

UNITED STATES DEPARTMENT OF DEFENSE

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RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT
CRIMES PANEL

VICTIM SERVICES SUBCOMMITTEE

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CONFERENCE CALL

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THURSDAY
MARCH 27, 2014

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The Subcommittee convened telephonically at 2:30 p.m. Eastern Daylight Time, Mai Fernandez, Chair, presiding.

PRESENT:

Mai Fernandez, Chair
Dean Michelle J. Anderson
William Cassara
Meg Garvin
Honorable Elizabeth Holtzman
Honorable Christel Marquardt
Brigadier General Colleen McGuire, Retired

STAFF:

Maria Fried, Designated Federal Official
Colonel Patricia Ham, Staff Director
Commander Sherry King

Rachel Landsee

Kristin McGrory

Terri Saunders

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

2:34 p.m.

MS. FRIED: We're good to go then.
We can open the meeting, and I'll let you guys
do your thing.

CHAIR FERNANDEZ: Great. Could we
just go around and say who's here? This is
Mai Fernandez.

DEAN ANDERSON: This is Michelle
Anderson.

BRIG GEN MCGUIRE: Colleen
McGuire.

JUDGE MARQUARDT: Christel
Marquardt.

MR. CASSARA: Bill Cassara.

REP. HOLTZMAN: Liz Holtzman.

CHAIR FERNANDEZ: Hi, Liz.

REP. HOLTZMAN: Hi. Hi,
everybody.

CHAIR FERNANDEZ: Let's go around
one more time, folks, just so we know
everybody who's on the phone. It's Mai

1 Fernandez.

2 DEAN ANDERSON: Michelle Anderson.

3 BRIG GEN MCGUIRE: Colleen

4 McGuire.

5 JUDGE MARQUARDT: Christel

6 Marquardt.

7 MR. CASSARA: Bill Cassara.

8 CHAIR FERNANDEZ: And Liz

9 Holtzman, okay.

10 REP. HOLTZMAN: Liz Holtzman, yes.

11 COL HAM: And then for the staff:

12 Commander King; Colonel Ham; Terri Saunders,

13 S-A-U-N-D-E-R-S; and Kristin McGrory, that's

14 K-R-I-S-T-I-N, McGrory; and Rachel Landsee.

15 That's spelled L-A-N-D-S-E-E. And to help our

16 court reporter, if everybody can please

17 remember to say their name before they start,

18 at least until he can recognize the voices.

19 CHAIR FERNANDEZ: Sure thing.

20 Okay. This is Mai Fernandez, and I, once

21 again, wanted to start off by saying I think

22 the staff did a nice job at encapsulating all

1 the testimony that we heard on the Special
2 Victims' Counsel.

3 I also wanted to ask the
4 Subcommittee that, as we're deliberating, if
5 there's any purely editing issues that you
6 have, to just submit those to the staff and
7 let's just deliberate on the substance and not
8 on any of the grammatical or style issues. If
9 we could just submit those directly to the
10 staff, that would be great.

11 You know, I didn't have a lot of
12 issues with what was in here. There's a long
13 explanation, which I think is needed because
14 this is such a new concept for most people.
15 And I thought that most of our findings were
16 on the short side and our recommendations, but
17 I didn't remember any additional ones that we
18 came up with when we deliberated when we were
19 all together. So I kind of wanted to open up
20 the discussion to others who may have had
21 other issues.

22 DEAN ANDERSON: Are we

1 deliberating, just to clarify -- this is
2 Michelle. Are we deliberating on the findings
3 and recommendations first in the way that we
4 did last time, or are we sort of going through
5 the draft as a whole?

6 CHAIR FERNANDEZ: Well, we might
7 want to get through the findings and
8 recommendations first and just have those done
9 and then go through the rest of the report.

10 DEAN ANDERSON: Okay.

11 CHAIR FERNANDEZ: Okay. So
12 starting with the findings and
13 recommendations, does anybody want to start us
14 off with anything, any additional findings or
15 recommendations that weren't listed here?

16 MR. CASSARA: Mai, this is Bill.
17 Mine is really more in the form of a question
18 as to what, if anything, we had decided on a
19 particular issue. You know, I'm old, my
20 memory isn't very good, but am I remembering
21 correctly that we decided against recommending
22 any form of a uniform rank or years of

1 experience to the services in terms of the
2 SVC? In other words, we said we're not going
3 to say they have to be of X rank and they have
4 to be of X years of experience; am I correct
5 on that?

