic history, collect and document forensic
18 evidence, and document pertinent physical findings
19 from patients. In addition, they offer
20 information, treatment, and referrals for sexually
21 transmitted infections and other non-acute medical
22 concerns. They assess pregnancy risk and discuss

1 treatment options with the patient, including
2 reproductive health services, and testify in court
3 if needed.

4 They coordinate with advocates to ensure
5 patients are offered crisis intervention support
6 and advocacy before, during, and after the exam
7 process, and encourage use of other victim services
8 that include a robust, highly trained behavioral
9 health team.

10 In our current situation, the MEDCOM
11 SHARP office is tracking 21, or 40 percent, of Army
12 MTF's performing SAFE's. 28, or 58 percent of
13 MTF's, augment this care for patients through
14 memorandums of agreements and understandings with
15 local civilian hospitals or agencies. And one MTF
16 facility, or two percent, contract their services
17 to bring them within their MTF.

18 Most military treatment facilities have
19 mixed support of both in-house and MOU services to
20 ensure that all patients have competent and timely
21 care following assault, regardless of day, time, or
22 week.

1 MEDCOM has 176 designated SAMFE-trained
2 health care providers and over 500 SARC and victim
3 advocates, SHARP-trained personnel, and a growing
4 number of sexual assault care coordinators and
5 clinical providers beyond the one per MTF mandated
6 in our own regulations.

7 In FY '12, Army treatment facilities
8 reported caring for 3,072 sexual assault patients,
9 a one percent increase from FY '11, according to
10 our patient admin systems and biostatistics
11 activity. Over 40 percent of encounters associated
12 with sexual assault occurred in the emergency
13 department, 27 percent in mental health, 11 percent
14 in primary care, and 3 percent in obstetrics and
15 gynecology.

16 56 percent of patients, of reported
17 patients, were active duty. We performed
18 approximately 371 forensic exams in both victim and
19 subjects, although this is difficult to adequately
20 quantify as there is not a specific medical record
21 code for SAFE. So pulling the data from any
22 database becomes difficult.

1 COLONEL SCHOLZ: Do you remember in FY
2 '12 -- you said FY '12 -- how many --

3 MS. HAIG: I'm sorry. What was that?

4 COLONEL SCHOLZ: How many sexual assaults
5 that you guys had?

6 MS. HAIG: How many sexual assaults or
7 how many SAFE exams? How many patients? 3,072.

8 COLONEL SCHOLZ: 3,072, okay.

9 MS. HAIG: Army SAMFE training educates
10 health care providers to conduct SAFE's through a
11 60-hour training program which includes 40 hours of
12 didactic and 20-plus hours of skilled practicums.
13 This course is on hiatus, which we just did, until
14 January '14 as we are reviewing and updating the
15 needed course content and we are considering
16 putting it in a formalized schoolhouse at the AMED
17 center and school.

18 While there are Department of Justice
19 protocols, guidelines, and recommendations for a
20 proficiently executed and legally sufficient SAFE,
21 there is no nationally enforced standard. That is
22 why the Army SHARP is leading a national

1 conversation on its SAMFE premier standard by
2 facilitating conversations between the Department
3 of Defense and civilian entities, such as the
4 Department of Justice, the International
5 Association of Forensic Nurses, the United States
6 Army Criminal Investigation Lab Health Affairs, the
7 Navy CID, Provost Marshall, and Army Medicine to
8 define prerequisites, training, competency
9 verification, and roles of Army SAMFE's.

10 MEDCOM SAMFE training meets the CENTCOM
11 predeployment requirements for health care
12 providers assigned to role two or three facilities.

13 MEDCOM provides the training for the SAMFE's to
14 build the deployed capability. However, CENTCOM
15 provides theater-specific execution of the forensic
16 examiner capability.

17 To support predeployment and local SAMFE
18 requirements, seven CONUS and OCONUS sites hosted
19 nine courses in FY '13.

20 We increased the number of behavioral
21 health personnel in theater to approximately one
22 provider for every 700 soldiers. Our health care

1 system is designed to provide immediate and long-
2 term victim care. Sexual assault can have harmful
3 and lasting effects. In addition to immediate
4 medical needs, care includes assessment of risk for
5 pregnancy, options for emergency contraception,
6 risk of sexually transmitted infections, and
7 necessary follow-up care.

8 Long-term plans are tailored to the
9 patient's need and emphasize the provision of
10 timely, accessible, and comprehensive medical
11 management. All victims are encouraged to receive
12 psychological care and victim advocacy. Following
13 sexual assault, patients are offered emergency
14 contraception. Levonorgestrel is the approved U.S.
15 Food and Drug Administration emergency
16 contraceptive drug for prevention of pregnancy
17 after contraceptive failure, unprotected sex, or
18 sexual assault. It is available at all medical
19 treatment facilities as a prescription or an over-
20 the-counter product.

21 The National Defense Authorization Act of
22 2013 authorizes the DOD to perform abortions in

1 MTF's in the case of rape or incest. The Assistant
2 Secretary of Defense for Health Affairs issued a
3 memorandum in March of 2013 which updated the
4 Office of Secretary of Defense policy regarding the
5 provision of abortion services in MTF's.

6 The Army has provided new policy and
7 guidance that addresses the requirements for
8 substantiation of reported rape or incest, medical
9 and surgical management, defining the maximum
10 gestational age for providing termination, chain of
11 custody issues, reporting issues for minors, and
12 personal accountability procedures, post-treatment
13 time lines, abortion services provided for women in
14 deployed environments, and recommendations for
15 procedures when health care team members object to
16 participation and training for physicians to
17 perform second trimester terminations.

18 The Army is uniquely positioned to
19 address sexual assault victim behavioral health
20 support. Victims of sexual violence face the
21 potential for immediate and chronic psychological
22 consequences. Behavioral health care is readily

1 available for all victims of sexual violence. Army
2 behavioral health providers are trained on national
3 best practices for treating victims of all types of
4 trauma.

5 Together with the victim, the
6 multidisciplinary treatment teams tailor care
7 options to deliver evidence-based treatment.
8 Soldiers self-refer to behavioral health care for a
9 wide range of complaints, to include symptoms
10 associated with depression, anxiety, and post-
11 traumatic stress disorder.

12 Only when they have established a safe,
13 trusting relationship will they disclose their
14 sexual assault. At that point, soldiers have an
15 option to speak with a SARC or a VA and elect a
16 restricted or unrestricted report. The reporting
17 option chosen by the soldier does not affect the
18 relationship with the behavioral health team.

19 The Army, with the support of Congress,
20 has invested heavily in research related to PTSD.
21 The Army Medical Department is evaluating the need
22 for more gender-specific research into behavioral

1 health needs and treatment for victims. In Army
2 Medicine we constantly strive to do better. When
3 the Army Surgeon General directed the formation of
4 a sexual assault work group to review policies and
5 procedures, to determine of changes are needed in
6 the treatment of victims of sexual assault, we took
7 the opportunity over the last six months to take on
8 a variety of initiatives and program improvements.

9 First, the SHARP program office and work
10 group are updating our MEDCOM regulations for full
11 compliance with the 2012 and '13 regulatory updates
12 to Army Regulation 600-20, which is the Army
13 Command policy, and all of the DOD instructions and
14 the DOD directives, and the Department of Justice
15 forensic exam training guidelines and protocols
16 that just were published in April of '13.

17 Additionally, Army Medicine is analyzing
18 the role of sexual assault medical providers. We
19 are crafting a national premier standard for this
20 training, the competency and the role of the sexual
21 assault medical forensic examiner. We are more
22 completely defining the roles and responsibilities

1 of the sexual assault care coordinator and the
2 sexual assault clinical provider. We are adding a
3 designated behavioral health care provider on that
4 team, the sexual assault care behavioral health, to
5 the sexual assault medical management team.

6 In addition, we are maturing the roles
7 and responsibilities of the new full-time medical
8 management facility sexual assault response
9 coordinator. All of these changes will be
10 incorporated into an ongoing review and revision of
11 MEDCOM regulation 40-36.

12 The Army Medicine team is working with
13 sister services to modify the periodic health
14 assessment pre and post-deployment health
15 reassessment forms to include sexual assault
16 questions, to support physical and mental health
17 outreach efforts concerning sexual trauma. Army
18 Medicine is on point for conducting select
19 behavioral health screenings for all uniformed
20 full-time SARC's and VA's, which are projected to
21 begin in December of '13 and to be completed in
22 early 2014.

1 The Army Surgeon General has directed
2 that all sexual assault medical staff be subject to
3 the same expanded local and centralized background
4 checks as the Department of the Army directed for
5 sexual assault response coordinators and victim
6 advocates. Those will begin in calendar year '14
7 following creation of a centralized database and
8 coordination with Army G-1 and local programs.

9 MEDCOM exempted all SHARP-related
10 personnel from furlough, to include the SARC's, the
11 victim advocates, the sexual assault care
12 coordinators, and clinical providers, and all our
13 medical forensic examiners.

14 So I want to thank you for allowing us to
15 share today what Army Medicine is doing. We are
16 totally committed to the provision of timely,
17 compassionate care to our victims. That concludes
18 my lengthy opening remarks and I look forward to
19 answering your questions.

20 Thank you.

21 [Pause.]

22 MS. HAIG: I know you have one.

1 COLONEL HENLEY: I want to return briefly
2 to the competency issue. Did I understand the Army
3 did 371 SANE exams in 2012? Did I get that number
4 right?

5 MS. HAIG: No. We saw 3,072 -- I'm
6 sorry. We did 371 forensic exams, yes.

7 COLONEL HENLEY: 371 SANE examinations.

8 MS. HAIG: SAFE exams.

9 COLONEL HENLEY: SAFE exams.

10 MS. HAIG: Yes, sir.

11 COLONEL HENLEY: And do we have the Navy
12 and the Air Force numbers?

13 COLONEL POINDEXTER: Sir, I'd have to go
14 back and get those numbers.

15 COLONEL HENLEY: Do we have a ballpark?

16 COLONEL POINDEXTER: Much lower.

17 COMMANDER ROBSON: This October is the
18 first time we've tracked the specifics done at our
19 MTF's.

20 COLONEL HENLEY: And it's 500? Do you
21 have 500 practitioners?

22 MS. HAIG: We have 174 forensic examiners

1 who are trained.

2 COLONEL HENLEY: So that's about two?

3 MS. HAIG: Per.

4 COLONEL HENLEY: Is that you think
5 something similar in the Air Force and the Navy,
6 maybe two a year would be about average?

7 COLONEL POINDEXTER: Correct, and that's
8 why we only have 12 facilities.

9 COLONEL HENLEY: Right. And I look at
10 60-plus, as I count 700 with 12 people?

11 DR. ROTOLO: I've done 5,000 examinations
12 over my career.

13 MS. HAIG: Which leads to the discussion
14 again: How do we maintain the competency? We can
15 train a lot of people, but then how do you maintain
16 that competency.

17 COLONEL HENLEY: And I guess my question:
18 Why are you trying to conduct the examinations at
19 the installations if you're going to do two per
20 person per year, when you have what appears to be
21 the expertise at a local installation? Or to the
22 contrary, what's the advantage to doing it on the

1 installation? I'd be interested in your view as
2 well.

3 MS. HAIG: I think certainly to have them
4 come to a facility that is dedicated just for those
5 patients, so all the equipment is there, the state
6 of the art equipment, whether it's the colposcope,
7 toluidine blue, the same quality of care is done on
8 every single patient, then you do have the
9 competency, they're not -- those directions on how
10 to collect the evidence is all but burned into
11 their brains. So they understand the nuances of
12 each patient as an individual, how to collect the
13 evidence the best way, certainly how to package it
14 to make sure that it makes it into court, and then
15 again that follow-up of the experience, courtroom
16 testimony.

17 I've testified in court 200-plus times.

18 COLONEL HENLEY: That's my question, is
19 do you have any anecdotal evidence about how your
20 examiners have done in court?

21 COMMANDER ROBSON: I have to tell you,
22 sir, our program stood up October. I'm going to

1 bring it. I'll bring it. I will bring you what my
2 USACIL people --

3 COLONEL POINDEXTER: I'll just speak of
4 the 12 facilities that we have, we have not had any
5 problems where cases have actually -- that we have
6 heard of at our level, where a case has actually
7 been affected by the quality of the information.

8 COLONEL HENLEY: By the quality, okay.

9 COLONEL POINDEXTER: But remember, the
10 majority of those, those 12, are overseas. So
11 again, small numbers, small incidence, much less
12 likely again to necessarily encounter problems.

13 COLONEL HENLEY: There lies the problem.
14 When you're in a metropolitan area like here,
15 you're going to have good skilled, quality, well-
16 funded programs. A lot of our military
17 installations are in rural areas with nothing.

18 MS. HAIG: Fort Irwin is a prime example.

19 COLONEL HENLEY: Right.

20 COLONEL POINDEXTER: But they're not by
21 themselves.

22 COLONEL HENLEY: They are.

1 GENERAL DUNN: Fort Irwin is by itself.
2 Minot is by itself.

3 COLONEL POINDEXTER: You have Barstow.
4 Barstow is right there.

5 MS. HAIG: Barstow doesn't have a
6 forensic program.

7 COLONEL HENLEY: But you have Barstow
8 victims. Where do they go?

9 MS. HAIG: They go 100 miles away.

10 COLONEL SCHOLZ: To Alamogordo, New
11 Mexico.

12 COLONEL POINDEXTER: The point there is
13 that you're now the community standard. Your DOD
14 beneficiaries are in the community standard, and so
15 the challenge that we constantly look at in part of
16 our MOU is you have to evaluate what is the
17 community standard, is that acceptable, or is it
18 potentially unacceptable to DOD, to say that we
19 need to do something different.

20 MR. STRAND: And the CONUS is different
21 than OCONUS and certainly different than
22 deployment. So it's hard to have a capability

1 OCONUS and on deployments if you don't have that
2 capability in CONUS, because you rotate people back
3 and forth.

4 MS. HAIG: What we have heard anecdotally
5 from the fields on occasion from the civilian
6 sector -- I'm not out to criticize because I think
7 there's are tremendously great programs. But it's
8 the continuity for the victim and the patient. So
9 they get to forensic exam done and that's what
10 they'll do. Then this patient needs medical
11 follow-up, behavioral health follow-up, and re-
12 engaging them back then within the MTF footprint
13 becomes a challenge then.

14 So we have to work really closely with
15 those agencies that we've contracted with. That's
16 why we're relooking at all our MOU's and MOA's and
17 stipulating what will happen when that patient is
18 finished with their forensic exam, and we want to
19 make sure that they get their services, whether
20 that's with us or whether or not it's at another
21 facility. But it's making sure and tracking that
22 patient through the care process that becomes

1 important.

2 GENERAL DUNN: It seems to me that if
3 we're going to -- if the focus is victim-centric,
4 which appears to be what everybody is trying to
5 achieve, then you have to think about it
6 holistically from start to finish, both if you run
7 them off post for a civilian exam and then bring
8 them back on, how you would manage that. Not to
9 say it couldn't be managed, but with the victim
10 advocates, etcetera.

11 But then the other piece of that is
12 making sure that at the end of the line that the
13 quality is sufficient for prosecution and that,
14 quite frankly, that the individuals conducting the
15 exam are experienced enough to months later testify
16 in court effectively.

17 MR. STRAND: Then you only did so many
18 SAFE exams, but you had over 3,000 patients. Those
19 patients without a program wouldn't have been
20 sexual assault patients.

21 MS. HAIG: Absolutely, absolutely.

22 MR. STRAND: And they wouldn't have

1 gotten the level of services they got.

2 COLONEL HAM: But the 3,071 -- I mean,
3 there were 3,374 reported sexual assaults in all of
4 DOD.

5 MS. HAIG: This was all data based upon
6 encounters related to care after a sexual assault.

7 COLONEL HAM: So it could have been a
8 single patient more than once?

9 MS. HAIG: No. What it could have been
10 is that I came in for behavioral health services,
11 but I declare to that person that I was molested as
12 a child.

13 COLONEL HAM: Okay.

14 MS. HAIG: So the coding thing is a
15 challenge when you try to capture data for this.
16 It becomes very challenging.

17 COLONEL HAM: So it's not newly -- well,
18 it is a newly reported sexual assault, but it's not
19 -- I'm trying to square it with the --

20 GENERAL DUNN: It could be pre-service.
21 It could be a pre-service assault.

22 COLONEL SCHOLZ: You've narrowed down the

1 military number.

2 MS. HAIG: 56 percent were active duty
3 that we took care of.

4 COLONEL HAM: But the 3,074 doesn't
5 include just military victims.

6 GENERAL DUNN: Oh, right, it could be
7 military spouses. And it could also be military
8 victims where the perpetrator had nothing to do
9 with the military whatsoever.

10 MR. STRAND: Like at a lot of training
11 bases a lot of the recruits come in, under the
12 stress of the basic training and initial training
13 they'll go in, they get behavioral health, and
14 they'll report: Well, the reason they're having
15 this problem is because they were --

16 COLONEL SCHOLZ: Raped as a child.

17 MR. STRAND: -- raped as a child or raped
18 right before they came in, and that's part of that
19 as well.

20 MS. HAIG: I don't know whether the group
21 is looking at all of the courses of action and what
22 I call the hybrid, where we have this mixed milieu

1 of civilian agencies and military. But it's almost
2 like we all should be training forces to regionally
3 support victims of sexual assault, in my opinion.
4 But that would take a lot of coordination in
5 working that type of capability, but essentially
6 that's what the civilian model is. It's regional
7 capability for forensic exams.

8 We do have the challenges at the Fort
9 Irwins and Fort Polks. Those are the difficult
10 places. And we have some civilian hospitals that
11 are turning off their services and saying: We're
12 not going to have an MOU with the MTF anymore. It
13 may have to do with money. I'm not really sure
14 what all of the issues are between some of these
15 places. But I guarantee that probably it's tied to
16 it. That's usually what this --

17 COLONEL HENLEY: Is there a cost to the
18 military with the MOU's?

19 MS. HAIG: Tricare reimburses those
20 organizations.

21 COLONEL HENLEY: So there is a
22 reimbursement, okay.

1 MR. STRAND: For the patient, for the
2 victim?

3 MS. HAIG: For the patient. For
4 suspects, we had just some email dialogue recently.
5 For the suspects that is paid for usually because
6 that's a request of the criminal investigation
7 folks. They usually pay that somehow out of their
8 pool of money for that.

9 GENERAL DUNN: Now, for the Air Force,
10 since you have so many MOU's with civilian
11 hospitals, do you provide the rape kits? You
12 provide the DOD rape kits to those hospitals with
13 whom you have MOU's, with which you have MOU's?

14 COLONEL POINDEXTER: Yes, that is the
15 goal, to ensure that they have a DOD rape kit.

16 GENERAL DUNN: All right.

17 COMMANDER ROBSON: I could tell you the
18 MOU challenge. I can't force a civilian facility
19 to enter into an MOU with my MTF. So we document,
20 attempted on this date, this date, and that's what
21 we have for our IG to say, where are they going to
22 go? Well, they want to do an MOU. Well, show me

1 why they wanted to do it? Because that becomes a
2 challenge, because when you look at our MOU's
3 you're going to use our kit. Some of them are
4 written in such a fashion that you will understand
5 the same training, you'll use the forms. And
6 people are like: Oh, I can't do all that. But
7 having in the victim care protocol that that's
8 where they'll go after hours --

9 MS. HAIG: In some states, in California,
10 where all health care providers are required to
11 report an assault --

12 GENERAL DUNN: So that doesn't work with
13 restricted reporting, right. You can't do that.

14 COMMANDER ROBSON: We have work-arounds
15 on that to a degree. The thing is do they
16 investigate or do they take the report and say,
17 this is a non-investigative report? As an ER doc,
18 I absolutely have to report your domestic violence,
19 any sexual assault. I'm going to report it because
20 that's what I have to do working in your state.
21 But for them to choose to investigate that, that's
22 the difference.

1 MR. STRAND: From the criminal
2 investigative standpoint, our agents find it easier
3 to work with medical treatment facilities when
4 we're requesting other things required for the
5 investigation, like toxicology and some of those
6 other things. The feedback that we're getting is
7 some of the civilian locations, they'll refuse to
8 do them, they won't do them.

9 We find getting that evidence a lot
10 easier in the military treatment facilities. Is
11 there any comment that any of you have on that?

12 COMMANDER ROBSON: We have protocols
13 written that when you hit the door blood's going to
14 be drawn if it's a suspected, if they've had -- if
15 they forget any part of that exam, because that's
16 very key. You have a minimal amount of time to
17 capture that blood, and they could choose not to
18 use it, but it's going to be drawn and standing by
19 and it will be put in the DOD tox kit for formal
20 evaluation.

21 If they go to a restricted exam, the DOD
22 tox kit is not done because it is a kit that's done

1 for prosecution. As a physician, they're altered
2 and you want to find out medically what tox is on
3 board. You're still going to do that. But it's
4 that criminal piece that isn't done in the
5 restricted.

6 MR. STRAND: But it is part of DOD policy
7 that the reason we offer restricted is the hopes
8 that we can turn it unrestricted. So should we
9 look at maybe making that -- have the tox done
10 anyway in a restricted case as well, because many
11 of them do turn unrestricted and we lose a good
12 deal of information?

13 COMMANDER ROBSON: That's part of the
14 counseling. That's your choice up front when
15 you're talking about your difference between
16 restricted and unrestricted.

17 COLONEL SCHOLZ: That's kind of a new
18 phenomenon, though. I think the Department
19 probably has to catch up with that, because when
20 they first came up with that I don't think the goal
21 was to try to make them, try to convert them. But
22 now it's a positive thing that we're seeing because

1 the victims, because of the special victims
2 counsel, we are seeing some convert to
3 unrestricted. So then the problem is you've lost
4 that opportunity.

5 COMMANDER ROBSON: Yes, it's hard,
6 because on the DOD form for us to send to USACIL it
7 says boldly "For Unrestricted Only." So are you
8 going to send all this to your lab to expend the
9 money to do this, that's not going to be used for a
10 prosecution, just to look at it and say, oh, yeah,
11 it was there? That's a hard decision.

12 But at least per instruction right now,
13 it's only for unrestricted.

14 COLONEL SCHOLZ: It's happening in the
15 Air Force because they have the victim counsels
16 that are helping people through the process. So
17 they're seeing a lot of cases that were originally
18 restricted, they change their mind and want to go
19 unrestricted and prosecute them.

20 COMMANDER ROBSON: Sure. Then you're
21 relying on just the DNA, not the blood and the tox
22 levels. But still, if the exam was done properly

1 you should still have evidence created from the
2 SAFE kit that can help.

3 MS. JAUS: You still have the patient
4 history, you still have the patient assessment that
5 was done. That can go towards it.

6 GENERAL DUNN: But if the victim is, or
7 the patient, is telling you that: I went here, I
8 got one drink, I drank half of it, I don't remember
9 anything else until two in the morning, then
10 clearly that toxicology evidence is critical. So
11 down the road --

12 COLONEL POINDEXTER: But it would be done
13 because of the medical, the medical indication as a
14 patient. We would get that test as a patient. And
15 then the chore would be if chain of custody was not
16 done through the normal toxicology, can you get
17 that evidence admitted into court if it, sure
18 enough, comes back that there was some toxin on
19 board?

20 Having seen actually that has actually
21 occurred in various cases, where a medically drawn
22 tox screen was actually admitted as evidence.

1 COMMANDER ROBSON: The lab capabilities
2 at the MTF's are certainly not going to pick it up
3 at the same level as USACIL, and they'll be the
4 first to tell you that, that they're going to catch
5 the smaller detection levels. But that certainly
6 is going to be a whopping dose if they're catching
7 it at the MTF.

8 DR. ROTOLO: I can tell you just from the
9 civilian perspective, what I do now is review cases
10 and I find that there are programs out there that
11 will not routinely test for any type of illicit
12 drug or alcohol, and their thought process behind
13 it is because they don't want to make the case look
14 bad, which you don't want that person anyway
15 because then they're not that non-biased provider.
16 They need to do what's right for that patient to
17 see what is underlying their behavior or to support
18 what they're saying.

19 So I think that that's going to be a
20 shift you're going to see probably, and it's
21 shifting now to being doing more testing for that
22 in the hospital lab, but there should be no doubt

1 that they're collecting that on the reported cases
2 if there's a suspicion of a drug or alcohol use.

3 MR. STRAND: We had a conversation when
4 we went to the lab on plucking. The DOD kit
5 requires plucking. The lab people have mixed
6 views, but actually the director had a very strong
7 view that plucking isn't necessary. Their trace
8 evidence people said it's not necessary.

9 What are your opinions, if you have any
10 on plucking?

11 DR. ROTOLO: I can tell you the Virginia
12 standard, the Maryland standard, is for cut hairs.
13 They got rid of the plucking in 2005, I believe it
14 was, in Virginia. The thought process behind it in
15 the past was you needed that root ball to bet the
16 mitochondrial DNA, and the reality was that it was
17 not ever tested, it was never used. So even the
18 hair, they might -- the only thing they're going to
19 do is a comparison microscope of the hair. It can
20 certainly be cut.

21 MR. STRAND: Any dissenting opinion on
22 that?

1 COMMANDER ROBSON: No.

2 MS. HAIG: No.

3 MR. STRAND: Would you like to see
4 plucking taken out of the kit? Does it impact
5 patient care?

6 GENERAL DUNN: Does it make the victim --
7 is it one more thing that makes the victim
8 uncomfortable?

9 COLONEL POINDEXTER: Everything is one
10 more thing.

11 MS. HAIG: Yes.

12 COLONEL POINDEXTER: It's one more thing.

13 COMMANDER ROBSON: If you can remove
14 something, yes.

15 COLONEL POINDEXTER: Yes, anything that
16 you can remove that's unnecessary is an
17 improvement.

18 GENERAL DUNN: It makes it shorter,
19 faster, and less invasive.

20 DR. ROTOLO: And just make sure it's the
21 same standard of care for the suspect as well, that
22 that is cut from them as well, because I've found

1 that -- because in Virginia it is cut for the
2 patient, but it's still pulled for the suspect.

3 MR. STRAND: That's passive-aggressive.

4 [Laughter.]

5 DR. ROTOLO: But it's the same thing for
6 the DNA. It's like we have to draw the blood on
7 the patient for the DNA, but from the suspect we
8 can do a mouth swab. So there's some
9 inconsistencies in getting those done. So if
10 you're going to change from one, make sure it's
11 consistent across all patients.

12 MS. JAUS: I agree with you about the
13 cutting, but I would just like to say, from a
14 person who has tried many of these cases, one of
15 the ways that we try to counter at trial when the
16 defendant is saying it was consent and the victim
17 is saying it was forced and there's no injuries,
18 etcetera, we have the SAFE examiner explain the
19 arduous process of doing the kit and what the
20 victim has to endure, with the plucking and the
21 pulling and the this and the that. And then we say
22 in summation: Who would undergo something like

1 this for three hours, after being sexually
2 assaulted and then go through this, unless she was
3 -- well, we don't say telling the truth, but we try
4 to imply that only a person who really was sexually
5 assaulted would undergo such a terrible situation.

6 Although I think the most important thing
7 is to take care of the victim, you can use it at
8 trial very effectively.

9 DR. ROTOLO: Yes, but also in trial you
10 can always use the collection. They're laying
11 there, and the swabs.

12 MS. JAUS: Yes.

13 DR. ROTOLO: And to have the pubic hair
14 combed and cut is still embarrassing for them.

15 MS. JAUS: It's an effective tool in the
16 arsenal.

17 DR. ROTOLO: Sure. But just the time
18 alone that the patient takes to have that exam done
19 is enough.

20 GENERAL DUNN: Okay, I think -- does
21 anybody have any more questions of this group, or
22 is there anything else you want to share with us

1 that you haven't had the opportunity to share?

2 [No response.]

3 COMMANDER ROBSON: I think it's a big
4 effort.

5 GENERAL DUNN: Thank you very much. You
6 are a critical part of it and we very much
7 appreciate your taking the time and waiting to come
8 in and sharing your perspective with us. Thank you
9 very much.

10 [Recess from 2:49 p.m. to 2:59 p.m.]

11 ONE SIZE MAY NOT FIT ALL: STRUCTURE AND
12 SPECIALIZATION OF SEXUAL ASSAULT INVESTIGATOR UNITS
13 WITH A CIVILIAN PANEL ON SPECIAL VICTIM
14 INVESTIGATORS [DEPARTMENTS WITH AND WITHOUT SVU'S
15 FROM VA. AND MD.]

16 GENERAL DUNN: Ladies and gentlemen, I
17 think, as Mr. Fishman has probably explained to
18 you, we are a subcommittee of a larger panel that's
19 been charged with looking at sexual assaults in the
20 military. As part of that, what this specific
21 subcommittee is doing is comparing responses in the
22 civilian and the military community, and by

1 "response" everything from how the victim is
2 treated at a medical facility to how the
3 investigation is conducted to the training of our
4 investigators, the training of our prosecutors, and
5 prosecution of a case from start to finish.

6 So we're trying to take an in-depth look
7 at that particular issue. Obviously, you all work
8 in law enforcement. I presume you will address
9 your perspective on this for us this afternoon, and
10 we I'm sure will have a lot of questions.

11 Dillon, you have so many people here.
12 You're going to have to tell me which -- how best
13 to proceed in terms of who should go first.

14 MR. FISHMAN: Why don't we start with
15 Major Bartness because he came a little early. Why
16 don't we just throw him on the hot seat.

17 MAJOR BARTNESS: Thank you for having me.
18 My name is Martin Bartness. I'm from the
19 Baltimore City Police Department. Baltimore is
20 about 610,000 people. Our police department is
21 about 3,000 strong. In terms of our investigations
22 of adult sex crimes, we have fluctuated over the

1 past several years between about 15 and 21
2 detectives, 3 sergeants, and a lieutenant.

3 As many of you may be aware -- some of
4 you I think had an opportunity to read the 2011
5 annual report -- Baltimore put its name on the map
6 very infamously over the way it investigated sexual
7 assault. It was atrocious. Some of the most
8 egregious treatment of our sexual assault victims
9 occurred at the hands of our detectives, there's no
10 question about it.

11 So what came of that -- and I'm proud to
12 say I really believe Baltimore made the best of a
13 very, very bad situation. It was a very exhaustive
14 auditing process of 134 cases that were taken from
15 a sample in 2009-2010. We brought all of the
16 partners together from the sexual assault response
17 team in Baltimore, including the Baltimore Police
18 Department, the state's attorney's office, our
19 nurse examiner program, MCASA, which is the
20 Maryland Coalition Against Sexual Assault,
21 Turnaround, which is our victim advocacy network.

22 They all came together, put together a

1 team to recontact the victims. What we ended up
2 doing is we reopened, reinvestigated, reclassified
3 about 55 percent of those cases. In even a couple
4 of cases, we reopened them to the extent that we
5 obtained successful prosecutions against some of
6 the offenders. And those again, those were cases
7 were initially "unfounded."

8 Baltimore, between 1995 and 2009 it
9 recorded an 80 percent, reported to the FBI an 80
10 percent decrease in rape. Nationwide, during that
11 same time period the decrease was only 8 percent,
12 and we attribute that fictitious decrease just to
13 the way these cases were investigated. Before the
14 cases even reached our detectives, patrol officers
15 responding to a 911 call were unbounding 40 percent
16 of them.

17 When the cases that did reach the
18 detectives, when they did reach their desks, they
19 unfounded an additional 30 percent.

20 COLONEL HAM: "Unfound" means no criminal
21 offense occurred?

22 MAJOR BARTNESS: Correct. False,

1 baseless allegation of a sexual assault or rape.

2 MR. STRAND: They basically didn't think
3 it happened.

4 MAJOR BARTNESS: Correct.

5 MS. JAUS: What if the victim didn't want
6 to cooperate?

7 MAJOR BARTNESS: In many cases that was
8 used as a foundation for unfounding the case.

9 MS. JAUS: So there wasn't a separate
10 category for uncooperative?

11 MAJOR BARTNESS: It was sometimes. More
12 often than not, what they did is they badgered the
13 victim to the extent that she would just walk away,
14 and they would then use that to write the report in
15 such a manner that the crime did not occur.

16 MR. STRAND: Or recant?

17 MAJOR BARTNESS: Recant was also very
18 common, very common, recant in the matter of that
19 first interview.

20 MR. STRAND: Right.

21 MAJOR BARTNESS: So there was a lot to
22 work on, needless to say. There was, among other

1 things, an overhauling of personnel. There was a
2 new commander brought in for the unit, a couple of
3 new sergeants. About half the detectives were
4 rotated out. This was all within roughly the first
5 couple of months.

6 One of the things that -- we brought in
7 some external trainers from across the country to
8 try and teach best practices. I think a mistake
9 that we made in doing that, I think those were good
10 efforts. I don't think we really got traction, if
11 you will, for about a year after the fact, where we
12 again had more personnel changes.

13 I don't think there was as much careful
14 thought given to the trainers that were brought in.
15 They were walking into a dynamic situation where
16 the detectives who did stay were very bitter. They
17 felt they were under the gun, they were being
18 criticized. There was still a lot of talent there
19 and a lot of well-intentioned detectives, but again
20 they lived through tremendous criticism. And in
21 order to take the next step forward, we had to do
22 an even closer look and kind of just another

1 clearinghouse, because there were some people who
2 just didn't have the right attitude. I don't think
3 they were going to ever get there.

4 I can't say enough about getting the
5 right people on the bus and the wrong ones off. I
6 can't say enough about the importance of having the
7 right leadership in that position. We brought in a
8 lieutenant, Chris Jones, who is absolutely
9 fantastic. He knew what the mission was and he
10 wasn't going to compromise it in any way.

11 Fortunately, dealing with civil service
12 and LEOBR and things of that nature, which can be
13 very challenging, what was created is a culture
14 that made it uncomfortable for those who were no
15 longer going to play ball and do it the way that we
16 needed it to be done. So they just, with a little
17 encouragement, went on their own way and typically
18 went back to patrol and doing another assignment.

19 The way we do it now, training is really
20 an ongoing process. We send detectives to a lot of
21 national conferences. We do a lot of cross-
22 training with our partners, which I think is the

1 most valuable. It was particularly -- it was
2 essential early on to get detectives to understand
3 that at the end of the day all the partners were
4 all after the same thing. You take away the
5 bogeyman factor, and there was a lot of that going
6 on, particularly surrounding victim advocates.

7 When I first stepped into my role, the
8 detectives professed that they would never work
9 with a victim advocate, just not going to do it.
10 Until the time when I left the role, where they now
11 have an office set up inside our offices. They
12 have their own desk, computers, telephones.
13 Detectives actually requested that they work more
14 hours on site with us. We obtained additional
15 grant funding from the Governor's Office of Crime
16 Control and Prevention so that they could be there
17 and spend more hours.

18 Really, what it was, it was a process of
19 early on kind of forcing the victim advocates upon
20 them, and then they quickly realized how much they
21 can help them do their investigative work.

22 COLONEL HAM: And your victim advocates

1 are nonprofits?

2 MAJOR BARTNESS: Correct.

3 COLONEL HAM: Like Turnaround, etcetera?

4 MAJOR BARTNESS: Correct.

5 COLONEL HAM: The panel heard from Gail
6 Reed.

7 MAJOR BARTNESS: Oh, wonderful, yes.
8 Gail's victim advocates, fantastic. They allow the
9 detectives to focus on the suspect and the
10 investigative work while the victim advocates take
11 care of the victim's needs. Someone is always
12 there for her.

13 So they saw that. They figured -- they
14 realized they were able to multitask much more
15 effectively. So that was a big achievement.

16 We work with Johns Hopkins University to
17 provide some additional ongoing training, really
18 just -- I don't think you can go back to the basics
19 enough, and going over, making sure our detectives
20 are trauma-informed and victim-centered and
21 addressing stereotypes and making sure they're not
22 creeping into the investigator's case notes,

1 etcetera.

2 Another thing I believe has really helped
3 us is our transparency. That gets bandied around a
4 lot, but I think we've really put substance behind
5 what we do in terms of our transparency. We have a
6 SARC coordinator who in my opinion should have
7 oversight of everybody, have a clear understanding
8 of what every agency, every partner, is doing, and
9 have the ability to weigh in and call some shots.

10 A lot of people didn't agree with me with
11 doing this, but I did it anyway, and I opened up
12 our database, our investigators' database, to the
13 SARC director. So every time a detective puts in a
14 case note, she can read it. She as far as I was
15 concerned was also my watchdog, and when we start
16 to slip a little bit, if there is any indication
17 that we're moving away from a best practice, she
18 helps me catch it. And we can call the detective
19 and the supervisors on it right away.

20 It lets them know someone is always
21 watching. Our case volume in Baltimore is too high
22 for me as the commander. I have sex offense, child

1 abuse, domestic violence, check and fraud, a whole
2 number of investigative units. Can't do it alone.
3 So that's an additional benefit.

4 We have, just on the adult side for
5 sexual assault and rape investigations, over the
6 past three years about 500 cases that are fully
7 investigated. So with that comes a lot of
8 headaches. It's a lot more work on my part because
9 I have to massage a lot of egos by having an
10 outsider look in all the time and ask questions,
11 and sometimes they're off base. But more often
12 than not, they're right on.

13 This really isn't rocket science. It
14 doesn't take a lot to learn the steps of an
15 investigation and know something is missing or not,
16 if someone is cutting corners or not.

17 Another big step. This is all about
18 partnerships and the state's attorney's office has
19 come a long way in the past three years as well.
20 Really, when we took a close look at the cases in
21 2010, the detectives and the assistant state's
22 attorneys were really working hand in hand to

1 unfound cases. I think the police department took
2 the brunt of the public scrutiny, but there's no
3 question that that's what was going on.

4 We have, to the extent, the greatest
5 extent possible, reduced the number of interviews
6 we're having with our victims. We do that by being
7 the first unit in the department to video-record
8 every single victim and suspect interview as well.

9 That gives a DVD for the prosecutors to watch the
10 victim's statement, rather than just as a matter of
11 procedure bring every victim in to go through it
12 again. It's only after watching that video
13 interview that the prosecutor has additional
14 questions that we can't find out independently,
15 that she may have to bring the victim in again.