6 BRIG GEN MCGUIRE: Yes, that's my
7 understanding. This is Colleen.

8 MR. CASSARA: Does everybody else
9 recall the same way?

10 CHAIR FERNANDEZ: Yes.

11 MR. CASSARA: Okay. I just wanted
12 to clarify that. Thank you.

13 DEAN ANDERSON: This is Michelle.
14 I just wanted to understand, though. My sense
15 is that the services are fairly uniform on
16 this question, and I wonder if we do want to
17 make a recommendation of a minimum number of
18 years, I don't know, maybe three, of trial
19 experience, maybe one, I'm not sure, but just
20 putting in a floor so that our recommendation
21 that there be appropriate trial experience at
22 least include something. You know what I

1 mean?

2 CHAIR FERNANDEZ: Christel, go
3 ahead.

4 JUDGE MARQUARDT: I agree that,
5 especially that second-last sentence that the
6 officer must have actual courtroom experience,
7 I think there should be a minimum time and it
8 should include participation in courts-
9 martial. I think with the inclusion of that
10 last sentence, the Services will determine
11 what constitutes appropriate, I think is way
12 too broad.

13 CHAIR FERNANDEZ: What do others
14 think about that issue?

15 MR. CASSARA: My main concern is
16 for the Coast Guard folks, I'm thinking of
17 them in particular right now, who don't do a
18 whole lot of cases. If we put X number of
19 trials as a requirement, there may not be
20 anybody in the Coast Guard. They just don't
21 do many cases.

22 REP. HOLTZMAN: Well, there should

1 be some way to determine experience.

2 CHAIR FERNANDEZ: Aren't we saying
3 courtroom experience, though?

4 DEAN ANDERSON: Right. Any kind
5 of courtroom experience. This is Michelle.

6 MR. CASSARA: And, Sherry, you've
7 probably dealt with more Coast Guard folks
8 than any of us have. Am I correct in my
9 recollection and understanding that they just
10 don't do a lot of these cases?

11 CDR KING: They don't do a lot
12 cases. What I've seen is the Coast Guard
13 working with Marines and with Navy people and
14 getting experience that way. They sometimes
15 send them over to do trial work on either
16 side, and I've seen them in the Marine Corps,
17 also. Like at Camp Pendleton, they had the
18 Coast Guard people. So they fit them in so
19 that they get experience sometimes, but they
20 really don't do that many cases, so there's a
21 lot of them with probably no experience in
22 trial work.

1 MR. CASSARA: We need a good
2 admiralty lawyer, that's who we call.

3 COL HAM: This is Colonel Ham. In
4 some of the other Subcommittee discussions is
5 the consideration that, although someone might
6 not have a lot of military justice experience,
7 they may, for example, be an assistant U.S.
8 attorney in their civilian life, and be a
9 reservist. So there's some discussion about
10 whether or not you -- how you word it. You
11 might not want to eliminate that type of
12 person, who has a lot of experience but not
13 necessarily active duty trial experience.

14 REP. HOLTZMAN: I sort of, I'm not
15 unhappy about leaving this vague, because I
16 don't think, you know, we've heard exactly how
17 much trial experience, on the military justice
18 side, people actually need. So I think, you
19 know, we take qualify people to -- so I don't
20 know that I feel strongly that we should be
21 prescribing a floor here. I mean, I know what
22 you're trying to accomplish, but there may be

1 people who fall outside that and, given the
2 problems there are going to be in terms of
3 funding and all the rest, I don't know that we
4 want to make it harder. That's all.

5 DEAN ANDERSON: Okay. So this is
6 Michelle. I think that's right, Liz. I would
7 suggest that we get rid of the last sentence
8 on the recommendation then, because the last
9 sentence seems to grant discretion in ways
10 that we're not actually -- but it's
11 technically correct but that there's no reason
12 for us to underscore.

13 The second sentence of the
14 recommendation says, the service will require
15 counsel to have appropriate trial experience.
16 We could even take out the quotation marks and
17 just say it's not enough that the individual
18 serve in a military justice billet, rather
19 you've got to have actual courtroom experience
20 and participation in courts-martial, period.
21 I'd feel more comfortable. It would seem less
22 ambiguous, actually, if we took out the last

1 sentence.

2 BRIG GEN MCGUIRE: I agree. This
3 is Colleen.

4 REP. HOLTZMAN: I think that's a
5 good suggestion.

6 CHAIR FERNANDEZ: Okay. Does
7 everybody agree we take out the last sentence?
8 This is Mai.

9 MR. CASSARA: Yes, that's fine.
10 Thank you.

11 CHAIR FERNANDEZ: Okay, okay.
12 Let's go to finding number two.

13 JUDGE MARQUARDT: Well, I thought
14 part of direction was to look for the best
15 practice.

16 CHAIR FERNANDEZ: I couldn't hear
17 you, Christel. What did you say?

18 JUDGE MARQUARDT: I thought part
19 of our direction was to look for the best
20 practices.

21 CHAIR FERNANDEZ: I think the
22 problem is that, for the most part, they've

1 been up and running for such a short period of
2 time, there's no way of determining right now
3 what a best practice would be.

4 CDR KING: Was that Dean Anderson
5 speaking?

6 CHAIR FERNANDEZ: No, I'm sorry.
7 This is Mai.

8 CDR KING: I'm sorry, Mai.

9 CHAIR FERNANDEZ: No, no, no
10 problem. So I think it is, I mean, these
11 programs have to be up and running for
12 probably at least a year before we can really
13 say, hey, you know, the Army has got a best
14 practice in doing this and we should all
15 emulate it.

16 DEAN ANDERSON: Well, this is
17 Michelle. I would agree with that, Mai. And
18 I think that the recommendation should be that
19 the services develop a mechanism of
20 determining best practices over the course of
21 the next calendar year, to be revised and
22 assessed on an annual basis. The reason is

1 that we only just now have just over 12 months
2 with the most mature of these programs, and we
3 need another set of time to be able to convene
4 and assess what are best practices, and make
5 those and highlight those for the other
6 services.

7 So, you know, in terms of the
8 recommendation, I think we might want to put
9 a time frame to say that we believe that in
10 another six months to a year we would have
11 enough experience to develop, to identify and
12 disseminate best practices among the services
13 and that this should be done -- actually, I
14 think the last sentence should probably be
15 more explicit, but that's a different issue.
16 I'll bring it up in a minute.

17 JUDGE MARQUARDT: Well, it seems
18 to me that the Secretary of Defense should
19 direct the services to identify the best
20 practices of their individual program, because
21 the services will be able to see what is
22 working and what isn't.

1 REP. HOLTZMAN: This is Liz
2 Holtzman. But then they should be required to
3 share them --

4 JUDGE MARQUARDT: Absolutely.

5 REP. HOLTZMAN: -- and develop a
6 list and, that, you know, that would require
7 coordination. I don't know who does that,
8 whether that's a --

9 JUDGE MARQUARDT: It's SAPRO.

10 REP. HOLTZMAN: -- counsel,
11 whether it's SAPRO, the Acting General
12 Counsel, the Defense Department, or SAPRO or
13 somebody ought to be tasked with developing a
14 best practices list, and then annually
15 thereafter or more frequently, something like
16 that.

17 DEAN ANDERSON: Yes, I think
18 that's it.

19 JUDGE MARQUARDT: But we don't
20 want them just to develop a method of
21 determining. I think they should just be able
22 to identify those.

1 REP. HOLTZMAN: Yes, that's what
2 I'm saying. I thought I had made that clear.
3 I'm sorry. Yes, I agree with you completely.
4 You're right. That's what I thought I said,
5 but maybe I didn't.

6 CHAIR FERNANDEZ: So the services
7 identify and SAPRO collects and then allows
8 the sharing of those best practices. I think
9 that's what our directive should be.

10 COL HAM: SAPRO doesn't control
11 Special Victims' Counsel at all. Those are
12 all, the JAG programs are separate.

13 DEAN ANDERSON: This is Michelle.
14 Just to jump in on this, I don't think, this
15 is just conceptual about what it means to
16 develop a best practice. In my own
17 experience, it is not that an individual unit,
18 or service in this case or clinical program if
19 you're a law school, has a best practice. It
20 is that they come together, multiple units
21 come together and say: Look, this is what we
22 do, what do you do? Oh, this is what we do.

1 Oh, well, that's interesting. What are the
2 advantages and disadvantages of that?

3 And then they determine
4 collectively that, among them, the best
5 practice is this. In other words, if I only
6 see my own area of operation, I can't say this
7 is a best practice, because I don't know how
8 it compares to what the other teams are doing,
9 or the other units are doing.

10 So do we want to have -- I mean,
11 it does seem to me that what we don't want is
12 to say, you know, Marine Corps, tell us your
13 best practices, because it's navel gazing.
14 They say, well, we do this well. How do you
15 know that? You don't even know what the other
16 services do.

17 Don't we want a convening so that
18 people can make an assessment? You know,
19 after a year and a half of practice in this
20 area, would it be useful for leaders of the
21 different services, SVC teams, to come
22 together and to say we do it this way, we do

1 it this way, and, among us, we believe that
2 these are the best practices that we should
3 each emulate, and develop those.

4 CHAIR FERNANDEZ: I think that's a
5 good suggestion, and I think you're right,
6 Michelle. I mean, it's hard to say this is a
7 best practice when you have no comparison.

8 DEAN ANDERSON: Right. It only
9 becomes best relative to other things.

10 CHAIR FERNANDEZ: Right.

11 DEAN ANDERSON: So there has to be
12 a relative assessment, a collective, not
13 individual advocacies for what my program
14 does, when I don't even know what the other
15 programs do to take care of this issue,
16 whatever that issue is.