16 We're doing -- we have 24-7 detectives in
17 the office. It's always two, always two
18 detectives. I think two are needed, especially in
19 a city like Baltimore with the case volume we're
20 dealing with. There are too many moving parts in
21 sexual assault investigations to put it on the back
22 of one detective. You've got to be at the

1 hospital, you have a crime scene, you're trying to
2 track down a suspect, you're working with family
3 members. It's very complicated.

4 So we put in the policy it has to be two.
5 It requires the executive leadership of the police
6 department to also be on board. We would not have
7 instituted the changes that we did without their
8 support because at my level we can champion the
9 cause all we want, but if we're not going to get
10 the bodies to do the job right it's all for
11 nothing.

12 I've heard -- I think a lot of times that
13 my detectives are swamped and they're running
14 around, but I hear what other agencies are doing
15 with very demanding case loads and a handful of
16 detectives. And to say that you are treating this
17 issue seriously and compelling your detectives to
18 do a triage, it's BS, quite frankly. You're either
19 going to commit to it or you're not.

20 I think it's unfair to hold those
21 practitioners, those who are on the front lines, to
22 very high standards if you're not going to support

1 them the way that we know needs to happen.

2 Yes, ma'am?

3 MS. JAUS: What kind of a person is the
4 SARC coordinator? Is she or he a social worker?

5 MAJOR BARTNESS: That is her background.
6 Her background is primarily domestic violence, but
7 she's served in management roles in that field in
8 the past. She knows -- the roles that she wasn't
9 intimately familiar with, those roles she hasn't
10 served herself, she was a quick study.

11 We meet quite a bit. When I was in this
12 role I talked to her probably four times a week,
13 five times a week.

14 MS. JAUS: What's your unfounded rate
15 now?

16 MAJOR BARTNESS: It's in the single
17 digits.

18 COLONEL HAM: We heard from Ms. Reed that
19 you have a restricted reporting option.

20 MAJOR BARTNESS: Yes.

21 COLONEL HAM: But that your conversion
22 rate is -- in fact, she just sent question for

1 record answers -- about 73 percent. To what do you
2 attribute that high rate of conversion from
3 unrestricted -- sorry, from restricted to
4 unrestricted reporting?

5 MAJOR BARTNESS: I think -- I'd like to
6 think it's the way we treat our victims. I'd like
7 to think that the system now works in such a way
8 that the victim feels supported. The contact that
9 she does have with the police department -- and
10 ours is set up so that pretty much if the victim
11 has contact with a detective or a police officer
12 we're going to document it in some way.

13 If she chooses not to participate in the
14 investigation, that's absolutely her right and
15 we're going to honor that. But Mercy's FNE program
16 is outstanding. They have a lot of volunteer
17 nurses who are very well trained. They've been
18 doing it for a lot of years. They're immediately
19 provided with information. They're immediately
20 linked to victim advocacy right on scene. There is
21 no delay.

22 They're clearly presented their options.

1 There is continuous follow-up. I think that
2 process of staying with the victim is what is
3 attributing to the 73 percent.

4 GENERAL DUNN: What time lag is there
5 generally? If I'm a victim and I come in the night
6 I've been assaulted and I talk to you, but I say, I
7 don't really want this to go anywhere, if I'm going
8 to be part of that 73 percent that changes my mind
9 is it within two days, is it stretched out over a
10 longer period of time?

11 MAJOR BARTNESS: I don't have the data.

12 COLONEL HAM: Ms. Reed said that she
13 thought -- and I'm asking if you agree -- she
14 thought that if they were going to switch it was
15 within the first week.

16 MAJOR BARTNESS: I was going to be
17 conservative and say a month. So I think we're
18 kind of in the same ballpark.

19 GENERAL DUNN: So it's a fairly quick
20 thing.

21 MAJOR BARTNESS: Yes.

22 MR. STRAND: So if a victim comes in and

1 wants to make a restricted report, they still have
2 an opportunity to talk to law enforcement,
3 specifically a detective, right?

4 MAJOR BARTNESS: Yes. Now, if they do
5 talk to the detective they're not going to be a
6 Jane Doe.

7 MR. STRAND: Okay.

8 MAJOR BARTNESS: We can't -- it didn't
9 seem right to act like we're making it go away. We
10 sat down, we had a conversation with you --

11 MR. STRAND: You're going to document it.

12 MAJOR BARTNESS: We're going to document
13 it.

14 MR. STRAND: But you're not going to do a
15 follow-up investigation, you're not going to send -
16 -

17 MAJOR BARTNESS: No, we are. Again, if
18 the victim isn't going to come in and sit down and
19 do a video-recorded interview, etcetera, that's
20 going to seriously hamper our investigation and
21 obviously we're not going to reach the point where
22 we're going to be able to prosecute that.

1 But what we often find, we give them a
2 sleep cycle and that will often help. They'll come
3 around then.

4 GENERAL DUNN: So when we're talking
5 about the 73 percent who convert, are these victims
6 who often have never talked to law enforcement?
7 They've gone to the hospital?

8 MAJOR BARTNESS: Correct.

9 GENERAL DUNN: And they've reported in
10 the hospital?

11 MAJOR BARTNESS: Correct.

12 GENERAL DUNN: And then a lot of that 72
13 percent is coming from the medical into the law
14 enforcement?

15 MAJOR BARTNESS: Yes, ma'am.

16 GENERAL DUNN: Okay.

17 MS. JAUS: So some may want their name to
18 be withheld. They just don't want to participate
19 in the process? Is that what the restricted means?
20 Because I know we've had that term.

21 MAJOR BARTNESS: The Jane Doe --

22 MS. JAUS: She'll say: I don't want my

1 name used?

2 MAJOR BARTNESS: Right. She'll come in,
3 she'll report to the hospital and say: I want to
4 get my medical exam, but I don't want to report
5 this to police. So the medical exam will go
6 forward, the nurse will explain the options that
7 she has available to her at that point. You have
8 up to a year, etcetera, and we'll retain this
9 evidence.

10 She can get the medical treatment she
11 needs and we won't know anything about it beyond
12 the nurse calling us, calling our detectives and
13 saying: We have a Jane Doe case. We'll then
14 obtain a complaint number, as we would with any
15 case, and we'll document that. She'll give us --
16 they have their own internal reporting code for
17 blind reporting. We put that in the report. It's
18 very short.

19 We don't know who the victim is at all,
20 and away we go. And there will be -- the victim
21 will give the nurse a statement about what occurred
22 and so we'll have that if she chooses to convert.

1 GENERAL DUNN: But you just tie your
2 numbers to the hospital to find the evidence?

3 MAJOR BARTNESS: Correct.

4 COLONEL HAM: Baltimore is certainly not
5 the only jurisdiction that had an unfounded issue
6 like you did. There was a series in this area in
7 the Washington Post on the D.C. area that had the
8 same thing. Some of the members have heard from an
9 academic who has tracked this in other
10 jurisdictions.

11 But the numbers that you counted, the
12 percentages, would those reports, for lack of a
13 better word, ever have been counted in the
14 Baltimore crime statistics?

15 MAJOR BARTNESS: The unfoundeds? They
16 would not have been reported to the FBI as part of
17 our rate of rape, no. They go off the books. And
18 that's why it looked like we had this tremendous
19 decrease in rape.

20 COLONEL HAM: Is that the same for all
21 the other jurisdictions who are represented here?
22 If it's unfounded, it's not a reported event?

1 LIEUTENANT KIDD: That's correct. It
2 would change the event from rape to something else,
3 a suspicious event.

4 COLONEL HAM: And in all the other
5 jurisdictions did the patrol officer have the
6 authority, does the patrol officer have the
7 authority to unfound an offense?

8 LIEUTENANT KIDD: In Fairfax, usually if
9 there's any indication that a sexual assault
10 occurred they're going to send it up to us to
11 investigate. The supervisor on the patrol level
12 probably would not let that happen.

13 COLONEL HAM: Could you as a detective
14 unfound it? Does it have to go to a prosecutor to
15 be unfounded or does it never reach the prosecutor
16 if it's unfounded?

17 LIEUTENANT KIDD: Sometimes both.
18 Sometimes the detective on his own could come to me
19 and say, with what we have, there's no elements of
20 rape, it's unfounded, and explain to the victim why
21 there's no elements of rape and make sure they're
22 on board.

1 Sometimes when we have cases that are
2 very close -- I'm sure every jurisdiction has them
3 -- we will meet with the prosecutor and go over the
4 case with the prosecutor, and they'll determine if
5 they're going to prosecute the case or not.

6 LIEUTENANT CARTER: I don't think there's
7 a department here that, if you have something like
8 this, that the supervisor wouldn't be involved.

9 MR. STRAND: So the check and balance,
10 the minimum is you've got to go to -- a detective
11 has to go to a supervisor at the very minimum?

12 DETECTIVE GELUSO: We have to go to a
13 Commonwealth attorney.

14 MR. STRAND: You have to go to a
15 Commonwealth attorney.

16 DETECTIVE GELUSO: The city of Falls
17 Church does.

18 LIEUTENANT THOMPSON: There are checks
19 and balances. In Fairfax County you have the
20 patrol officer, then you have the street patrol
21 supervisor, who in turn in a case would actually
22 call one of the Major Crimes second lieutenants to

1 facilitate the program and try to find out whether
2 or not the case is going to court or not.
3 Ultimately, it does fall on the detective's
4 shoulders and then the Commonwealth gets pulled in
5 after that.

6 So with us you're talking four or five
7 different levels actually.

8 MAJOR BARTNESS: We also do an audit
9 subcommittee as part of the SARC. That meets --
10 for adult cases it meets every other month. But
11 every unfounded case, in addition to all the
12 procedures that my colleagues are talking about, it
13 also goes to the SARC subcommittee and they review
14 the case.

15 MS. JAUS: I can speak for New York.
16 That's where I'm from. The police can unfound
17 their case, but it has to be a supervisor in the
18 police department. It doesn't go to us, but the
19 police department on a different level, similar to
20 what you said. That's the system that they have.

21 LIEUTENANT THOMPSON: One of the things
22 we found out about our patrol supervisors, they

1 don't -- they make decisions, don't get me wrong.
2 But when it comes to the responsibility for a
3 sexual assault case, they usually will want
4 somebody with a little more expertise to step in.

5 MR. STRAND: Would you consider -- I want
6 to look at thresholds. When you talk a sexual
7 assault case, would you consider if somebody grabs
8 somebody on the breast and they didn't want to be
9 grabbed there, would that be at that level where it
10 would have to go to a supervisor or the
11 commonwealth attorney? Or are we talking about
12 penetration cases?

13 LIEUTENANT KIDD: You're talking about a
14 lot of times misdemeanor and felonies, and that
15 would be a sexual battery. That could be brought
16 by a patrol officer at that level.

17 MR. STRAND: Could it also be unfounded
18 by a patrol at that level?

19 LIEUTENANT KIDD: It could be, yes.

20 MS. JAUS: Not an officer; supervisor.

21 LIEUTENANT KIDD: Anything like that, the
22 patrol supervisor has to sign off on it, on the

1 report. So ultimately it's the supervisor who will
2 make that decision if he's okay with that.

3 MS. JAUS: The same.

4 MR. STRAND: How about alcohol-
5 facilitated? Say you've got a victim that contacts
6 an officer and says: I was drinking, I woke up and
7 my pants were off, but I don't know what happened.
8 Would that meet that threshold?

9 MAJOR BARTNESS: That would be a full-
10 scale investigation.

11 LIEUTENANT KIDD: That would be a full
12 investigation there.

13 MS. JAUS: So how is the videotaping of
14 the victims going over?

15 MAJOR BARTNESS: Very well.

16 MS. JAUS: Yeah?

17 MAJOR BARTNESS: Yes. We don't find that
18 we meet resistance to it. We're doing one on one
19 interviews. We first started out, two detectives
20 with the victim and then the advocate if the victim
21 requested her presence as well. But we felt like
22 that that was a better practice, to do the one on

1 one interviews.

2 It requires the detectives across the
3 board to have a higher level of competency, I
4 think. It takes some time to do that. I wouldn't
5 want to do that with the more junior detectives.
6 But I'd say it's great.

7 Like I say, it's really helped a lot with
8 case review, with the state's attorney office. We
9 pushed -- we developed what we call a tiered review
10 system. One of the frustrations we had was the
11 many months it would often take for our state's
12 attorneys office to make a decision on a case,
13 whether it was going to be charged or not,
14 independent of the case continuing to develop. The
15 facts continued to stay the same and the cases
16 would pile up.

17 So we instituted a tiered review system,
18 tier one, two, and three. The tier one cases are
19 what we kind of consider our red balls: We need a
20 decision right away. Usually those are made over
21 the phone. But it's a three-day time limit.

22 Tier two are cases, seven days. And tier

1 three are the ones that we just -- we don't think
2 we're going to be able to prosecute. You know, the
3 evidence just isn't there. We leave a lot of our
4 cases open, meaning in some of our cases the
5 state's attorney's office just will decline to
6 prosecute. We have probable cause, but we're not
7 just going to go charge somebody if the case isn't
8 going to go anywhere anyway. So we'll decline it.

9 But there are also a number of cases that
10 remain open for an extended period of time. So if
11 they're in those categories we put them in the tier
12 three for a 14-day review. Do we still -- do we
13 always meet that time line? No, we don't. But we
14 try to build in different ways of holding each
15 other mutually accountable, and I just think it
16 goes a long way.

17 I'm accountable to you, you're
18 accountable to me. That group is watching, that
19 group is watching. The SARC coordinator is
20 overwatching everybody. It's the way to do
21 business in my opinion.

22 COLONEL MORRIS: Can I ask you about the

1 interviews? Do you tape all aspects of the
2 encounter or do you have some off-camera prep time?

3 MAJOR BARTNESS: We do it all. We do it
4 all. We just don't -- we don't want to have to
5 deal with the issue of what did you leave off
6 camera. So we just put it all on, suspect's and
7 victim's.

8 COLONEL SCHOLZ: And what technique do
9 you use? We've heard about things like FETI and
10 cognitive interview techniques.

11 MAJOR BARTNESS: Yes. Quite frankly, it
12 runs the gamut, because our detectives are coming
13 from a variety of backgrounds. Some of our
14 detectives -- and some of our detectives are very
15 seasoned investigators. We've had detectives come
16 from homicide to sex offense. We've had detectives
17 come from burglary and aggravated assaults and
18 robberies and so forth, which is always helpful
19 because you don't have to tell them how to run the
20 bases. It's nice if they know how to do some of
21 that stuff.

22 But I'll take a green patrol officer if

1 the attitude is right, the smarts are there, the
2 commitment is there. Bring him on.

3 COLONEL SCHOLZ: What kind of training do
4 they get?

5 MAJOR BARTNESS: Again, it depends where
6 they're coming from. But we will -- we try to get
7 them to interview schools as soon as possible. We
8 link them up with the more experienced detectives
9 in the unit, our stronger ones. We have seasoned
10 supervisors that they spend a lot of time with.
11 There's the ongoing cross-training with the
12 partners, like in Johns Hopkins, the national
13 conferences.

14 We have, fortunately -- and this is
15 unique in the police department. Because we're
16 getting money from BAWA, we're getting money from
17 GOCAP, we have some grant dollars, so we send our
18 people.

19 MS. JAUS: How many hours of specialized
20 sexual assault training do they get?

21 MAJOR BARTNESS: There is not a -- there
22 is not a set number of hours. We don't bring -- I

1 think sometimes people look for within the first
2 six months you're going to give them 40 hours or
3 you're going to send them off. We don't have it
4 set up that way.

5 Maybe that's something we need to work
6 more toward. But it isn't there.

7 MR. STRAND: Is there a detective course
8 or detective school in the area, through either the
9 academy or something like that?

10 MAJOR BARTNESS: There have -- there have
11 been basic investigators courses put on by our
12 academy. But it's not sexual assault-specific.
13 Again, that's just kind of investigations, learning
14 to run the bases.

15 MR. STRAND: Have they put into some of
16 their training programs some of the lessons learned
17 from the referring and kind of incorporated that
18 into the academy and some of those things?

19 MAJOR BARTNESS: That is all part of the
20 academy curriculum. It's part of the annual in-
21 service training. It's part of that curriculum,
22 and when they come with us it's a huge part of it.

1 MR. STRAND: So for the most part what
2 I'm hearing is you get a detective either from the
3 street or from another section. You basically do
4 the on-the-job training and you get them as much
5 specialized training as you can along the way. Is
6 that correct?

7 MAJOR BARTNESS: Correct. And there are
8 probably others who do it not much differently.

9 MR. STRAND: Similar?

10 LIEUTENANT KIDD: Yes.

11 COLONEL HAM: Have any of you done any
12 investigations with military investigators?

13 [Show of hands.]

14 COLONEL HAM: How do you find them?

15 DETECTIVE GELUSO: I enjoy them a lot. I
16 used to be in the military, so I enjoy them
17 thoroughly.

18 DETECTIVE WALLACE: They help facilitate
19 a lot of information that's needed.

20 COLONEL HAM: Do you find them to be well
21 trained, professional or not, something else?

22 DETECTIVE WALLACE: Both well-trained and

1 professional at the times I've had to deal with
2 them. I've had to deal with the Air Force in a
3 couple cases. If they don't know the answer to
4 your question, I like the fact that they'll go get
5 it rather than sitting there and make it up. We've
6 had some hairy things to do about how to retrieve
7 evidence from someone who might be in the military,
8 maybe not being in my jurisdiction, but being on
9 their jurisdiction, but I have the primary
10 investigative. So I like the fact that they sit
11 there and they take the time to call legal and get
12 an answer that it's not going to come in and bite
13 us in the butt when it comes to court time.

14 COLONEL HAM: Do any of you have
15 experience with the military taking cases that your
16 prosecutors have declined?

17 DETECTIVE GELUSO: Yes, multiple. I'm in
18 a court-martial with one and testified in multiple
19 cases, Article 32's.

20 COLONEL HAM: What was the reason for the
21 declinations, in your view?

22 DETECTIVE GELUSO: The first one was the

1 suspect, he confessed to me, to multiple sexual
2 offenses against his daughter in multiple
3 jurisdictions, duty stations. But the little girl
4 would not disclose, so the commonwealth would not
5 go forward because we didn't have a victim to take
6 the stand, and that went forward with the military.

7 The other one that I'm in a court-martial
8 right now with is because it's alcohol, both
9 parties. It lacked evidence. The commonwealth
10 declined prosecution. They were on the fence, and
11 so the military stated that they would take it.
12 Unfortunately, it's kind of complicated. The file
13 was lost and two years later they're now going
14 forward with it. So that's a 2010 case.

15 COLONEL HAM: The military's going
16 forward with it or the commonwealth?

17 DETECTIVE GELUSO: The military, because
18 the military had lost the file back in 2010.

19 Then I now just recently, last week, had
20 a meeting with legal, military legal, and they're
21 going forward on a case that is from 2009 where a
22 lot of our changes were implemented because we had

1 a detective that dropped the ball and not having
2 best practices with the investigations.

3 The case came to our attention. I was
4 assigned that case, started redoing the suspect
5 interview, got a confession, and that was a year
6 later. It went to court. I had him -- he was
7 charged, the commonwealth took it. But what
8 happened was we went to court, he brought his
9 orders showing he was deployed during the offense,
10 the time on the warrant. Then we were able to
11 determine it was on a different party celebration.

12 It wasn't on a holiday; it was a birthday party.

13 But the commonwealth dragged their feet
14 as far as changing the date, amending the dates on
15 the warrant, and they needed a witness who was in
16 the Philippines and she would not come back. So
17 the military decided that we're going to go forward
18 with that one, the sexual assault again of a child
19 who did make a full disclosure.

20 MR. STRAND: Were you in the military in
21 law enforcement?

22 DETECTIVE GELUSO: No, absolutely not,

1 completely different.

2 MR. STRAND: Have any of you been in the
3 military in law enforcement?

4 [No response.]

5 MR. STRAND: Because we're going to ask
6 you some comparison questions.

7 But you have worked with the military.
8 Do any of you feel pressure from the attorneys,
9 from prosecuting attorneys, to not work the
10 difficult cases? Or if it looks like it's a really
11 tough case and it might -- do they ever tell you,
12 well, it's not worth going there and kind of close
13 it down? Or do you feel pretty much the freedom to
14 continue to work what you need?

15 DETECTIVE GELUSO: Freedom.

16 MR. STRAND: Okay.

17 GENERAL DUNN: I would be interested in
18 maybe, Detective -- is it Geluso?

19 DETECTIVE GELUSO: Geluso.

20 GENERAL DUNN: Since you were speaking,
21 if you would just give us a synopsis of your
22 jurisdiction and how various agencies work together

1 on sexual assault cases, and we'll go that way to
2 Fairfax and Falls Church.

3 DETECTIVE GELUSO: I'm with the Virginia
4 Beach Police Department. The population is
5 447,000. That's not counting the 3 million
6 tourists that come every year.

7 GENERAL DUNN: Who never drink anything
8 while they're there.

9 [Laughter.]

10 DETECTIVE GELUSO: No, just water. Don't
11 drink the water.

12 We have 682 sworn law enforcement and we
13 have multiple specialized units in the Detective
14 Bureau. One would be Special Victims Unit. Our
15 unit consists of eight detectives and we
16 investigate all misdemeanor or felony sex offenses
17 against children and adults. We also have a
18 separate unit, the Special Investigative Division.
19 Their primary focus is Internet-facilitated crimes
20 against children.

21 When you come into the police department,
22 we have our basic police academy, and in that

1 academy I do teach the recruits the block of
2 special victims. That's changed vastly as far as
3 really setting the standard on what we expect from
4 them and their response to sex cases. It just
5 depended who showed up, how it was going to be
6 handled.

7 Now it's very clear when the officer gets
8 to the scene, even if it's a misdemeanor, seems
9 kind of like a no-brainer or grabbing a butt or
10 what-not, that they're going to call the special
11 victims detective and they're going to just run the
12 case by us and determine if they are in fact going
13 to handle it on the street, so it stays on the
14 street. Whatever the disposition is, whether it's
15 an arrest or another clearance, that has to go to
16 their sergeant to sign off on what they decided to
17 do.

18 Now, if it's a felony offense, special
19 victims again are going to be called out, so they
20 know to have us come out. The recruits also are --
21 I warned Mr. Fishman, I'll try not to talk about
22 the children aspect because that happens to be my

1 specialty. But we have taught them in the academy
2 not to speak to the children, not to interview the
3 children, because I am the forensic interviewer for
4 the department and we want that done in a
5 specialized manner.

6 Now, from the academy they're kind of on
7 the streets. If they want to become a detective,
8 they go before a board and they have to be
9 interviewed. From the people that have
10 interviewed, we'll have a list that made the list
11 to be considered to come to the bureau as openings
12 come available. I believe that list is for one to
13 two years that it's good. I think they're leaning
14 more towards one year.

15 Once they get picked up for the Detective
16 Bureau, they have to start at entry level. You
17 don't go automatically to crimes against persons
18 per se, like homicide, robbery, and SVU. You're
19 going to start out in the property crimes unit or
20 they're going to go to autos, missing persons, or
21 domestic violence. Once they're in those units and
22 have some experience, even when they get to those

1 units, the detectives have to all go through a two-
2 day detective school, which I'm also part of that.

3

4 We kind of just give them the tools for
5 their box as far as handling case files, getting
6 them familiarized with the different systems that
7 they would be using as a detective, in juvenile
8 matters how the juveniles are handled, just giving
9 them extra information, giving them resources and
10 also outlining their duties as a midnight
11 detective, because a lot of the units, more so the
12 violent crimes, a detective is in that unit until
13 2:00 o'clock in the morning. Then after that, from
14 2:00 o'clock until 6:30 in the morning, there's two
15 detectives. They can be in any sort of detective
16 capacity, whether it be property crimes or
17 homicide, but there's two that cover that time
18 shift that we're missing specialized units.

19 If a case comes out during that time
20 frame, let's say a rape, from between 2:00 and 6:30
21 in the morning, the special victims sergeant, she's
22 going to be notified at home and she will determine

1 who is going to be called from home to respond,
2 because unless it's something that the duty
3 detective can handle, most times we're called out
4 for the sexual assault cases. And if it's a child
5 most times I'm called out.

6 So once a new detective goes through
7 their basic assignment in the Detective Bureau, the
8 basic training, they can have memos of interest for
9 a specialized unit. Usually we put an announcement
10 that there's going to be an opening in special
11 victims, opening in robbery, submit your memos of
12 interest. Again, some units might have a little
13 one on one session or kind of get that person's
14 background, see what they're interested in and why
15 do they want to come to the unit and determine
16 who's best suited for the slot.

17 Once they come to a specialized unit, we
18 have the same checkoff sheet that they had as a new
19 detective, but we're going to add on a checkoff
20 sheet that's relevant to our squad only. Not all
21 squads are going to have to know where a person
22 goes for a sexual assault examination. They're not

1 going to have to know about child protective
2 services, the working with NCIS, the advocates. So
3 we have our separate signoff sheet.

4 Once they're signed off, they're
5 definitely going to be paired up with a detective
6 within that unit. They have to stay with that
7 detective anywhere from one month to two months,
8 depending on what their comfort zone is, and then
9 they're released.

10 From there, it's pretty much up to the
11 detective whether they're self-motivated to go and
12 seek out training. We have training all the time
13 that we email to each other: Go to this school, go
14 to that school. Funding tends to be an issue, but
15 we have a two-day interview and interrogation
16 course that is put on. All the detectives are
17 required to go to it now. That was not in place
18 when I came on. A lot of us went to the John Reed
19 school if the funds were available. It was local.

20 COLONEL SCHOLZ: Is that where you got
21 your specialized training in child sex assault?

22 DETECTIVE GELUSO: I did. I have basic

1 John Reed and I also had advanced sexual assault
2 training by John Reed. I happen to have more
3 training than most just because mine goes on the
4 basis of the forensic interviewing and I have to
5 have so much for what I do as a forensic
6 interviewer. I'm also part of the Child First
7 Protocol and faculty for them, so I travel the
8 state of Virginia and teach forensic interviewing
9 to those that do it. So I have to have more so
10 than the others on the squad.

11 But the basic requirement is just going
12 to be your two-day interview and interrogation,
13 two-day detective school. Our squad, I can speak
14 for us, a lot of times are very motivated and
15 they're going to seek out that training.

16 Training can be through online. We
17 encourage a lot of online training. Webinars. We
18 might try to sign up for a webinar and we'll be in
19 a conference room so we can all watch at the same
20 time. We will do meetings, SVU meetings to go over
21 new material, change in laws, case studies that
22 have come out. That's just random. It's not

1 something that we do all of the time.

2 Let's see. We also have an advocate.
3 That was new to us in the last year. The police
4 department has their own advocate. We'll probably
5 need to talk with you guys as far as how to better
6 utilize her, because I don't think she's being
7 utilized to her fullest capacity. But she has been
8 very helpful as far as keeping the communication
9 between our victims after we have made the arrest,
10 because usually we're going on to the next case and
11 we're not staying as close with them.

12 So she's really good as far as getting
13 the victims in touch with other resources, helping
14 with protective orders. She's been very helpful
15 with walking them through that process, making sure
16 they're getting there for the protective order,
17 because I find that the sheet that comes with the
18 protective order is still very confusing to the
19 victim. They don't understand where they need to
20 go or what's going to happen next.

21 Usually when I've explained it to them, a
22 detective has explained it to them, they've

1 forgotten all of that, rightfully so. So she's
2 great for calling this individual up and
3 coordinating the protective order process.

4 The other advocates that we come in
5 contact is, from the military, the sexual assault
6 prevention and response team members. We have a
7 close relationship with them when the victim is
8 with the military. We also work with the YWCA
9 response advocates. They're really good for
10 civilian victims, not military, they're undecided.

11 It went in as a blind report and once we give them
12 this pamphlet -- if we have a victim of a sexual
13 assault, we give them the YWCA response pamphlet.
14 It explains what they're about, how to contact
15 them, what resources are available.

16 Then also the commonwealth attorney's
17 office has advocates, and I think it's more so for
18 the court process and keeping the victims in a
19 separate place from the general population as
20 they're waiting to go into court.

21 Our sexual assault examinations, they're
22 not done at any and all hospitals in Virginia

1 Beach. We have no Virginia Beach hospital that
2 does the exam, so the protocol for doctor's offices
3 in primarily hospitals is if a victim comes in
4 saying they've been sexually assaulted in Virginia
5 Beach they're going to -- the hospital is going to
6 call the police.

7 So a uniformed officer is going to
8 respond, and that's been part of my recruit
9 training with the officers, is not to assume when
10 you go into the hospital into the ER and you come
11 in contact with this victim that they know that the
12 police have been called. So we kind of go through
13 that with them as far as how they're to introduce
14 themselves, explain why they're there, and provide
15 the victim with their options as far as police
16 involvement or not.

17 Just to go right into it as far as
18 victims and their options when we respond, if the
19 victim goes to the emergency room and says that
20 they want to be checked out, says she's been raped,
21 police are going to respond. They're going to call
22 us and if need be we're going to come out.

1 The victim has the option to do the full
2 shebang, the investigation, the police report, the
3 sexual assault examination, and cooperate with
4 whatever we need to help them. The other option
5 they have is to have just a police information
6 report, and that's something I was going to get
7 into later as far as how we document our sexual
8 offenses. That's changed vastly.

9 They have the option of pretty much
10 putting it in for an information report, so that we
11 are aware of what happened and who was involved in
12 the incident, but not have us investigate it, not
13 have us call anybody, and to go forward and have an
14 exam or not have an exam. But we're going to clear
15 that as "other." It's going to be an SVU
16 information-only report cleared "other."

17 MS. JAUS: You said they don't have the
18 SANE, they don't have the exam capability at
19 Virginia Beach hospitals?

20 DETECTIVE GELUSO: No, no. They're going
21 to -- we primarily use Chesapeake Forensics. So we
22 call them and they respond to their office. We

1 give them transportation or if they have
2 transportation they meet at the office after they
3 get discharged. A lot of times hospitals have
4 gotten on board where they're not going to check
5 the patient in to the hospital only to find out
6 that they have to be transferred to Chesapeake
7 Forensics to have the examination, because it ends
8 up being long and drawn-out. We're trying to kind
9 of stop that on the streets, because we've had
10 officers who think, okay, here comes the ambulance
11 and they've just been raped, so we need to get them
12 transported to the hospital immediately.

13 Well, no. Unless they have an emergency,
14 a medical emergency, we tell them to cancel the
15 rescue unless the victim insists they need to go.
16 But we need to explain to the victims that at the
17 hospital they cannot do a sexual assault
18 examination, we can set that up for you at the
19 appropriate place.

20 So once they're discharged from the
21 hospital or they put them in a family room so that
22 we can respond and determine whether or not they

1 need medical care -- because sometimes after we
2 talk with them in the hospital they determine: I
3 don't want an exam, I just want to get checked out
4 for pregnancy, for STD's, and I want to be left
5 alone. So we're going to keep them at the hospital
6 and respect their wishes.

7 So we're going to take them to Chesapeake
8 Forensics for the exam. The other location is
9 Norfolk General Hospital. They can go down there,
10 but we don't primarily use them unless they're at
11 the hospital. If they're at that hospital, we're
12 not going to uproot them and take them to
13 Chesapeake just because that's where we always go.

14 If they're military and they're at
15 Portsmouth Naval Hospital, they're obviously going
16 to stay there and have the exam done at that
17 hospital. Those are the three locations that we
18 use, again unless it's a child and we use the child
19 abuse program with CHKD, and that's done in a
20 child-friendly environment.

21 I hope that answered that question.

22 COLONEL SCHOLZ: Thank you.

1 DETECTIVE GELUSO: The other option -- so
2 we have the person stating they want the full
3 investigation, they want the exam, everything. The
4 next one was a police information report, SVU
5 information report, with or without the exam. The
6 next option is for them just to have the exam with
7 no police report, nothing documented on paper. Or
8 they can tell us to leave them alone and nothing
9 happens.

10 But we -- I think we've done a really
11 good job as far as explaining to them: We really
12 would like you to consider having the exam done
13 within 72 hours of the assault. We're not keeping
14 that set in stone. If they're exhibiting symptoms
15 of discomfort, something that makes us think there
16 might be something more there in the exam after 72
17 hours, the nurses will often agree to do the exam.

18 Usually, once we talk to them we're able
19 to explain to them why it's important to go forward
20 with the exam even if they don't want to cooperate
21 with us. We also hold that exam in police evidence
22 for a year. If we don't hear from them after a

1 year, we're going to destroy the exam. We don't
2 pick up the phone and ask them: Hey, we're coming
3 up on a year; do you want to do anything?

4 I agree that most of the victims are
5 going -- if they want to go forward with the case,
6 it's going to be within that first week. It's
7 usually very fast. Rarely if ever do we get
8 somebody after the fact, after that week.

9 So they have the year and after that it's
10 destroyed. Unless they're military -- I know,
11 working with NCIS, if they're at the Portsmouth
12 Hospital and they show up and it's been beyond the
13 72 hours, Navy and Marine Corps will do the exam up
14 to six weeks from the assault. I just had one
15 recently where it was two weeks after the fact and
16 she was able to go to Portsmouth and have the exam
17 there. She was at another hospital and, knowing
18 that Chesapeake Forensic wasn't going to do it, I
19 asked her to go to Portsmouth because I knew they
20 would do the exam.

21 Again, I talked about the coverage,
22 responding out. If we have a case that comes out

1 after hours, we're going to respond to the scene.
2 We're going to call additional detectives out to
3 help investigate the matter.

4 I want to go back to the reporting. I
5 think it was in 2000 -- you'll see on the numbers
6 that I gave, there's a significant difference in
7 our cases. You'll see a lot of unfounded in 2007,
8 2008, 2009, 2010, and '11. But it dropped
9 drastically because we ended up utilizing --
10 initially we were utilizing the police information
11 report, which could be used for anything, not just
12 sex offenses.

13 Then we found that there was a problem
14 with the numbers and it wasn't a good reflection on
15 how many sex offenses were coming in, information
16 about sex offenses that weren't able to go forward.
17 So they provided us with a different number to use
18 for special victims information report only. It's
19 easier to look up and it's more accurate as far as
20 clearance.

21 Those -- the information reports
22 oftentimes are used for little kids who maybe an

1 adult has -- they have a suspicion that a child has
2 been abused, but we don't have the disclosure.
3 We're going to document that in a police report for
4 information only, and in the event that we get more
5 information and then we can change the
6 classification as far as what the offense was if
7 there ends up being a disclosure.

8 The same thing, let's say we have a
9 victim who says she doesn't know whether she wants
10 to go forward, the blind report. She wants us to
11 be aware of what happened, but she doesn't want the
12 investigation. We're going to do that as well.

13 If we have something that -- let's say we
14 started an investigation for what we think is a
15 rape and then we find out later it's not our
16 jurisdiction, we're going to keep it -- we're going
17 to change from a rape to a police -- to SVU
18 information, so we're documenting our time,
19 documenting what happened, and also showing who
20 that case file was sent to, the appropriate
21 jurisdiction.

22 We also will do that if it's a military,

1 if it's being handled by military, because now they
2 will take -- we call them blue on blue, military to
3 military. A lot of times they're taking those
4 cases. There have been a few that they have asked
5 us to go ahead and keep, and then we'll make that
6 classified appropriately for the sexual assault
7 that occurred.

8 COLONEL SCHOLZ: If the victim does not
9 want to go forward in your jurisdiction, that's the
10 end of the case at that point?

11 DETECTIVE GELUSO: No. If they do not
12 want to go forward, we don't go forward. That's
13 what's going to change the disposition. Let's say
14 she said yes, I want an investigation, I want the
15 exam, but then she stops cooperating. We're going
16 to document that she's not cooperating. We're not
17 -- and that's where we have changed how we classify
18 things. Our supervisor now has come in -- she came
19 in in 2010 and she's vastly changed the way we
20 clear our cases.

21 Before, we'd say, okay, the victim
22 doesn't cooperate, we would exceptionally clear it.

1 She's not agreeing to cooperate with the
2 prosecution. But we've now changed that. It's now
3 inactive, because it hasn't been necessarily
4 declined. They just want it inactive in the event
5 that she comes back.

6 Same with the commonwealth. If we have a
7 case that has enough for prosecution, but for
8 whatever reason the commonwealth says we're not
9 going to go forward with it, those are
10 exceptionally cleared. Everything else -- let's
11 say we have a complaint, we have witnesses that are
12 saying something happened, but we just don't have
13 enough to go forward on. Those are pending
14 inactive.

15 I hope that makes sense. We also have
16 the checks and balances. In our squad all of the
17 cases are reviewed by the sergeant, to the
18 lieutenant, to the captain. The case files have to
19 be reviewed. But if they're misdemeanors, that's
20 just going to be at the sergeant's level. The
21 lieutenant's not going to get involved.

22 All felony cases have to be screened with

1 the commonwealth attorney's office to see whether
2 or not they're going to approve, decline, or defer
3 for whatever reason. We have that paper. We have
4 a screening sheet that goes into our case file with
5 their note stating why or why not it was declined,
6 and that's put into the case file.

7 Let's see. Also the interviews. We only
8 record suspect interviews, and even that is not
9 mandated. I know we do have one or two detectives
10 that do record all interviews. Again, me as a
11 forensic interviewer, you interview anybody under
12 18 for my protocol, I do have to record everybody
13 under 18.

14 You had mentioned -- you asked about
15 particular training for interviewing, a protocol
16 for interviewing. I do a lot of training with
17 forensic interviewing and that has been implemented
18 with our adult cases. With the Child First
19 Protocol it's very open-ended questioning, no
20 forced answers: Were you raped, did you fight
21 back? We're letting them pretty much tell their
22 story.

1 What helps with that is doing
2 transcripts. We might do that peer to peer review.
3 If you have a transcript of your victim interview
4 and you see that you're talking more than the
5 victim, then you might need to change the way
6 you're doing your interview, and how the answers
7 are being questioned. It's pretty much narrative
8 response, that should be what we're trying to go
9 for, is narrative response. And after the
10 narrative response, you're going for more focus,
11 and you're trying to avoid yes-no or forced answer
12 questions.