17 COL HAM: Did you want to direct -
18 - this is Colonel Ham. I guess there are a
19 couple of ways to do that. Have the Secretary
20 of Defense direct the chiefs, or heads, or
21 whatever they're calling them of the different
22 Special Victims' Counsel programs for the

1 services to collaborate? Do you want to
2 direct, or the Secretary of Defense direct a
3 working group --

4 DEAN ANDERSON: Yes, I think a
5 work --

6 COL HAM: -- of the -- yes, from
7 the different services, Special Victims'
8 Counsel from the different services, or --

9 DEAN ANDERSON: Yes, and I think
10 we should direct them to assess how they deal
11 with a range of issues that each of them deals
12 with; and, two, by discussion and
13 deliberation, develop a set of best practices
14 that are delivering services at the highest
15 level, you know, or through some other metric
16 of bestness. Obviously, we wouldn't say it
17 like that, but do you know what I mean? Like,
18 have them get together and make an assessment
19 of what constitutes a best practice in dealing
20 with a range of issues that SVCs have to
21 grapple with.

22 I don't think it's just sufficient

1 to have them have a working group. I think
2 they've got to deliberate on differences among
3 the services in how they address a range of
4 issues and to, among them, develop a list of
5 best practices for addressing them.

6 REP. HOLTZMAN: Well, I think that
7 that's a good idea, but I don't think you have
8 to spell that out. I think if you create a
9 working group and require them to come up with
10 a list of best practices, that's how they're
11 going to do it. I don't think we have to tell
12 them that they have to compare and contrast
13 and whatever. I think that would be the
14 normal part of coming up with best practices.

15 So I think it can be, I think you
16 can require them to do it, but I don't think
17 we have to go into that kind of detail.

18 That's all I'm saying.

19 COL HAM: For the court reporter,
20 that's Representative Holtzman.

21 REP. HOLTZMAN: And by the way,
22 why do we need the Secretary of Defense? Why

1 can't it be the General Counsel or somebody in
2 the, you know, legal chain of command? I just
3 --

4 CDR KING: The Secretary of
5 Defense would direct the General Counsel,
6 ma'am, I believe. But the General Counsel
7 doesn't control TJAGs like that.

8 REP. HOLTZMAN: I see. Well,
9 whoever the appropriate person is.

10 CDR KING: Okay, okay. And we can
11 figure that out or make sure it's the right
12 entity.

13 REP. HOLTZMAN: I mean, that's
14 just my concern that, you know, Secretary of
15 Defense may take it way too high. That's all.

16 CHAIR FERNANDEZ: Okay. Are we
17 good on recommendation number two?

18 BRIG GEN MCGUIRE: I think we are.

19 MR. CASSARA: I agree.

20 CHAIR FERNANDEZ: Okay. Is there
21 any amendments, while we're here, to the
22 findings or anything you want to add or take

1 out of there?

2 BRIG GEN MCGUIRE: I think it
3 looks fine.

4 DEAN ANDERSON: This is Michelle,
5 and I'm just wondering about the last sentence
6 of the recommendation where there's an online
7 website. I'm not sure what kind of other
8 websites there are, maybe it's just a website,
9 where a counsel are able to exchange
10 experience and information.

11 Right, so what that sentence
12 actually gets to is the information exchange
13 and comparative assessment that we want the
14 chiefs to engage in, and I think that there
15 are two separate things going on here. One is
16 that it may be useful, and this may already
17 exist, for SVCs to have a listserv that they
18 are subscribed to, on which they can ask
19 questions: hey, I've got this new issue, has
20 anyone ever faced this, which I think would be
21 terribly useful, particularly when they're
22 isolated, because there aren't too many of

1 them.

2 But I think that's different than
3 written materials, either online or in hard
4 copy, that, on an annual basis, the chiefs
5 have determined are the best practices that
6 they want to disseminate throughout the
7 services. Do you see what I'm saying? So I
8 might change that last sentence because I
9 think it conflates two different things.

10 CHAIR FERNANDEZ: So what do you
11 want it to say? How would you change it,
12 Michelle?

13 DEAN ANDERSON: Well, I think that
14 the assessment of best practices is different
15 than ongoing support for SVCs, who have to
16 grapple with issues that they've never
17 grappled with before. I think a listserv, or
18 an online website, or a blog, or some
19 electronic communication where people who are
20 relatively isolated can reach out to their
21 colleagues, and ask questions about the issues
22 they're facing is a good idea. But that's

1 different than developing a more static set of
2 materials, static only in the sense that it's
3 revised once a year, a static set of written
4 materials about the best practices that the
5 chiefs have come up with.

6 And I think, to the extent that
7 this recommendation is about the latter, it
8 should be about the latter. I also think that
9 the finding also suggests a second
10 recommendation, which is an electronic form of
11 communication between the SVCs about issues
12 that they're grappling with on a regular
13 basis, which is different than best practices.
14 That's basically like, look, I've got an
15 immigration issue that has come up here on
16 this sexual assault, or whatever. You know
17 what I mean? And I've never dealt with
18 something like that before, has anyone else?
19 And then someone else says, yes, I have, I'm
20 in Alaska, but this is what you do with it.

21 So I just think those are two
22 slightly different recommendations on the

1 finding that we've got limited experience, the
2 programs are relatively new. The limited
3 experience means that SVC should speak to one
4 another. The fact that the program is
5 relatively new means we want the chiefs of the
6 different services to get together and
7 exchange ideas, compare ideas, and come up
8 with best practices on an annual basis.

9 CHAIR FERNANDEZ: Hey, Meg.
10 Welcome aboard.

11 MS. GARVIN: Sorry I'm late,
12 everyone.

13 CHAIR FERNANDEZ: No worries.
14 Okay. So I think just the two things with the
15 findings and the recommendations have to look
16 at is, one, we've got to create some best
17 practices, and the way we're going to do that
18 is by creating a working group across the
19 different services to come together and pull
20 that together.

21 The second part is dissemination
22 and communication among Special Victims'

1 Counsels across services, and creating a way
2 to do that, creating either through a listserv
3 or through a website, or whatever they choose
4 to use. But those are the two things that we
5 need to kind of specify.

6 COL HAM: Right. And that may
7 exist already, so we'll make sure --

8 CHAIR FERNANDEZ: Exactly.

9 COL HAM: Yes, or it may just be
10 within each service at this point in time.
11 We'll confirm exactly what there is or isn't.

12 CHAIR FERNANDEZ: Okay. Thank
13 you, Colonel Ham.

14 DEAN ANDERSON: If there isn't one
15 that's across the services at this point, do
16 you want it to be in two separate findings,
17 and recommendations instead of have both the
18 best practices for the working group and then
19 the dissemination across the services in the
20 same one?

21 CHAIR FERNANDEZ: I think, for
22 priority sake, break them apart.

1 DEAN ANDERSON: I agree. That's
2 Michelle.

3 CHAIR FERNANDEZ: Okay. Let's
4 move on to finding number three, evaluation.
5 It's pretty straightforward.

6 JUDGE MARQUARDT: Could you --
7 this is Christel. Could you clarify for me
8 the difference between the metrics and the
9 evaluation?

10 CHAIR FERNANDEZ: The metrics and
11 the evaluation?

12 JUDGE MARQUARDT: In the
13 recommendation.

14 BRIG GEN MCGUIRE: I think what
15 she -- this is Colleen. I think the
16 difference between the standard evaluation and
17 metrics is just what is it that we're going to
18 evaluate, and what's the quantity, I mean, we
19 need to quantify the evaluation. So metrics
20 would be the quantifying, and the evaluation
21 would be what it was we were looking at.
22 That's how I interpreted it.

1 REP. HOLTZMAN: Doesn't evaluation
2 include metrics?

3 BRIG GEN MCGUIRE: Oh, no, not
4 always. I could do an evaluation and my
5 evaluation is good, bad, and better. I just
6 evaluated it as good. Well, how do you
7 measure good? The metrics are fill in the
8 blank.

9 REP. HOLTZMAN: Well, but that's
10 the point of the evaluation. I mean --

11 BRIG GEN MCGUIRE: I would argue
12 that there are evaluations out there that have
13 absolutely no metrics.

14 REP. HOLTZMAN: --so if you have
15 separate metrics, what are they used for? If
16 they're used for evaluation, then they become
17 part of an evaluation. That's the only point
18 I'm making. I mean, it's just a quibble about
19 words but --

20 BRIG GEN MCGUIRE: Okay, yes, or
21 we could say standard evaluation with metrics.

22 CHAIR FERNANDEZ: Yes, I like

1 that, actually. With specific metrics, yes.

2 JUDGE MARQUARDT: And I know we
3 don't need to get into wordsmithing, but I
4 think the words in the second line "which is
5 used" are redundant. I don't think you need
6 them in there.

7 BRIG GEN MCGUIRE: I agree with
8 you, I agree with you. But let's --

9 REP. HOLTZMAN: I'm just
10 suggesting something. Suppose there are no
11 metrics to measure any of these things. I
12 mean, you know, maybe you don't have a
13 quantitative way of evaluating some of the
14 best practices. So I just don't want us to
15 make a recommendation or where metrics, where
16 they're available, or usable or something like
17 that. But, I mean --

18 DEAN ANDERSON: Well, why not say,
19 why not say, Liz -- this is Michelle. Why not
20 just say with metrics where appropriate or
21 where applicable?

22 REP. HOLTZMAN: Yes, okay, that's

1 good.