13 So that's kind of the protocol that I
14 handle and it's worked very well with my children,
15 and I found I was using it with the adults and it
16 went very well. Talking with the military, that's
17 -- I don't know the name of it. I think he
18 mentioned it, but I noted that's what's coming to
19 their --

20 MR. STRAND: The Forensic Experiential
21 Trauma Interview?

22 DETECTIVE GELUSO: Yes.

1 MR. STRAND: FETI.

2 DETECTIVE GELUSO: FETI, exactly. But
3 everybody has their different styles. To say that
4 everybody in my squad does that style, absolutely
5 not. Everybody just does it a little bit
6 different, but we find that that's the best
7 practice for us.

8 I think that's all I have.

9 MR. STRAND: You have an opportunity to
10 talk to -- so if I was a sexual assault victim and
11 I came to you and I said I just want to talk to
12 you, let you know that I was sexually assaulted,
13 but I don't want you to do anything, I don't want
14 you to investigate it, and I don't want a kit right
15 now, I just want to talk to you, that's going to be
16 an information report, right?

17 DETECTIVE GELUSO: No. If they come in -
18 - we get them all the time, a walk-in. We get
19 phone calls: I just don't know what to do; can you
20 tell me what my options are? Especially down the
21 road, what are my options, what are the time
22 frames? We're going to explain all of that to

1 them, and on a case to case basis they might decide
2 -- okay, I've had them say: I came in here just
3 wanting to know what my options were, but I really
4 feel comfortable with you; can I go ahead and talk
5 with you? And if I have time I'm going to talk
6 with them then, or we're going to set up an
7 appointment.

8 MR. STRAND: This is one of the things
9 I'm struggling with. In our restricted reporting
10 process, if law enforcement finds out about it we
11 have to investigate it. So we're almost shielded
12 so we have to end up having the SARC or the victim
13 advocate explain what the process is, and they
14 never see us. They never get to talk to us. They
15 never get to know us or get comfortable with our
16 process.

17 So I guess my overall question to you and
18 anybody else that wants to answer this: Is there a
19 benefit then maybe for them to be able to talk with
20 your detectives or you and just kind of meet with
21 you? What I just heard you saying is that
22 sometimes they do now feel comfortable in going

1 forward, whereas if they didn't have an opportunity
2 to talk to you unless the only option is to talk to
3 you and there's going to be a full-blown
4 investigation, do you think that would hamper some
5 of the restricted cases going unrestricted?

6 DETECTIVE GELUSO: I think it definitely
7 will influence. That face to face contact, I think
8 it means a lot, especially if -- they're going to
9 pick up from you. That's not for everybody. If
10 you have a detective who's really busy in their
11 rush and they're sitting there, what's going on,
12 duh, duh, duh, well, they're probably not going to
13 want to report.

14 But if you have somebody who's really
15 taking their time to tell that person what their
16 options are and what may or may not happen -- we're
17 very up front with them. We tell them: I'm not
18 going to make you any promises; these are the
19 obstacles that we're going to be looking at. This
20 is what I would like to do if you were to report
21 this. And kind of walk them through the process,
22 so that we don't just get to stage one and don't

1 worry about it.

2 We want them to see down the road that
3 the end result might not be what you see on TV and
4 make sure, are you okay with that.

5 MR. STRAND: So do you see that process
6 as actually encouraging them to maybe move forward?

7 DETECTIVE GELUSO: Absolutely,
8 absolutely.

9 GENERAL DUNN: Even restricted reports,
10 you can get a special victim counsel now.

11 MR. STRAND: Correct.

12 GENERAL DUNN: So they can have that
13 conversation.

14 MR. STRAND: Yes. But we're still
15 expecting somebody else to tell them we're going to
16 be okay or we're going to handle it this particular
17 one from a law enforcement side. We're still
18 expecting somebody else to tell them what our
19 process is, instead of sitting down with us and
20 having the opportunity to go through and meet us.

21 DETECTIVE GELUSO: And then we give them
22 the resources. We still give them that pamphlet

1 for response, or give them the number for a fleet
2 and family center, and also the number for the SANE
3 exam and the directions. We'll give all of that to
4 them if it's going to be within that window, so
5 that if they don't want to talk to me -- when I
6 meet with victims, they have my card, my email, and
7 I give them my cellphone in case they want to have
8 the exam. That way I can coordinate it for them.

9 MR. STRAND: And you're not required to
10 notify NCIS or any other military law enforcement
11 entity if you know that they were sexually
12 assaulted, but they don't want to go forward?

13 DETECTIVE GELUSO: Oh, no. Even if we're
14 taking the case, we're not going to reach out to
15 the command unless it's a suspect. Usually I don't
16 tell the command until like, hey, I need your help
17 finding this person; can you bring them?

18 GENERAL DUNN: Thank you.

19 Now, different jurisdictions down here.

20 DETECTIVE SLOAN: Arlington and Falls
21 Church.

22 GENERAL DUNN: Okay.

1 LIEUTENANT CARTER: I'll speak for Falls
2 Church. I'm not a detective, but I brought Missy
3 Elliott to pull me out of the swamp if you have any
4 detective questions. But I'll go through our
5 department, tell you where we're coming from and
6 what we try to do as an agency.

7 My name is Joe Carter. Obviously, I'm a
8 lieutenant with the Falls Church City Police
9 Department. We are 32 sworn, so I think you'll
10 find that the jurisdictions here have 32 sex crime
11 detectives and we have 32 officers. So that's a
12 unique challenge there in itself when we're dealing
13 with certain things.

14 We cover about 2.2 square miles. We have
15 a population of 13,000. To kind of go back a
16 little bit, I'll try to tell you what we've done in
17 the community first and foremost to try to dispel
18 any of these -- as you want to say, when people
19 come in they're scared of the police. We try to
20 take care of the awkwardness of a victim coming in.

21 13 years ago, or actually 12 years ago, I
22 was one of two officers that headed up a RAD

1 program. It's a Rape Aggression Defense program.
2 I had no idea what I was getting into, but I got
3 into it and it's probably the best thing I do for
4 the agency.

5 Yes, we do teach self-defense, but the
6 first night is a Powerpoint where we try to educate
7 the women on many different things, whereas just
8 the importance of being safe all around, at your
9 home, in your car, and everywhere else. Also we
10 actually have -- we go through the process of, if
11 you are a victim, what's going to take place A
12 through Z.

13 So as we all know, knowledge is key,
14 right? As a police officer, if I go and I'm
15 involved in a shooting, that's not the first time I
16 want to know what's going to happen with my agency
17 and what they're going to do to me. I want to know
18 up front what's going to take place, so that the
19 anxiety level there is kind of -- it's diminished a
20 little bit.

21 We try to do that with the women. Over
22 the past 12 years we've taught over 1,000 women.

1 We teach three classes a year. We've taught with
2 Fairfax, we've taught with George Mason University,
3 Vienna Police, Prince William County. So it's a
4 multi-jurisdictional effort that we try to educate
5 these women and let them know how to be safe, but
6 also if you're a victim what's going to happen.

7 I think you'll find -- or I have found,
8 I'm sorry, that there are victims who do come to
9 the class. Most of them have told me: You know,
10 gosh, if I would have had this before that day it
11 would have made things a lot easier on me because I
12 would have been more educated about what was going
13 to take place, and this whole gamut of people that
14 were going to come at me and ask me questions.

15 So that's a good thing in itself, that
16 we're able to do that for the community and at
17 least try to outreach and help in that way.

18 I think you will find that we are, like
19 everyone else, the investigative purposes of
20 whatever we do is kind of all going to be in line
21 with everyone else. Like I said, we have unique
22 challenges. We have five detectives, which handle

1 anything from homicide all the way down to grand
2 larceny from a vehicle. So they're not
3 specialized. They have to do everything.

4 One of our detectives is actually off
5 site and doesn't even work at the station. So as
6 you can see, that's a challenge.

7 What we've done and what the chief has
8 done actually is she went through the National Law
9 Enforcement Leadership Initiative on Violence
10 Against Women, and that's through the IACP,
11 International Chiefs of Police. She went through
12 that. She's also sent me through that.

13 So obviously the first person in most
14 jurisdictions that's going to be in contact with
15 victims is going to be a patrol officer. So what
16 we felt is, with us being so small, most of ours
17 are walk-ins or we're going to be called to the
18 hospital and the patrol officer is going to handle
19 that. What we've tried to do is bring that
20 leadership back to the department, educate our
21 patrol officers, because, let's be honest: As a
22 victim, we can't put ourself in their shoes and say

1 we feel what they feel or know what they're going
2 through. It's impossible, because every person
3 deals with trauma differently.

4 So what we've done with our officers is
5 we try to just inform them on maybe what to look
6 for, how to treat people, because as a patrol
7 officer myself it does get frustrating when you're
8 sitting there talking to someone who comes in and
9 tells you they've been victimized and you're trying
10 to decipher and rummage through the woods to try to
11 figure out what's the truth and what's not, because
12 a lot of times, like the Major said, they either
13 don't want to cooperate, they're scared, they're
14 nervous, they may have just forgotten, or it just
15 gets to the point they know someone, they don't
16 want to get them in trouble, but they want you to
17 know what took place, or they just want someone to
18 reach out to and speak with.

19 So we try to educate the officers in that
20 sense, not so much to get jaded, but to look and to
21 almost try to learn how to deal with victims better
22 so that they feel more comfortable with us.

1 Our protocol, like I say, is the same.
2 The patrol officer will show up on scene like
3 everywhere else. If it's something that involves a
4 violent crime, a supervisor's going to be there.
5 They will make the determination at that point what
6 they have. If a detective needs to be called in,
7 they will be called in.

8 The patrol officer will get the basic
9 information. The first and foremost is venue. We
10 are surrounded by Fairfax, Arlington, and we are
11 ten minutes from Washington, D.C. A lot of times,
12 Falls Church City is 2.2 square miles, but the
13 Falls Church zip code, which is Fairfax, is 18
14 miles. So they say: Well, it happened in Falls
15 Church. Well, we need to determine exactly where
16 it happened in Falls Church, because venue is very
17 important to getting -- not only for time, but
18 getting the right jurisdiction to actually take
19 place or take over the investigation.

20 So at that point, if it's a Falls Church
21 City matter a detective will be called in. They do
22 have more in-depth interview techniques, that they

1 will sit down and they will get into more in-depth
2 about what took place and what happened with the
3 crime itself.

4 At that point, we will -- if there's a
5 determination that the victim wants to go forward -
6 - and yes, you do have to have a victim if you want
7 to do something. If the victim comes in and they
8 say, hey, I'm out, I don't want to do anything, we
9 will take a report just like anywhere else. We
10 will be there for them. We will help them in any
11 way possible. But if they don't want to do
12 anything and they just want to come in and tell
13 you, hey, this is what happened, but I don't want
14 to do anything, there is absolutely nothing we can
15 do. You have to have a victim to go forward.

16 If they choose to go forward, they will
17 be taken to Fairfax Hospital, where -- they're
18 godsend, the SANE nurses. To me they're godsend
19 because they are absolutely invaluable with what
20 they do and how they go about their jobs. So for
21 us that is the greatest asset we have as far as
22 collecting evidence, dealing with the actual

1 victim.

2 The detective will be there with them the
3 entire time, will take them there, will take them
4 home. We have two female detectives, we have two
5 male detectives. If for some reason, obviously,
6 the victim wants a female detective and there's not
7 one on call, we will have that female detective, if
8 they're available, come in and go through the
9 process with them. If not, we do have advocate
10 victim witness assistance where we will bring
11 someone in and at least be there if there is
12 someone that they need to speak with.

13 COLONEL SCHOLZ: These detectives, do
14 they have some specialized training?

15 LIEUTENANT CARTER: Yes, they do have
16 specialized. It's not specific sexual assault
17 training because they just do a wide variety of
18 things. If something comes up and they're able to
19 go, they will go. They do have better in-depth,
20 you might want to say, interview techniques that
21 they will use, and have been through training for
22 that.

1 COLONEL HAM: Lieutenant Carter, being a
2 smaller jurisdiction, which may be more prevalent
3 around the country than a large jurisdiction -- I
4 don't know -- you're probably unique because you're
5 a small jurisdiction surrounded by big
6 jurisdictions --

7 LIEUTENANT CARTER: Monsters, yes.

8 COLONEL HAM: -- who probably give you a
9 lot of advice all the time. And with 13,000
10 citizens, do you ever know -- it's a small town.
11 Do you know your perpetrator and your victim, and
12 how do you handle that? I'm assuming that it's
13 more common in a very small jurisdiction than a
14 larger jurisdiction, but that might not be the
15 case.

16 LIEUTENANT CARTER: It was one thing I
17 was going to touch on and it's absolutely great
18 that you brought it up. Yes, we do.

19 COLONEL HAM: And how does that influence
20 your work?

21 LIEUTENANT CARTER: Well, I tell you.
22 About two years ago we had a case that involved

1 three young girls. Missy can probably -- I think
2 at the time they were 10, 11, and 12. They were
3 between 10 and 12 years of age.

4 They were at an overnight at an
5 individual's house. The individual, the wife was
6 our ex-mayor and on our council, and the husband
7 was very politically connected within the northern
8 Virginia area.

9 Little girl went home, one little girl
10 told her mom she was touched. Mom brought them in.
11 We were able to collect evidence and, to make a
12 long story, touch DNA came in, and that's where
13 working with Arlington really helped us out. But
14 the gentleman was actually convicted and is serving
15 20 years.

16 But where the challenges were, being a
17 small jurisdiction like that where it's very
18 political, and it's political in this area -- it is
19 what it is -- huge.

20 COLONEL HAM: And a wealthy area.

21 LIEUTENANT CARTER: Wealthy. Yes, Falls
22 Church City is very wealthy. Politically it was

1 difficult. And the community, you had some -- the
2 community was split down the middle. You had half
3 the community hating us and you had the other half
4 hating him. You had aggressive parents on both
5 sides.

6 From the school system they were lashing
7 out. You had council on his side, to the point
8 where they would walk right past us and not even
9 say hello. You had people that worked in city hall
10 that would not speak to us. You had the actual
11 city paper would lash out against us.

12 His attorney -- what was his name?

13 DETECTIVE ELLIOTT: Greenspun.

14 LIEUTENANT CARTER: Greenspun. He would
15 lash out at us.

16 So it was difficult. I think it was the
17 most difficult, obviously, on the detective that
18 was handling the case, the pressure to really,
19 really get it right. All of them had to stop what
20 they were doing in do a phenomenal job together.
21 They did have to outreach, where we had to go
22 outside. Loudoun County actually came in and did

1 the prosecution, the CA's office there, because of
2 Arlington's ties in Falls Church City.

3 So it really, really weighed on the
4 officers, on the detectives, the officers. It was
5 very, very difficult to go through and to be such a
6 small agency and have to deal with many different
7 things. So it was a huge challenge.

8 So I hope that answers your question.

9 GENERAL COOKE: How did that play out
10 with the victims and their families? Did that make
11 them more reluctant to cooperate?

12 LIEUTENANT CARTER: No. The victims,
13 great. I actually had two of them in my RAD class
14 not too long ago. You could see, one was not
15 really affected at all. The other one just kind of
16 came out of her shell. It affected them a little
17 bit when they were testifying, because Greenspun
18 was very aggressive towards them.

19 But the families, it took a toll a little
20 bit, because, like any parent, you want to protect
21 your child. And when you know your child has been
22 victimized, it makes it very, very difficult. So

1 they would read in the paper something that was
2 maybe not accurate and they would call the
3 detective and lash out and say: What are you
4 doing? How come this is happening?

5 It was just smoke and mirrors. That was
6 exactly what they were trying to do. But with the
7 parents reading this, it made it difficult on them.

8 It was very stressful on them.

9 Any other questions?

10 [No response.]

11 LIEUTENANT CARTER: I'll keep going. So,
12 going forward, after the SANE exam, evidence
13 collection, any search warrants that need to be
14 issued are gotten. The detectives will take care
15 of that. If they have to go to the victim's house
16 to collect any evidence, they will obviously do
17 that.

18 At that point, as the investigation is
19 taking place, the victim witness assistance, they
20 are called to the actual -- they're involved, to
21 the point where they will actually hand-hold the
22 victim through the process, the court process,

1 letting them know what's going to take place, any
2 emotional support that they need. Any forms that
3 need to be filled out as far as any doctor bills or
4 hospital bills or anything like that that's needed,
5 they will get them the correct forms and they will
6 help them through that whole process.

7 But I think the biggest thing is just
8 having that emotional outlet and having that person
9 that you can trust outside of the police department
10 being there and being that person who is trained to
11 actually deal with people in stressful situations
12 like that.

13 A little bit also what we have within our
14 community. We have -- obviously, I've talked about
15 RAD, victim assistance. We have what's sometimes
16 called Home Stretch. It's a nonprofit
17 organization. It's a house on East Broad Street
18 where -- as you know, trafficking, human
19 trafficking, is a big issue right now, runaways
20 that have been sexually assaulted because of one
21 reason or another.

22 It's a house that will take even domestic

1 violence individuals who just need an outlet and to
2 get away. They will take in individuals and kind
3 of help them get on their feet and get them on the
4 right path. There was a lady who was involved in
5 domestic violence actually in Maryland that lost
6 everything. She left, she had two kids. She just
7 couldn't stand it anymore. Her husband was
8 actually convicted in Maryland for -- it was a
9 record number of years besides someone who has
10 committed murder, for domestic violence.

11 She got away. But they got her into
12 school. They got her a job. She was able to get
13 her master's degree. She's working now. Her and
14 her kids have an apartment. So it's things like
15 that within the community that we have. It's
16 nonprofit, but it's an outlet for victims and
17 sexual assault victims and domestic violence
18 victims.

19 COLONEL SCHOLZ: Your victim assistance
20 program is part of what? It's not part of the
21 police department.

22 LIEUTENANT CARTER: No, it's actually an

1 Arlington -- we work with Arlington County.

2 DETECTIVE ELLIOTT: We contract with
3 Arlington.

4 COLONEL SCHOLZ: Is that a county program
5 or something?

6 DETECTIVE ELLIOTT: Through the
7 commonwealth attorney's office.

8 LIEUTENANT CARTER: Let me see if I've
9 missed anything.

10 That's pretty much all I have to say.
11 Like I say, everything is -- investigation-wise, I
12 think you will find that most are on the same
13 level. I think, just touching base, I think
14 education is really key. I think having those
15 support groups that people can reach out to is key.
16 I think making sure that your actual people who
17 are going to be dealing with sexual assault victims
18 are educated so that they know what to look for and
19 they can best help them as they see fit.

20 COLONEL SCHOLZ: Are you all from
21 different counties?

22 LIEUTENANT THOMPSON: Yes. My name is

1 Paul Thompson. I'm a lieutenant. I've been with
2 the county for about 29 years.

3 This is Mark Kidd. He's a second
4 lieutenant. He's been with the county for about 23
5 years. He's actually in charge of our sex squad.
6 Steve Wallace has been with the county for about 15
7 years. He's a detective in the sex squad. So the
8 structure and who runs the unit and who handles the
9 cases, so I tried to cover everything.