2 COL HAM: This is Colonel Ham.
3 Some of the metrics, I think, have come up in
4 some of your presentations. One is victim
5 satisfaction, and I guess satisfaction with
6 what? With the attorney, with the process,
7 with the explanation of the process? Another
8 metric would be of those who -- or could be,
9 excuse me -- of those who asked or determined
10 they would like a Special Victims' Counsel
11 starting with the restrictive report, did they
12 convert to an unrestricted report? You know,
13 I guess another metric would be what functions
14 was the Special Victims' Counsel most helpful
15 with or least helpful with? You know, issues
16 with the command, issues with the prosecutor,
17 issues with the defense counsel. Those are
18 potential ones, I guess.

19 REP. HOLTZMAN: Colonel Ham, this
20 is Liz Holtzman. Those don't have to do with
21 best practices, necessarily.

22 COL HAM: I guess that's a

1 question, ma'am. Does that finding relate to,
2 finding number three, does that relate to, do
3 you want that just to relate --

4 REP. HOLTZMAN: Oh, I'm sorry.
5 Right. Excuse me. It says evaluation of
6 effectiveness. Oh, okay, sorry. I misread
7 it. You're right, Colonel. You're always
8 right.

9 CHAIR FERNANDEZ: You've got to
10 love it when Liz Holtzman tells you you're
11 always right. Colonel Ham, you can go home
12 happy now.

13 COL HAM: Yes, thank you. I'm
14 going to frame this part of the transcript and
15 give it to my husband. Thank you.

16 CHAIR FERNANDEZ: Yes, I don't
17 think her authority holds anything there, but
18 okay. Okay. So are we good with number three
19 now?

20 JUDGE MARQUARDT: Yes.

21 MR. CASSARA: Yes, ma'am.

22 CHAIR FERNANDEZ: Okay. Let's

1 move on to number four, where I think we'll
2 probably have more debate.

3 REP. HOLTZMAN: This is Liz
4 Holtzman. I just didn't understand number
5 four, the recommendation. The services should
6 extend SVC representation to a victim, so long
7 as a right of the victim exists and is at
8 issue.

9 CHAIR FERNANDEZ: Well, I guess
10 would it be that, if something goes to appeal,
11 but there's not an issue about a victim's
12 right, then you don't get to keep your Special
13 Victims' Counsel?

14 MR. CASSARA: Yes, I recall that
15 this is the one that we really struggled with.

16 REP. HOLTZMAN: That's what it
17 means. So it's only to vindicate a right of
18 the victim.

19 BRIG GEN MCGUIRE: Correct.

20 MR. CASSARA: Yes. I think it's
21 actually fairly well-worded, in terms of what
22 we were trying to accomplish.

1 REP. HOLTZMAN: What happens if,
2 you know, there are no victim rights on
3 appeal, but after the appeal it goes back in
4 retrial or something like that? I don't know
5 if that happens ever. What happens to the
6 right to counsel?

7 JUDGE MARQUARDT: Well, they may
8 be back at a court-martial where they have the
9 rights already set out by the statute, I
10 assume.

11 MR. CASSARA: That's correct. I
12 have two cases where that's the case right
13 now, and the SVC is, they just appointed a new
14 SVC.

15 REP. HOLTZMAN: Okay. So that's
16 not an issue. Okay, fine. I just wanted to
17 clarify that. Okay.

18 JUDGE MARQUARDT: I think the
19 staff did a great job on this, because I
20 thought it was a very hard issue.

21 MR. CASSARA: We grappled with it
22 for a long time. It's a very succinct two-

1 paragraph summary.

2 MS. GARVIN: Yes, this is Meg. I
3 agree.

4 DEAN ANDERSON: This is Michelle.
5 I agree.

6 CHAIR FERNANDEZ: Well, damn. I
7 thought this was going to be the hardest one,
8 and we're all in accordance.

9 JUDGE MARQUARDT: Let's go to
10 five.

11 DEAN ANDERSON: Before anyone
12 changes their mind.

13 JUDGE MARQUARDT: Right, go.

14 REP. HOLTZMAN: On five, do you
15 think you need to add something to this,
16 something to the effect of at the very end of
17 the recommendation and maybe release to the
18 SVC or the SVC and the victim? Because it
19 doesn't say the release of documents, it just
20 says to perform a review of the documents.

21 MR. CASSARA: Well, I think it
22 would be covered by the --

1 REP. HOLTZMAN: All right. Do you
2 think it's not necessary?

3 MR. CASSARA: Yes, it's going to
4 be covered by the rules of evidence, anyway.

5 COL HAM: This is Colonel Ham.
6 The staff had a couple of, I guess, issues
7 that you might want to resolve. The first one
8 is, as you recall, this was, the bubble
9 describes, deleted from last week's discussion
10 of victim rights. It's a discovery issue, but
11 we didn't want to delete it from this subject
12 unless you told us to, because it was in the
13 transcript.