10 Fairfax County has the largest police
11 department in the state of Virginia. That includes
12 the State Police. We've got about 1400 sworn
13 officers and about 300 support personnel. I'm the
14 assistant commander of the Major Crimes Division.
15 We handle major crimes, mostly all felonies of
16 course. They range from auto and financial crimes
17 all the way up to homicide.

18 As far as sexual crimes are concerned, we
19 have a child exploitation unit, and this is where
20 we get a little bit more case specific. We have a
21 lot more resources because we're a bigger
22 department, so that's a benefit. Sometimes it can

1 be a pain. Other times the resources are good.

2 But we have a child exploitation squad
3 that has eight detectives in it. They're
4 responsible for juvenile run-aways and they also do
5 the on-line predator cases and child pornography.
6 The easiest way to differentiate them is they
7 usually work the cases where the suspects are
8 unknown to the victims for the most part. We have
9 the detectives where they get the on-line porn and
10 they're actually acting as a juvenile and then they
11 kind of lure the bad guys in and they'll end up
12 locking them up.

13 We also have a child abuse squad, which
14 kind of --

15 COLONEL SCHOLZ: I can't see your name.
16 I'm sorry.

17 LIEUTENANT THOMPSON: It's Paul, Paul
18 Thompson.

19 COLONEL SCHOLZ: Paul Thompson. Okay,
20 thank you.

21 LIEUTENANT THOMPSON: We also
22 have a child abuse squad, which has eight

1 detectives in it, too. The easiest way to
2 differentiate them is the crimes are usually, the
3 suspect is known to the victim, and you're talking
4 about the caretaker, parent, somebody who babysits,
5 some aunt, uncle, that type of thing.

6 Child abuse is a good place for our sex
7 detectives to actually get a start, because they
8 get involved in the same process, and I think that
9 that's self-explanatory.

10 Our adult sex crimes actually has nine
11 detectives in it. We have a cold case unit which
12 investigates cold case murders, but it also
13 investigates cold case rapes. The most recent case
14 you might have heard is the East Coast rapist. He
15 had four cases in Fairfax County and we were
16 actually heavily involved in that. I like to say
17 that we actually closed that case out, but actually
18 the detective that worked that case with us is now
19 working for Prince William County. That's where
20 they prosecuted him for the Halloween rapes, if you
21 recall.

22 One of the things that differentiates us

1 from everybody else here it seems like is our
2 victim services unit. I'm responsible for that as
3 well. They actually are part of the police
4 department. In the State of Virginia, from what
5 I've found in the past, most of your victim
6 advocates do work out of the commonwealth
7 attorney's office. But in Fairfax County they
8 actually work for the police department.

9 I have nine victim advocates. I have a
10 victim services director and I'm basically her
11 supervisor. That works pretty well for us because
12 they have to kind of answer to me, so the chain of
13 command is already there. If there's something
14 that needs to be changed or we're having a problem
15 with an advocate as far as their relationship and
16 involvement in a case that a detective is working,
17 I have control over that. So that helps. If you
18 have somebody that's a nonprofit or what have you
19 or works for the commonwealth office, I don't have
20 that same control.

21 The flip side to that, oftentimes your
22 victims when they find out that the victim

1 advocates work for the police department, sometimes
2 they kind of close down a little bit because they
3 might have an inherent distrust of the detective.
4 But the flip side to that, where it really works
5 well for us, is each one of our advocates is
6 actually assigned to one of the eight district
7 police stations, and when a crime happens, as in --
8 whether it's a -- if a person has not sustained any
9 injuries and they haven't gone to the hospital,
10 they're usually transported up there by a patrol
11 officer, where they meet a detective, and one of
12 the victim advocates meets them at the hospital.

13 If there's a scene that's active, the
14 victim advocate can go right to the scene. Since
15 they're at each one of the stations, what that does
16 is it puts the victim advocate there right away
17 with the detective. They work together right from
18 the get-go.

19 COLONEL SCHOLZ: Does the victim advocate
20 have a privilege with the victim, privileged
21 communications?

22 LIEUTENANT THOMPSON: Well, that's one of

1 the things that we've worked through, and Steve can
2 talk a little bit more about that. One of the
3 things that we have to be careful about is we do
4 not allow the victim advocates to be in the SANE
5 exam, even though a lot of times the victims say, I
6 want that person to be with me, because what
7 happens is then that victim advocate just became a
8 witness to the testimony down the road for that
9 victim, and we don't want that to happen. So we
10 try to keep that piece separate.

11 MR. STRAND: How about in the interviews,
12 the police interviews? They become a witness
13 there, too, right?

14 LIEUTENANT THOMPSON: No, they don't
15 participate in that either.

16 COLONEL HAM: Does your adult sex crimes
17 unit investigate felony only penetrative offenses,
18 or contact offenses of any type?

19 DETECTIVE WALLACE: Mostly felony. We
20 will do some misdemeanors if it's like a serial
21 thing, like the guy who made the news a couple
22 months ago, the serial groper down in Franconia.

1 When it gets that many, if you get that many going,
2 it will get sent up to us. But mostly, like I
3 said, for felonies, penetration, or sometimes not
4 just penetration, but it has to be like a mental
5 capacity for us to take it.

6 So a lot of people go, it's got to be
7 penetration of some sort, vaginal, anal, or
8 something like that, or a penis penetration to make
9 it a felony. But if someone even is just fondled
10 under a certain age while being unconscious or
11 something, and they're not a caretaker, a stranger
12 of some sort who may have broken into a house,
13 stuff like that, that's the kind of offense that we
14 would then take care of.

15 LIEUTENANT THOMPSON: Another case that
16 kind of made the news, forgive my language, but the
17 butt-slapper case.

18 GENERAL DUNN: Yes.

19 LIEUTENANT THOMPSON: That actually, that
20 originally came to us because of the malicious
21 wounding piece of it. But the malicious woundings
22 were actually very, very minor, which would have

1 been handled by patrol. That case was actually
2 handled by detectives out of the Fair Oaks District
3 Station with our support. So there's kind of a
4 cutoff in there.

5 COLONEL HAM: That's the guy in the mall?

6 LIEUTENANT THOMPSON: Yes.

7 GENERAL DUNN: Yes.

8 LIEUTENANT THOMPSON: I don't think I
9 said this. Fairfax County has a little over a
10 million people in it. The Major Crimes Division
11 I'm responsible for, we're about 75 detectives. So
12 as you can see, when Lieutenant Carter was talking
13 about the number of sex detectives that we actually
14 have, when you add the three squads together we've
15 got like 24, 25.

16 LIEUTENANT KIDD: Yes.

17 LIEUTENANT THOMPSON: So we do have quite
18 a few.

19 What I was going to do is I was going to
20 let Lieutenant Kidd talk about how his squad
21 handles the cases or what have you, and then Steve
22 can pitch in.

1 LIEUTENANT KIDD: I'll go through the
2 training and also how we pick our detectives and
3 the training. We're just like Virginia Beach.
4 Pretty much they said exactly what I was going to
5 say. Our officers go through the same criminal
6 justice academy as everybody else does that are on
7 the street. They show an interest that they want
8 to come to Major Crimes, and when they do that they
9 have to have a minimum of five years before they
10 can even put in for the process.

11 We're actually doing a process right now.
12 We've had 38 candidates that put in for our most
13 recent process that we're doing now. Once they
14 take that process, there is an eligibility list
15 that is put out. We get around the table, usually
16 the supervisors and the commanders of Major Crimes,
17 and we pick who we think, based on how they did,
18 reputation, evaluations, a lot of different things.
19 But they come up.

20 And once again, like Virginia Beach, they
21 come to what is first available, and it's usually
22 something, what we call on our eight floor, we call

1 it junior varsity, but they don't like to be called
2 that.

3 [Laughter.]

4 LIEUTENANT KIDD: That's where our
5 financial crimes is, auto theft. Child abuse is
6 down there along with child exploitation. So they
7 usually start there, where they get their
8 investigative experience, or -- I'm sorry, we also
9 have our criminal investigation section, which is
10 just property crimes, and that's done at each
11 station. Our eight district stations, they each
12 have their own CIS section which handles all the
13 property crimes. So we do have also people put in
14 for Major Crimes through that.

15 Once they get some experience as a
16 detective and there is an opening in sex crimes,
17 then I will sit down usually with the commanders
18 and we decide who's the best pick. I do interview
19 them myself, but there's a wish list that we do.
20 They put in usually their top two picks, where they
21 want to go, like robbery, homicide, sex. Then I
22 see the names who wants to come to my squad. I

1 usually sit down, I interview them, I discuss it
2 with the commanders, then I pick who I feel is the
3 most qualified based on a whole lot of different
4 things, obviously, who I think would do a good job
5 for me.

6 Once they get assigned to sex crimes, I
7 will shadow them with a senior detective like Steve
8 Wallace. They will be with him for, once again
9 like Virginia Beach said, one to two, sometimes
10 three, months. It depends on how much exposure
11 they get, how much call-out they get, how many good
12 cases they actually get to sit there and mirror
13 with the detective.

14 Then once they feel comfortable enough
15 and I feel that they're comfortable enough, I'll go
16 ahead and cut them loose to be on their own.
17 Basically, being on their own is really relative,
18 because any time we get any what we call a
19 "stranger case," where it's a who-done-it, the
20 whole squad's coming out. Our whole squad's coming
21 out, whoever's available.

22 We have two people that are normally on

1 call. There's a primary detective just in sex
2 crimes that's on call every night. There's also a
3 secondary detective that's on call. If we get,
4 like I said, a who-done-it, they'll call, they'll
5 notify me. I'll notify the on-call, and everybody
6 that's available will come out, to include other
7 detectives from other sections, just for the
8 manpower to be able to go out and help us with
9 canvassing neighborhoods, interviewing witnesses,
10 and things of that sort.

11 So even though they are cut loose on
12 their own, they're really never on their own.
13 There's always somebody there shadowing them,
14 helping them through the cases.

15 LIEUTENANT THOMPSON: I was going to say
16 something about the wish list. I didn't want you
17 to get that misconstrued. Just because a detective
18 puts in for sex crimes or robbery or homicide,
19 which is where your, I don't want to say, better
20 detectives gravitate to, but if you think about the
21 other crimes that we investigate, if you're really
22 on the ball and you have the desire that's where

1 you want to end up.

2 So needless to say, those persons who
3 want to go to sex crimes, they do have to get past
4 us, because it's a wish list, but it's not a
5 guarantee. So by the time they get to those
6 positions they've actually demonstrated that they
7 can handle the job to a certain degree with
8 additional training. So it works out pretty well.

9 The flip side to that is sometimes when
10 you have somebody in sex crimes that's been running
11 with it for a long time, with all the call-outs,
12 they want to get back to something that's not
13 crushing their family life, and sometimes they will
14 request after a number of years: Can I go back to
15 financial crimes, can I go back to auto crimes, or
16 whatever, so they're not called out as much.

17 It is a different crime level, especially
18 when you're dealing with the victims, as you all
19 well know. Mentally it's a little bit different, I
20 think.

21 COLONEL HAM: Can you give us a sense,
22 Lieutenant Kidd, of how many sexual assault

1 investigations you're doing on an annual basis?

2 LIEUTENANT KIDD: Yes. I have some
3 numbers right here. To date -- this is just what I
4 work as adult sex. Like he was saying, we work all
5 cases that the victim is 13 years old or older or
6 any stranger case. So it could be a five-year-old
7 where a stranger may have committed a sex act. We
8 would get that. And 13 years and above, unless
9 it's a caretaker role or a father or a parent like
10 that, and then the child abuse would work it.

11 So just with us, to date I have 213 cases
12 and that's all sexual offense cases that we do
13 work. Last year we had 240. 2011 was 268. In
14 2010 it was 281. So we've had this downward trend
15 slightly. Before being in sex crimes -- I've been
16 in sex crimes for only about a year, a year and a
17 half. Prior to that I was in robbery and we're
18 starting to see the same trend in robbery, too.

19 I don't know if homicide is seeing the
20 same downward trend or not. But it seems like in
21 the last few years -- I don't know if other
22 jurisdictions are -- but we've had some slight of a

1 decline. I'm not sure why that is. I don't know
2 if it's less crime, less reporting, or what.

3 COLONEL HAM: And that number includes
4 every reported felony level offense?

5 LIEUTENANT KIDD: Sexual offense that we
6 would get, yes, turned over to us to investigate
7 further.

8 With talking about when it's reported at
9 the station level or -- we have different ways
10 also. They can respond right to Fairfax Hospital.
11 If they respond right to the hospital and say they
12 were sexually assaulted, obviously we'd be
13 contacted and the detective would respond right to
14 the hospital.

15 If they walk into a patrol station or
16 they call from their house and patrol responds to
17 the scene, they will make the determination, in
18 discussion with their supervisor, that in fact a
19 detective is needed. With that, the patrol
20 supervisor will notify what we call our police
21 liaison commander at our dispatch center, who
22 notifies -- after hours who notifies one of the on-

1 call CIB supervisors.

2 This gets a little complicated also.
3 Every supervisor that's up in Major Crimes, if it's
4 auto theft, homicide, robbery, we take turns a week
5 at a time being on call. I'm actually on call this
6 week. I handle the whole county for anything that
7 goes out major crime-wise. It could be a homicide,
8 it could be anything. I get the phone call, I talk
9 to the patrol supervisor, I talk to anybody else I
10 need to talk to, to determine exactly what we have
11 and what resources we're going to need. Then I
12 determine what resources, who needs to go.

13 I will call out homicide tonight if it's
14 a homicide. I will call out robbery guys if it's a
15 robbery case.

16 So with that, we would call out our sex
17 crime detectives to respond to either the hospital
18 to meet the victim -- usually we have the primary
19 detective respond to the hospital and we'll send
20 out the secondary detective to the actual scene if
21 we have a scene.

22 Then once again, it depends on how big of

1 a case it is. Or if it's a who-done-it, we'll
2 actually get the whole squad to respond to assist
3 with whatever we need.

4 LIEUTENANT THOMPSON: Crime scene will go
5 out as necessary, depending. An interesting part
6 about -- the rotation may seem a little bit
7 complicated or convoluted to you, but invariably
8 what will happen if I have a second lieutenant
9 that's in charge of, say, the auto squad and he
10 gets a complicated sex case, because they can be
11 complicated, he's got to call Mark.

12 LIEUTENANT KIDD: He'll call me.

13 LIEUTENANT THOMPSON: It just works that
14 way. It's pretty good communication between all of
15 them. And if that doesn't work, then they'll call
16 me.

17 LIEUTENANT KIDD: Steve, you want to go
18 into some of the investigations.

19 DETECTIVE WALLACE: From start to finish?

20 LIEUTENANT KIDD: Start to finish, and
21 you can do statement releases. I haven't heard
22 statement releases. Do you guys do statement

1 releases at all?

2 DETECTIVE GELUSO: No.

3 LIEUTENANT THOMPSON: We do those -- I
4 just wanted to bring up one thing I had a question
5 for you. We have protocols in place that if a
6 person is a victim of a rape and they don't want to
7 report it to the police department, they can report
8 directly to Fairfax Hospital and have their own
9 SANE exam. Then what ends up happening with that
10 is -- and Steve's going to be a little bit more
11 schooled on this than me, but we end up taking
12 custody of that evidence, so that that victim
13 doesn't have to make a decision that night that she
14 wants to talk to the police, or he, depending on
15 what the circumstances are.

16 LIEUTENANT KIDD: Do you call that blind?

17 DETECTIVE GELUSO: Blind reporting.

18 LIEUTENANT KIDD: That's the SANE? It's
19 called anonymous SANE. The same thing. We go pick
20 it up from the hospital, we store it for one year,
21 and after one year it's destroyed, similar to what
22 Virginia Beach does.

1 LIEUTENANT THOMPSON: Do you have a lot
2 of those cases?

3 DETECTIVE GELUSO: I'm sorry?

4 LIEUTENANT THOMPSON: Do you have a lot
5 like that?

6 DETECTIVE GELUSO: No, no.

7 LIEUTENANT THOMPSON: How about us?

8 LIEUTENANT KIDD: 10, 15 a year.

9 DETECTIVE WALLACE: It's picked up every
10 year, every year since the law. I think it was
11 2008 it started, July 1, 2008.

12 DETECTIVE GELUSO: And we keep just a
13 sheet just by year as far as the blind reports.
14 But I find that there is a decrease. It seemed
15 like there was an increase in the very beginning,
16 but then the last couple years there's a
17 significant decrease.

18 LIEUTENANT KIDD: I have about 14 or 15
19 for this year, just anonymous.

20 DETECTIVE GELUSO: Yes, I think we're
21 about the same.

22 MR. STRAND: You keep the evidence for a

1 year and then destroy it?

2 LIEUTENANT KIDD: It's destroyed after a
3 year.

4 MR. STRAND: Do you make an attempt to
5 contact the victim?

6 LIEUTENANT THOMPSON: We do not.

7 LIEUTENANT KIDD: No. It's the same
8 thing. As a matter of fact, we put it right on the
9 property sheet. So the property room knows if it's
10 a year, past that date, and we haven't told them to
11 hold it, they'll destroy it.

12 COLONEL SCHOLZ: You just hold it? You
13 don't do anything else?

14 LIEUTENANT KIDD: No, we don't do
15 anything.

16 DETECTIVE WALLACE: In fact, the lab
17 wouldn't do it unless we were going forward with
18 prosecution.

19 LIEUTENANT THOMPSON: The lab doesn't
20 like just testing things to test them. If they
21 know we're not going to be prosecuting the case,
22 they won't touch it. So we have to be sure that we

1 are going to move forward and prosecute this case
2 before we send anything to the lab.

3 Sometimes the lab is needed to help with
4 the evidence of the case, put the case together,
5 and they will do that, obviously.

6 MAJOR BARTNESS: If I may, that is
7 something we do a little differently in Baltimore.
8 I know you were all copied on the 2011 annual
9 report. We recently published the '13. We hold
10 the evidence for 15 months and then if the patient
11 has not reported -- it has a copy of our Jane Doe
12 policy in here: "If the patient has not reported
13 to law enforcement ten months from the date of
14 examination and the patient has authorized Mercy to
15 contact them prior to destruction of the evidence,
16 designated Mercy staff shall contact the patient to
17 remind them that the evidence will be destroyed at
18 the 15-month date."

19 LIEUTENANT KIDD: A lot of times it's
20 anonymous, so we don't have the information of who
21 it is. It's just a number. We have a SANE number.
22 They can contact us and say that they have a case,

1 reported case, this is my SANE number, and I can
2 track it through that and say, yes, I do have your
3 kit. But other than that, we don't have the name a
4 lot of times. So there's no way of reaching out to
5 the victim.

6 MR. STRAND: Have any of you had victims
7 come back after that year?

8 LIEUTENANT THOMPSON: We haven't.

9 LIEUTENANT KIDD: I don't think we've had
10 anybody come back after anonymous.

11 DETECTIVE GELUSO: The only thing
12 different would be cold case. I did some cold
13 cases where the kits had not been destroyed and I
14 had submitted them because of the DNA evidence and
15 had them analyzed, to the lab, and I was able to
16 get some hits and then open up cases as far back as
17 1973.

18 COLONEL HAM: That's been an issue that's
19 I've heard discussed with the Defense Department's
20 restricted reporting, this notion of at least
21 entering DNA into the database so if there's a hit
22 that might be a reason to go back to the victim to

1 say: Hey, you're not the only one; would you
2 consider converting?

3 DETECTIVE GELUSO: And it's frustrating,
4 because we actually had a blind report a couple
5 months ago where the MO was very similar to another
6 case. And I'd almost want to put money on -- we're
7 pretty sure it's the same person. Usually you want
8 to encourage a victim to cooperate, but this was
9 like, are you sure? We probably went overboard
10 trying to get her to cooperate. We wanted so bad
11 to find out what was in that kit, we even asked the
12 attorney, is there any way we can have it checked?
13 And no, we couldn't submit it to be checked.

14 MR. STRAND: Well, we know on the CODIS
15 hits, I think the defense crime lab said they got
16 50 CODIS hits just last year on the arrest CODIS
17 that went in. So you know that there's a certain
18 percentage of those that some of these kits in
19 unrestricted cases might give additional hits as
20 well.

21 LIEUTENANT THOMPSON: I guess the ones we
22 get, the anonymous ones, we don't get any

1 information about what the MO is and all. We get a
2 call from the hospital saying: Hey, we have three
3 PERK kits, physical evidence recovery kits. They
4 said they happened in Fairfax County. We need you
5 guys to come and get them. And whoever is
6 available goes and gets them and we put them in,
7 and we put them in as property cases because that's
8 what it is right now, it's our found property. And
9 we put them up for destruction in a year.

10 So we don't get the information, because
11 the nurse who did the SANE is usually not there
12 handing us the kit. So all we get is three kits,
13 here they are, these are the dates, and that's it.
14 Sometimes, like I said, it just says "Jane Doe,"
15 and then you have the PERK kit number, which is
16 what the victim's given. So she calls us back.
17 She can go: I'm kit number 123456, and then we can
18 arrange an interview. And then we have the most
19 important thing, which is the forensic evidence.

20 But again, in the years we've been doing
21 it we haven't had one person call back after doing
22 an anonymous SANE.

1 MAJOR BARTNESS: We'll send those cases
2 to serology and see if we can get a profile. We
3 have a couple of cases that are linked by DNA to
4 unknown offenders. We have one offender, he's
5 linked to five different sexual assaults. We don't
6 know who it is.

7 COLONEL SCHOLZ: That's terrible.

8 MAJOR BARTNESS: We have several that are
9 linked to three different -- the same offender,
10 three separate offenses.

11 MR. STRAND: In the future we'll be able
12 to get that DNA and it'll give us a composite
13 sketch, actually a picture, blue eyes, blond hair.

14 LIEUTENANT KIDD: Steve, do you want to
15 go?

16 DETECTIVE WALLACE: Yes. How our cases
17 usually start, they always come from the patrol
18 level. The detective's never going to be taking
19 the original report, whether it is a walk-in to the
20 hospital, a call to the residence, or a walk-in to
21 a station. It's the officer's job to get the
22 venue, to make sure we're dealing with the

1 jurisdiction, and get some elements of a crime.

2 Like we spoke before about the child
3 interviews, we make sure that they don't interview
4 children. But if it's an adult, we just ask them
5 to get a couple of the elements, not just, hey, I
6 was raped, because that's not really meeting the
7 elements of rape when it comes to the state code of
8 Virginia. So we just want a little bit of a story.

9 We don't want an in-depth interview from
10 the patrol. We want enough so that when they call
11 the supervisor and say, hey, the victim stated that
12 she was passed out drunk at a party, when she woke
13 up someone was having sex with her. Okay, that's
14 close enough to mental capacity -- I'm sorry,
15 physical witnesses. So we call in a detective.

16 If they're not already at the hospital,
17 we arrange to have them transported to the hospital
18 by patrol. We have them transported by patrol
19 because her body is a crime scene, so we don't want
20 her following and then she gets stuck at a red
21 light and then when we do come to court the patrol
22 officer is like, oh, she was just five minutes

1 behind me. That's the defense attorney saying:
2 Well, you have a break in your chain of evidence.

3 So they're transported there. They're
4 brought to the SANE room. In Fairfax Hospital
5 we're real lucky; we have our own individual SANE
6 room in the back. All the detectives for Fairfax
7 at least, we all have hospital ID's that we can now
8 swipe in and get there. They just redid the SANE
9 room about a year ago. It's very nice now.
10 They've got two separate exam rooms, two waiting
11 rooms, and then the little waiting lobby even with
12 a TV and toys, because you get a lot of victims
13 sometimes who were assaulted who bring their
14 children with them and you have to have something
15 to do with them, or someone who might have come
16 with them for comfort.

17 As Lieutenant Thompson says, we work very
18 closely with the victim advocates. That works well
19 for us. We never have them in an interview with us
20 because we do not want to make them a witness.
21 When it comes to court, we want the victim advocate
22 with the victim sitting outside in the waiting

1 room, making sure they're comfortable, making sure
2 they get there on time.

3 What we don't want is the victim advocate
4 being separated from them because now they're being
5 called as a witness. So we want to be able to say:
6 Hey, she doesn't know anything about the case
7 other than what I've related to her just to tell
8 her what she needs to do for the victim.

9 Victim advocates are also excellent in
10 the fact that they can go through the Commonwealth
11 of Virginia's Criminal Injury Compensation Fund to
12 help possibly with medical bills and stuff like
13 that, stuff that I don't have access to doing that.
14 That's where they come into play to assist us.

15 When we get down to the SANE room,
16 usually the SANE nurses are not there. They're on
17 call 24-7 and it's my responsibility to page out
18 the SANE nurse. The SANE nurse should not be paged
19 out by our patrol officer. Depending on the case,
20 I'll page them out, depending.

21 Every case is different. I'll page them
22 when I'm en route, I'll page them when I first get

1 the call, or I'll page them after I talk to the
2 victim because we haven't worked out a lot of
3 things, like where it actually did happen. Maybe
4 the patrol officer told me they think it was
5 Fairfax. So before we start doing that, we just
6 kind of slow everything down.

7 When we get it from patrol, it's a, hurry
8 up, see what we can do with the case. When we get
9 there, slow down, let's take this one step at a
10 time, we're not in a rush.

11 The SANE nurses come out after we page
12 them. They come out, do the SANE exam, turn over
13 the PERK, the physical evidence recovery kit, to
14 us. During that time is when we do our interview.

15 Again, we try to give a little control back to the
16 victims. Everybody is different, but we don't try
17 to push them.

18 If it's one of those victims who's like,
19 hey, I don't want to talk tonight, but I want to go
20 forward, that's fine. Let's do the most important
21 thing, which is the evidence recovery. You could
22 tell me your story tomorrow, you could tell me your

1 story three months from now, but the DNA can be
2 washed away and DNA can disappear during that time.

3 Our policy is different for SANE, what
4 I've heard of a couple of the other jurisdictions.

5 We do SANE exams for up to five days after the
6 assault. Our rule is 120 hours for a vaginal
7 penetration, 72 hours for an anal penetration, and
8 24 hours for oral penetration.

9 By that, we usually go up to that 120
10 hours to the dot. So when I'm getting the
11 information from the victim, I'm trying to get as
12 close to the time line if we're getting close to
13 that five days of when you were actually sexually
14 assaulted. Don't tell me in the mid-afternoon.
15 Was it like 11:00 o'clock? Was it like 3:00
16 o'clock, just so that we know if we're getting
17 close to that five days, is the SANE nurse going to
18 come out. Sometimes they won't. They say it's
19 over five days, we're not coming.

20 After that, it's just the normal follow-
21 up that we always do. We have our acquaintance
22 cases and we have our stranger cases. Acquaintance

1 cases -- and I'm sure everybody else does this the
2 same way -- where the majority of our evidence is
3 going to be through what's called a controlled
4 phone call, which is a recorded call between the
5 suspect and the victim.

6 That's our most important thing, and
7 that's hard to get in this day and age because no
8 one talks on the phone any more. I get more and
9 more victims who are like: I only Facebook message
10 him; I don't know -- I have never talked to him.
11 I've actually had a victim say: If I called him,
12 he'd think something's going to be weird; I have
13 only texted him.

14 That makes life hard because someone's
15 defense is: Hey, I didn't text her, I didn't admit
16 to raping her; someone took my -- that was my
17 little brother took my phone; he was messing around
18 with my phone.

19 So what we're going through with
20 technology lately, it's coming up with even more
21 hurdles for us. It helps us in some ways because
22 everybody lives on their phone and we can get that

1 with a search warrant. But it makes it a little
2 harder when it comes to proving who was on the
3 other end of the phone. Now, if it's a voice you
4 can easily just say, hey, that's the guy's voice on
5 the tape and everything like that.

6 The stranger cases, like we said, it's a
7 lot more serious. A lot of resources are poured
8 into that. And again, as Lieutenant Kidd said, if
9 we do have a case where it's very complicated we're
10 lucky to have all the resources. We have it where
11 if we do need two detectives, one with the victim,
12 one to a crime scene, I have a detective from my
13 unit go out and I also have a crime scene
14 detective. There's always at least two crime scene
15 detectives on call and more available throughout
16 Fairfax County at all times.

17 The stranger cases get a lot more
18 resources because of the seriousness of it, the
19 seriousness to the public. If you've got a guy
20 who's grabbing someone and raping them at gunpoint
21 in the woods, it's a little more serious than the
22 two people who knew each other got drunk and then

1 took advantage of someone who was unconscious at
2 the time. And there's a little more media and
3 political pressure when you get one of the stranger
4 cases, because the commander's getting the pressure
5 from the chief, the chief's getting the pressure
6 from all the political heads, and the Washington
7 Post is calling for a comment, and there's Pat
8 Collins, who's just annoying.

9 But that's pretty much how we do it.
10 Some of the investigative tools that we use besides
11 the phone stings, we do a lot of neighborhood
12 canvasses when it comes to our stranger cases. It
13 just seems to be whenever some of these stranger
14 cases happen that we get the best of luck with that
15 with the fact that they're usually known to the
16 neighborhood in some way, whether they live there
17 or just travel to that area.

18 We have a composite sketch artist, or we
19 have a couple actually. But our composite sketch
20 artist, Rick Saxon, is one of the best I've seen.
21 When we've arrested some people, it looks like he
22 just drew their picture, it's so good. I'm sure

1 you've seen a lot of his work on News 4 and Channel
2 7 when they do show that stuff. That's one of the
3 good resources that we have.

4 We do cooperate with all the other
5 agencies around, Falls Church, Arlington, Loudoun,
6 Prince William, the military, as we spoke, Air
7 Force. I've had in the most recent case great
8 cooperation, to be able to just them for something
9 and get something without having to jump through so
10 much red tape, knowing that it's a difficult
11 investigation.

12 You're not going to get a more
13 complicated investigation than a sex crime. No one
14 believes -- doesn't believe a victim when they say
15 they were robbed. People don't believe the victim
16 when they say they were sexually assaulted, so it
17 makes our jobs a lot harder.

18 One of our other biggest challenges is
19 alcohol. Probably 70 percent of our cases will
20 come through that. That's a big issue because we
21 have a problem here in Virginia. I don't know how
22 the other jurisdictions are, but our jurors get

1 turned off when it comes to alcohol and victims and
2 suspects and stuff, and that's a big hurdle for us
3 to overcome.

4 MR. STRAND: What's your threshold? Do
5 you have substantial incapacitation? Do they have
6 to be passed out? Is it just incapacitated?

7 DETECTIVE WALLACE: It's pretty much our
8 commonwealth will not go forward unless they're
9 passed out or so physically incapacitated that we
10 have some sort of witness, where we actually have
11 had someone walks in on their friend being raped at
12 a party and when they've chased the guy away they
13 can't even get her -- she might be awake and her
14 eyes open, but -- it's a hard threshold to meet.

15 But we get so many people who come in and
16 say, well, I was drunk, I wouldn't have done that
17 but I was drunk. But if you were walking under
18 your own power, our commonwealth attorney is not
19 going to go forward with that case unless we have
20 other evidence.

21 COLONEL SCHOLZ: Or what if you wake up -
22 - that's a common scenario -- wake up and the

1 person's having sex with you?

2 DETECTIVE WALLACE: Honestly, that's
3 where our phone, controlled phone calls come from,
4 when someone will admit: Hey, I'm sorry you passed
5 out in the middle; I noticed it, but I just kept
6 going. Well, then we're going to be going forward
7 because they've admitted it.

8 But short of a witness, like I said, if
9 it's just drunk, the commonwealth attorney is going
10 to say: Hey, they're just drunk; they're not going
11 to believe that in front of a jury.

12 MS. JAUS: That's 90 percent of our
13 cases.

14 MR. STRAND: Have you ever had the
15 military take on any of those cases?

16 DETECTIVE WALLACE: Excuse me?

17 MR. STRAND: Have you ever had the
18 military take on any of those cases?

19 DETECTIVE WALLACE: No. Actually, the
20 last one I just had with the Air Force, they
21 requested it and our commonwealth attorney denied
22 it, so they were going to keep it. Why they did

1 that, I don't --

2 MR. STRAND: Even though they weren't
3 going to go forward with it?

4 DETECTIVE WALLACE: What's that?

5 MR. STRAND: Even though they weren't
6 going to go forward with it?

7 DETECTIVE WALLACE: No. We were
8 prosecuting, but the Air Force did want it, and I
9 guess our commonwealth attorney decided, no, we're
10 going to keep it. I guess it was requested through
11 the Air Force.

12 COLONEL HAM: Is George Mason in Fairfax
13 or Prince William?

14 LIEUTENANT THOMPSON: Fairfax.

15 COLONEL HAM: What's your relationship
16 with the university on sexual assault offenses?

17 DETECTIVE WALLACE: Pretty much they
18 handle anything that's on their campus.

19 LIEUTENANT KIDD: Yes, they handle their
20 own cases.

21 DETECTIVE WALLACE: Yes, they handle
22 anything on their campus. Even though they're in

1 the county, we let them handle anything on the
2 campus. Now, if it's off campus, like at a house
3 of a student, it's our jurisdiction, we're handling
4 that if it's in Fairfax.

5 COLONEL HAM: When you say they handle,
6 you mean -- they must have their own police
7 department?

8 LIEUTENANT THOMPSON: Yes, they have
9 their own police department. Many universities do.

10 COLONEL HAM: Do they refer it out to you
11 for prosecution? They don't have a prosecuting
12 authority.

13 DETECTIVE WALLACE: Well, they go to a
14 commonwealth -- they don't have commonwealth
15 attorney. They come to our jail, they use our
16 courts.

17 LIEUTENANT KIDD: The same with the Town
18 of Herndon, the Town of Vienna, which are in
19 Fairfax County, and Fairfax City. They all use our
20 -- well, felony cases they do not. They use our
21 commonwealth attorney and our courts.

22 LIEUTENANT THOMPSON: But if it's

1 something that George Mason couldn't handle it or
2 they wanted more expertise, they call us.

3 DETECTIVE WALLACE: I think there's a
4 basic general detective there that handles
5 everything, everything from property crimes to --

6 MAJOR BARTNESS: In Baltimore, for our
7 universities -- Hopkins, Loyola, Maryland, whatever
8 it might be -- we handle it.

9 COLONEL HAM: Can I ask a question about
10 that? They're not an incorporated township or city
11 or anything. Why do they have the authority to
12 investigate their own crimes? I'm sorry, I'm
13 naive.

14 DETECTIVE WALLACE: I would assume just
15 that they are qualified through the CJS and they
16 have the jurisdiction on their land. And I think
17 we've never questioned it.

18 MS. JAUS: They're not prosecuting the
19 cases. They're bringing it to the court system
20 there. But their police officers are trained peace
21 officers.

22 LIEUTENANT CARTER: They go through our

1 academy, the Northern Virginia Commonwealth
2 Academy.

3 MR. STRAND: And your police officers on
4 your universities then are more security?

5 MAJOR BARTNESS: No, they have full
6 enforcement powers.

7 How it's not come to pass where they do
8 those investigations, I'm not sure the history of
9 it. As a little bit of an outsider evaluating that
10 decision, I'm glad the way it is. I think it
11 protects the university from allegations that
12 they're covering up sexual assaults because they
13 have to report these. There's strong incentive for
14 them to have very low crime rates on their
15 campuses.

16 MS. JAUS: We do that in New York. We
17 take all the cases. Regular NYPD does all the
18 cases at NYU, at all the different colleges,
19 Brooklyn College, everywhere. The peace officers
20 on the colleges do not handle the cases.

21 MR. STRAND: But I've been to some of the
22 other colleges in the New York system and they

1 handle the crime.

2 MS. JAUS: Yes, it just depends. It's
3 like the culture of the community. It just
4 depends. They do different things.

5 LIEUTENANT THOMPSON: I do know in
6 Virginia -- and some of the other folks might be
7 able to help more with this -- I do know there has
8 been some controversy over the years where some
9 folks, whether it be in Congress, the legislature,
10 or what have you, they want the local jurisdictions
11 to investigate sexual assaults on college campuses.

12 But I don't know that much as far as how that has
13 moved forward or not. But I do know that it has
14 been spoken about.

15 DETECTIVE WALLACE: And I wouldn't even
16 be able to tell you how many George Mason actually
17 has. Being in court all the time and talking with
18 prosecutors, I've never really dealt with a George
19 Mason detective or something up in circuit court,
20 which would be handling the prosecution of any
21 felony. I would assume the number is real low if
22 they haven't tried to reach out to us to try to

1 give it to us, because they don't have a big force.

2 So I'm assuming they'd try to give it to us if
3 they could.

4 LIEUTENANT KIDD: So I don't lose the
5 thought, real quickly, just an additional component
6 that we offer for our victims. If a victim is
7 injured to the extent during the assault that she,
8 for example, has to go to a level one trauma
9 center, well, that's not where our SAFE nurse
10 program is based. So our SAFE program has what
11 they call Go Kits, and they'll just pick up the bag
12 with cameras and so forth and go see the victim at
13 whatever hospital that they're at.

14 We do the same thing with our interviews
15 with our detectives, more so with children, because
16 children, it's typically a real narrow window of
17 opportunity, especially the younger they are, where
18 you're going to get a disclosure. So we'll do the
19 interviews at the hospital if we have to with the
20 video recording equipment.

21 DETECTIVE GELUSO: We've done the same
22 thing. We'll try to get that kit done before they

1 go into surgery. Or if somebody is deceased,
2 before anything, the body is moved, we have the
3 nurse examiner come to the scene and do the kit
4 before anything else is done.

5 DETECTIVE WALLACE: I guess we're
6 fortunate. If anybody in our jurisdiction is
7 seriously injured, they go into Fairfax and that's
8 where it is. They have a portable cart that they
9 just bring up. We've been up in ICU before, been
10 in the emergency room. They'll just bring
11 everything there. But if they're hurt seriously,
12 they're not going to any of the other surrounding
13 hospitals. They go to Fairfax because that's the
14 big trauma site for us. So we're kind of lucky in
15 that regard.