14 And, secondly, there are some
15 issues with release, even if documents are
16 released to the counsel, if they are protected
17 by the Privacy Act, or some other laws that
18 constrain the Executive Branch that they may
19 only be released to the counsel and not be
20 able to be shown to the victim. That's a
21 little bit in the weeds, but that's in some of
22 the service standard operating procedures for

1 Special Victims' Counsel, so we wanted to be
2 sure that you knew about that.

3 MR. CASSARA: Colonel Ham, it's
4 Bill. I mean, I think what we're trying to
5 accomplish here, correct me if I'm wrong, is
6 basically the same thing that we do right now,
7 in terms of discovery and disclosure of
8 documents to a defense counsel.

9 COL HAM: Right.

10 MR. CASSARA: If I think that
11 there's something out there that's relevant,
12 I ask the judge to conduct an in-camera
13 review. And if that judge finds that it is
14 relevant to the defense, then he or she make
15 a determination as to how those documents will
16 be disseminated. For example, what a judge
17 will frequently do is say I'm going to hold
18 them in camera or, you know, in chambers, and
19 you can go to the clerk of court and the clerk
20 of court will allow you to review them, but
21 they're not going to leave this building, or
22 a judge may say, you know, each side gets one

1 copy and that's all.

2 I think we're basically saying the
3 same thing. We're trying to implement the
4 same procedure for victims; am I correct?
5 That's the overall goal here?

6 MS. GARVIN: Yes, I think so.
7 This is Meg.

8 MR. CASSARA: Yes. So, you know,
9 I mean, I think a military judge would perform
10 an in-camera review and determine what, if
11 any, documents are relevant to the asserted
12 right is absolutely on point. The judge will
13 determine the dissemination of that
14 information if he or she finds it relevant.

15 JUDGE MARQUARDT: I'm a little
16 confused -- this is Christel -- on the
17 recommendation, where you're recommending
18 legislation or policy. I think we should be
19 clear. It should either be legislation, or
20 policy because it leaves it so that either one
21 can say, well, I thought the other was going
22 to do it.

1 MS. GARVIN: And this is Meg. I
2 don't want to harp on what I said last time,
3 too. With regard to the recommendation, you
4 know, I believe it already exists. But my
5 recommendation would be that we recommend that
6 there be clarity in legislation or policy, or
7 whichever one we choose, because I'd hate for
8 our recommendation to be perceived that SVC
9 doesn't already have the right to ask for this
10 and get an in-camera review.

11 This would be in the trenches,
12 from what I understand. Not every SVC is
13 getting this, and we had testimony of it being
14 ad hoc. So I think the recommendation might
15 be that we recommend clarifying legislation,
16 or clarifying policy to provide this or
17 something along those lines.

18 REP. HOLTZMAN: Right. I think
19 that's good. But this is Liz Holtzman again.
20 But that's why I wanted to add something at
21 the end which goes to the release of those
22 documents, because, yes, we can leave it up to

1 something else. But if what Meg says is
2 accurate, then we would need testimony that
3 they're not always getting documents in which
4 they're entitled, and there ought be something
5 in here that suggests that this is what's
6 supposed to happen.

7 JUDGE MARQUARDT: I think that's a
8 good suggestion. This is Christel.

9 DEAN ANDERSON: As a global
10 comment -- this is Michelle -- I think that
11 it's rare that the document uses the first-
12 person plural "we." I would strongly
13 recommend against it. It actually decreases
14 the credibility of the recommendation when we
15 say "we recommend." Most of the time, the
16 recommendation says "Congress should," or "the
17 services shall" or something like that.

18 So I think we need to get rid of,
19 both in five and six, the recommendation says
20 "we recommend," which sounds like, well, who
21 the heck are you, rather than we have the
22 authority, because we've done the research and

1 this is our considered opinion that
2 legislation, that Congress, or whoever we're
3 directing, to engage in this practice to
4 clarify policy, or to implement policy that
5 clarifies that the victims have the right to
6 have access to records, through their SVCs
7 relevant to the assertion of particular
8 rights, etcetera, etcetera.

9 MS. GARVIN: And this is Meg. If
10 I heard you correctly, the current practice
11 with regard to defendants, thinking about
12 Liz's comment for the last sentence, would it
13 make sense and align with defense practice
14 right now if it said, once a request is made
15 by the SVC, the military judge will perform an
16 in-camera review to determine what, if any,
17 documents are relevant to the asserted right
18 and the method of disclosure of those
19 documents?

20 MR. CASSARA: Absolutely.

21 JUDGE MARQUARDT: So in this case,
22 would you be saying that every time a trial

1 counsel provides documents to the Special
2 Victims' Counsel it would go through the
3 military judge for an in-camera review?