16 MR. STRAND: Will they go down in the
17 morgue, too?

18 DETECTIVE WALLACE: If needed, the body
19 would be moved right out to the department of
20 forensic science, medical examiner's office, right
21 away. And then if so -- I've never had to work an
22 actual sexual homicide -- I would assume the

1 medical examiner would arrange to have the SANE
2 nurse come out there if at all, if that's not
3 something they could do.

4 Just one thing, when they talk about
5 recording. We don't videotape our victim
6 interviews. The only reason is because all of them
7 take place at the SANE room. We don't have any
8 control of what they put in that SANE room. All
9 the detectives in child abuse and adult sex crimes
10 are all issued digital audio recorders and we all
11 audio record all of our victim interviews.

12 We explain to them, this is for your good
13 as well, because sometimes this case goes a year
14 and a half later. Well, we get it transcribed;
15 they're allowed to review it before court and it
16 will refresh their memory, especially if it is a
17 stranger case that happens in something like the
18 East Coast rapist, where one victim, it was 12
19 years in the past. So obviously she's not going to
20 be able to tell you what happened 12 years ago word
21 for word.

22 When it comes to our suspect interviews,

1 it depends whether or not we're at a police station
2 or if we're doing a knock-and-talk at the door. If
3 so, we'll audio record it at their house. But if
4 we get them to one of our district stations or our
5 headquarters, all our interview rooms are video
6 recorded.

7 LIEUTENANT THOMPSON: One of the other
8 things about the recording, down the road it also
9 protects the detectives. In case the victims come
10 back and say that the police officer or the
11 detective didn't do their job, there is some
12 evidence there that the officer or detective did.
13 That's helped us on a few things.

14 LIEUTENANT KIDD: One other challenge
15 we've had is the language barrier. I know with
16 Fairfax County many different languages are spoken.
17 We've run into that problem a lot of times.
18 Spanish speaking, we usually get an officer to
19 assist us. But we've run into problems even with
20 officers that are translating for us do not -- do
21 not translate I guess properly. And we've had
22 problems with that in court before. So that

1 obviously is an obstacle for us.

2 Then there is just some times we just
3 don't have anybody available to translate. We have
4 to use the language line and trying to use the
5 telephone to translate to a victim who's been
6 raped, very difficult.

7 LIEUTENANT THOMPSON: And the language
8 line is not going to be good evidence in court. We
9 won't be able to use it.

10 LIEUTENANT KIDD: It's just another
11 obstacle or challenge that we have dealing with
12 these cases.

13 GENERAL DUNN: I think we still have not
14 heard from someone down here.

15 DETECTIVE SLOAN: Yes, that's me.
16 Detective Sloan from Arlington. Welcome to
17 Arlington.

18 [Laughter.]

19 MR. STRAND: Are we safe here?

20 DETECTIVE SLOAN: What's that?

21 MR. STRAND: Are we safe here right now?

22 DETECTIVE SLOAN: Probably not.

1 [Laughter.]

2 DETECTIVE SLOAN: We have 230,000 folks
3 that live here. Our police department is about
4 365. Our population grows during the day because
5 we have a lot of corporate businesses and --

6 GENERAL DUNN: People like us.

7 DETECTIVE SLOAN: -- military people like
8 you.

9 Our SVU is very similar to the Beach's.
10 It's eight folks and we do crimes against children,
11 physical and sexual, sex crimes against adults, and
12 sort of any family-related crimes or relationship-
13 related crimes.

14 The patrolman's journey to that CID to
15 become a detective is just like everybody else's.
16 They start out, they go to the academy, they learn
17 about responding to a sex crime and how to handle
18 it, and they go through a process. Then to become
19 a detective they have to go through an application
20 process just like everybody else.

21 My unit has one lieutenant and, like I
22 said, eight detectives. Over our lieutenant is a

1 captain of CID, Criminal Investigation Division,
2 which has burglary, robbery, homicide, everything
3 in it. Then above him is the deputy chief.

4 Everything does get reviewed, just like
5 everybody else. If I unfound or close a case or
6 whatever, it goes to my lieutenant, he signs it,
7 and it has to be reviewed by the captain.

8 Everything's very similar. I'm trying to
9 think of what's different. I'll just give you an
10 idea of sort of a typical response that we will
11 have. We'll get calls. Usually it's at like 2:30,
12 right after you fall asleep because you've been out
13 doing something. What will happen is the road will
14 come across a violation, and the supervisor from
15 the road will evaluate it and call our lieutenant
16 or else whoever is filling in for him.

17 At that point he'll sort of determine how
18 many guys to call in, males and females to call in,
19 how many detectives to call in. And then they'll
20 respond. Usually what everyone is concerned about
21 is that you have a crime scene somewhere that has
22 to be processed, and you may need a search warrant

1 for it or maybe not. You don't know yet. And
2 there's a victim who may need medical attention and
3 is going to need a SANE exam and is going to need
4 to be interviewed.

5 And then there's a suspect out there who
6 you may or may not want to try and catch quickly,
7 depending on if it's an acquaintance situation or
8 not. And that person is also going to need a PERK.

9 And there may be a secondary crime scene. He may
10 have transported her in a car or he may have a
11 phone on him that can tell where he's been. Or he
12 may have come home and wiped himself off with a
13 towel thrown on the bathroom floor in his
14 apartment.

15 That also, that right there can be three
16 search warrants. That can be for the person, for
17 his place, for his phone.

18 We also have a lot of -- well, those are
19 the obstacles we have to deal with. So sometimes
20 you've got to call in like three people to handle
21 all of that.

22 We also have a lot of cases, like

1 Fairfax, the alcohol-related cases. You guys are
2 familiar with Clarendon. Clarendon is like this
3 booming, trendy place. It's a lot of fun to hang
4 out, but I try and leave by like 10:30 because bad
5 things happen. And a lot of young people go there
6 and they drink a lot, and we just have countless
7 cases where folks wake up the next day and they're
8 in somebody's bed with no clothes on that they
9 don't know. And they're pretty convinced that what
10 happened to them was that they were incapacitated.

11 So we also use the phone stings to try and
12 investigate those cases.

13 We use the same anonymous reporting. We
14 have the same SANE center we go to that Fairfax
15 County uses. We also videotape all of our suspect
16 interviews that are done at the station. It's not
17 by policy for victims, but we try and do it
18 whenever we can. I agree with everyone, it makes
19 the cops better interviewers. It makes them better
20 cops.

21 I don't know what else to say. We're
22 kind of new with the advocate thing. We've been

1 using the advocates that are in the commonwealth
2 attorney's office, but our boss is sort of working
3 with Project Peace to determine if there might be
4 an additional element that we could have on board
5 there.

6 GENERAL DUNN: Which hospital do you use?
7 Also Fairfax?

8 DETECTIVE SLOAN: Fairfax Hospital.

9 GENERAL DUNN: Fairfax Hospital.

10 COLONEL HAM: How do you go forward with
11 those cases under the fact scenario you described,
12 somebody wakes up in the morning and doesn't know
13 what happened, if you don't get a pretext phone
14 call?

15 DETECTIVE SLOAN: I imagine you have a
16 lot of that in the military right now, with all the
17 young, 20-year-old people.

18 COLONEL SCHOLZ: It's everywhere. We
19 have it everywhere.

20 DETECTIVE SLOAN: It's what's happening
21 to the world, yes.

22 Well, generally the person -- it's always

1 happened to me, I don't know if it has to you, but
2 they don't run to the phone. They're kind of like
3 a little shocked and embarrassed or whatever. They
4 get their things and they go home, and almost
5 always it's like at least a half a day of them
6 talking to their friends and they're trying to
7 work, when was the last time you saw me, and all
8 this stuff.

9 So by the time they call us and we
10 respond to it, usually the suspect doesn't know
11 what's happening. We handle it the same way. We
12 handle it -- if they feel like they passed out in a
13 cab, someone picked them up, carried them
14 unconsciously and raped them, we handle it that way
15 as far as collecting evidence and interviewing them
16 and treating them this way.

17 There have been cases where I'm thinking
18 the same thing happened and our detective who was
19 investigating it, he was able to get security
20 footage from the apartment where the girl lived and
21 she doesn't remember any of it. She had grass in
22 her hair and all this when she told us. But she

1 walked right up and hit the code and let herself
2 in. So she was in a blackout phase.

3 Those cases are really tough, because the
4 victim doesn't remember anything. They don't
5 remember if they consented, they don't remember if
6 they were passed out. The only witness you have is
7 the suspect.

8 So generally we do a phone sting. That's
9 usually the best way to handle those. They're not
10 always successful. Sometimes the other person will
11 be like: Well, you know, I was blacked out, too; I
12 was hoping you could tell me what happened.

13 But we do the same exam and at some point
14 we end up interviewing the suspect. I did recently
15 have a case where this happened and the guy -- I
16 couldn't believe it -- he was: Yeah, I'm really
17 sorry. She was like: I was passed out, I couldn't
18 have consented. And he was like: Yeah, I'm really
19 sorry. So sometimes we get lucky with that kind of
20 stuff.

21 MS. JAUS: Surveillance, do you ever use
22 that, surveillance cameras? We've been successful

1 with that with those kinds of cases. Maybe they
2 take them to a hotel and they carry them on their
3 shoulders.

4 DETECTIVE SLOAN: Yes, exactly.

5 MS. JAUS: We've been successful.

6 DETECTIVE SLOAN: Usually whenever
7 there's anything like that we do a video canvas for
8 any businesses or apartments that have security
9 cameras.

10 MR. STRAND: Would you normally talk to
11 other acquaintances that might have been there that
12 evening?

13 DETECTIVE SLOAN: Yes.

14 MR. STRAND: Even if you don't get
15 anything on the phone sting?

16 DETECTIVE SLOAN: Yes. That's a tough
17 one. Yes, you've got to wait usually, because they
18 all know each other. So if you talk to the
19 victim's friend, they may talk to another friend
20 who's pretty good friends with the suspect. So
21 you've got to kind of be careful about that.
22 Usually it's after the phone sting or after the

1 cat's out of the bag that it happens.

2 DETECTIVE WALLACE: The hardest one is
3 high school students, because it happened at a
4 party over the weekend and by Monday, with
5 cafeteria talk, everybody in the world knows.

6 MS. JAUS: And Social media.

7 DETECTIVE WALLACE: Yes. They tell one
8 person, they tell a thousand. So that's the first
9 thing we always tell them in acquaintance cases,
10 that if it's a juvenile don't tell anybody, even if
11 it's an adult; try to keep it quiet until we get on
12 the phone, because your best friend might also be
13 best friends with that guy and he's going to give
14 them a warning.

15 LIEUTENANT CARTER: May I say something?
16 I'm sorry. I just got an email. We had a sex
17 trafficking case in the city. I think we talked
18 about working with the military and other
19 jurisdictions, but we turned this over to the feds,
20 who came in. I think we talked about language
21 barriers. This was a lady from Peru who was
22 running a sex trafficking ring. She just got found

1 guilty in Alexandria through the feds.

2 She had women -- it's kind of weird. She
3 had women in different hotels. We've got a couple
4 of nasty hotels. It started out at patrol level,
5 but she had women in Arlington, Alexandria, Falls
6 Church, and Fairfax County, and they were all
7 illegal aliens, and what she would do is say: Hey,
8 if you don't do what I'm telling you to do I've got
9 ties with ICE and I'll have you deported.

10 MS. JAUS: Do you have a trafficking
11 statute in Virginia? Do you have your own?

12 LIEUTENANT CARTER: I'm not quite sure.

13 LIEUTENANT KIDD: I believe everything
14 goes federal.

15 MS. JAUS: You don't have your own. We
16 have our own in the New York system. We used to go
17 through the feds, now we have our own trafficking
18 statute, the same as the feds. Just we now have
19 our own.

20 LIEUTENANT KIDD: We actually investigate
21 the human trafficking part of it.

22 DETECTIVE WALLACE: And I believe they

1 work with the FBI.

2 LIEUTENANT KIDD: I don't know if it's
3 prosecute it through -- if it's through a task
4 force through the feds or not.

5 COLONEL HAM: But you turned it over
6 because of the multi-jurisdictional piece?

7 LIEUTENANT KIDD: Yes. The case was
8 investigated by Homeland Security, Fairfax County
9 Police Department. Arlington assisted, the City of
10 Falls Church. The United States Attorney, Michael
11 J. Frank, and a few others, prosecuted the case on
12 behalf of the United States. So it's just
13 something to reach out to with the feds and try to
14 deal with that also. It's just another thing.

15 DETECTIVE WALLACE: I guess one of our
16 other biggest challenges lately is the Internet,
17 because there's something like a back page, where
18 we've gotten a lot of prostitutes who have actually
19 been robbed and raped, and we've then had to
20 backtrack and find them. We've had detectives fly
21 to California because the girls would fly here to
22 make quick money and then disappear, but we know

1 they were raped or robbed based on video
2 surveillance, and then the detectives have to fly
3 to California or call California to get the SANE
4 done there.

5 The first thing they want to hear is,
6 who's paying for it? And then we've got to say:
7 Don't worry, the commonwealth attorney will send
8 you a check. And then we'll send detectives out to
9 do the interviews there. The Internet's just
10 making our job a lot harder.

11 DETECTIVE GELUSO: Another obstacle is
12 the appreciate Kik, K-i-k. It's Canada-based, so
13 our search warrants mean nothing to them. So some
14 of those cases -- I'm working with FBI on several
15 child pornography cases and one of the elements is
16 Kik, and they're having to use FBI's attorneys who
17 have some kind of understanding and submit letters
18 of request and court orders at a federal level to
19 have Canada comply to provide the evidence that we
20 need.

21 And that's the only way we can get it.
22 Local law enforcement, they won't even listen to

1 us. The FBI, we have to use them.

2 MR. STRAND: If you listen to the news
3 the last couple days, you would get the opposite
4 impression. Canada just announced a huge sting
5 that they were spearheading.

6 LIEUTENANT THOMPSON: Mayor Ford's still
7 on the loose.

8 [Laughter.]

9 MR. STRAND: How'd he do today?

10 GENERAL DUNN: He's going to come down
11 and be the mayor of Falls Church.

12 [Laughter.]

13 COLONEL HENLEY: Can I ask one last
14 question. Can each jurisdiction give me a sense of
15 how many adult sexual assault cases you try each
16 year and the percentage breakout of stranger versus
17 acquaintance?

18 MAJOR BARTNESS: I could give you, for
19 Baltimore City, I could give you a ballpark on the
20 stranger-acquaintance. It's about 50-50.

21 COLONEL HENLEY: 50-50?

22 MAJOR BARTNESS: Yes. That's a fairly

1 anecdotal sample, but I think pretty
2 representative.

3 In terms of -- I can do the homework for
4 you if you want me to send the data to Dillon and
5 then you can farm it out as you need to. I'll
6 check the prosecutorial information and get it.

7 COLONEL HENLEY: 50-50, about?

8 MAJOR BARTNESS: For stranger versus
9 known assailant.

10 LIEUTENANT KIDD: I'd say 85 percent of
11 ours is acquaintance.

12 LIEUTENANT THOMPSON: 90 percent.

13 DETECTIVE GELUSO: Absolutely.

14 I always get on -- I do a lot of training
15 and presentations in the community, and you always
16 hear sex offenders and the registry and what
17 they're allowed to do and not allowed to do. I
18 always try to drive home to them that the registry,
19 don't let that be such a safety net for you; you
20 need to worry about the people that you know,
21 unfortunately, and the people that haven't been
22 discovered, because most -- very rarely are they

1 going to be strangers. It's going to be somebody
2 that you know, an acquaintance. It's one of my pet
3 peeves, the registry.

4 MR. STRAND: It's hard to get on that
5 registry. It's very difficult to get on that
6 registry. You have to be convicted for a qualified
7 offense and most sex offenders aren't.

8 DETECTIVE GELUSO: Yes. In our
9 jurisdiction it has to be court-ordered as well.
10 If a judge happens to forget that on the
11 requirements, they might slip under the radar.

12 GENERAL DUNN: All right. Has anybody
13 got any more questions they would like to present?

14 MR. STRAND: I have just one. Does
15 anybody routinely, other than Baltimore's
16 experience where they reviewed the closed cases,
17 does any of your jurisdictions review closed cases
18 for quality control or anything like that?

19 DETECTIVE GELUSO: Our supervisors -- the
20 lieutenant, he actually will pull cases. I don't
21 know what their time frame is for it, but they have
22 to call so many people involved in our cases and

1 get feedback: How did the detective do? What was
2 the outcome? Were you satisfied? Again, I don't
3 know how many they have to do, but they do that.

4 LIEUTENANT CARTER: We do each year.

5 LIEUTENANT KIDD: I read every single
6 case, so I'd know. They'll usually brief me ahead
7 of time on what they're planning to do with the
8 case, but then I actually read their supplement
9 when they're done with it. And I approve every
10 supplement for sex crimes.

11 COLONEL HAM: Do you ever have any
12 outside agency review your unfounded in Baltimore?

13 MAJOR BARTNESS: Yes.

14 COLONEL HAM: And if they disagreed, that
15 it should be unfounded, but they didn't think the
16 investigation was sufficient, what would you do?

17 MAJOR BARTNESS: We'd reopen the case and
18 run out the additional investigative steps and
19 conduct additional interviews and so forth to
20 satisfy the questions that have been asked.

21 COLONEL HAM: What is the outside agency
22 that came in?

1 MAJOR BARTNESS: They're our SART members
2 -- MCASA, SALI, Sexual Assault Legal Institute,
3 they sit on it. The members of the SART group.
4 And I think the internal review at higher levels of
5 the chain of command I think is important, but I
6 think in lending legitimacy to the process that
7 external review is essential. It also gives you a
8 lot of cover if you're ever called to answer
9 questions. Your partners will speak up on your
10 behalf and they will insulate you.

11 COLONEL HAM: Is this something new since
12 your turnaround?

13 MAJOR BARTNESS: Yes.

14 COLONEL HAM: Is it going to be ongoing?

15 MAJOR BARTNESS: Yes. It's been ongoing
16 now for two years and if I ever have any say it
17 won't go away.

18 MR. STRAND: It sounds like overall it's
19 a great experience for Baltimore PD, overall.

20 MAJOR BARTNESS: I agree. It was a
21 little bloody at first, but in the long run fine.

22 MR. STRAND: Would you recommend every

1 police department go through that?

2 MAJOR BARTNESS: No.

3 [Laughter.]

4 MAJOR BARTNESS: If you don't have to,
5 no.

6 GENERAL DUNN: Thank you all very much.
7 It's been extremely valuable to the members of the
8 subcommittee. Thank you very much for your time.
9 We appreciate it. I know it's been a long
10 afternoon. Thank you.

11 [Pause.]

12 GENERAL DUNN: An issue that I wanted to
13 put on the record that I think the committee should
14 address is the issue of sting phone calls, pretext
15 phone calls. It appears that the different
16 military service general counsel's offices apply
17 different standards as to whether law enforcement
18 is allowed to do that and accept different approval
19 levels.

20 MS. FRIED: The meeting is adjourned.

21 [Whereupon, at 5:25 p.m., the meeting was
22 adjourned.]