4 MS. GARVIN: No.

5 DEAN ANDERSON: If that's how this
6 is reading, I would say no, because I think
7 what we're saying is when there's a question
8 about whether they can be released or not.

9 REP. HOLTZMAN: Yes, right. And
10 that's what, I think that's an ambiguity in
11 the second sentence of the recommendation.

12 DEAN ANDERSON: Got it, got it.

13 REP. HOLTZMAN: You know, that's
14 right. Who was the request made of? If the
15 request that's made of trial counsel is
16 denied, is really what you want to say here.
17 Is that really it?

18 DEAN ANDERSON: I think that's
19 correct.

20 REP. HOLTZMAN: Because once the
21 request by the SVC is denied by trial counsel,
22 the SVC may, you know, whatever it is, apply

1 to the judge. I don't know what the language
2 is, but something like that.

3 CHAIR FERNANDEZ: So have we
4 decided on that first sentence what we're
5 saying is "Congress shall?" And are we saying
6 legislation or policy? Which one are we
7 saying?

8 MS. GARVIN: I think it's policy.
9 I think the law already exists to allow for
10 this, which is rare for me to say.

11 CHAIR FERNANDEZ: Okay. Congress
12 shall clarify policy?

13 COL HAM: Secretary of Defense, or
14 the, depending on if it's an executive order,
15 the president.

16 BRIG GEN MCGUIRE: If we want to
17 modify the rules --

18 COL HAM: Right.

19 BRIG GEN MCGUIRE: -- the rules of
20 court-martial.

21 COL HAM: Right, but the Secretary
22 of Defense would forward it to -- the

1 Secretary of Defense, it seems, would be the
2 appropriate party, ma'am, because if he, if
3 it's something he can do through DoD policy,
4 he can do that. If it's something that has to
5 go to the president, he directs the Joint
6 Service Committee to prepare that for him.

7 CHAIR FERNANDEZ: Okay. So
8 Secretary of Defense shall clarify policy to
9 provide victims through SVC access to records,
10 blah, blah, blah, blah. And then the second
11 sentence, once a request is made by the SVC
12 and denied by trial defense counsel --

13 JUDGE MARQUARDT: Well, I thought
14 it was trial counsel.

15 CHAIR FERNANDEZ: Yes, sorry,
16 denied by trial counsel.

17 MR. CASSARA: I think we should
18 say if a request is made by the SVC and denied
19 by the trial counsel, the SVC may petition the
20 court and the military judge will perform an
21 in-camera review, dot, dot, dot.

22 MS. GARVIN: I agree. That's

1 good.

2 CHAIR FERNANDEZ: Okay. Six and
3 final.

4 REP. HOLTZMAN: This is Liz
5 Holtzman. The recommendation, are we saying
6 for how long and for what level? What is the
7 staffing level that's required here? What
8 does it mean based on the success of the
9 program?

10 JUDGE MARQUARDT: Maybe it's not
11 to sustain the program, but to maintain a
12 successful program.

13 DEAN ANDERSON: This is Michelle.
14 I'd like to second Christel's comment there
15 and change it from appropriate sufficient
16 funds to DoD to say something like appropriate
17 full funding to DoD to sustain the program in
18 each service and implement the improvements
19 the Response Systems Panel recommends.

20 BRIG GEN MCGUIRE: Instead of
21 based on successful program, it should be
22 based on, if an evaluation concludes the

1 success of the program or something like that,
2 because you need something to evaluate the
3 success on.

4 REP. HOLTZMAN: Yes, but you're
5 going to need funding for the program before
6 an evaluation is made because, if they're
7 going to evaluate it after it's been in effect
8 for a year, then, you know, since they may not
9 start this year when everything was put into
10 effect for all the services, and so then they
11 have to take time to pick an evaluator and
12 blah, blah, blah. So we're talking two years
13 maybe until an evaluation is out, and what
14 happens in that period of time?

15 JUDGE MARQUARDT: Well, that's why
16 I like the words to maintain a program that
17 meets the needs of the servicemen.

18 MS. GARVIN: So I would -- this is
19 Meg. Based on this conversation, I don't
20 think we say, based on the success of the
21 program we recommend. I say we just say
22 Congress shall appropriate sufficient funds to

1 DoD to sustain a robust program at a
2 sufficient level for the branches, or
3 something like that. I think we take out the
4 based on the success. I mean, our finding
5 says it's already looking like it's a success,
6 and elsewhere we say, keep evaluating it.

7 REP. HOLTZMAN: Well, I mean, I
8 guess I like your -- this is Liz Holtzman. I
9 like what you're suggesting, Meg. But my only
10 concern here is we have to be more specific,
11 because we're going to be facing cutbacks.
12 And so do we have to spell out somehow what
13 they need to do?

14 I mean, for example, let's assume
15 that they find that really you need, per
16 thousand members of the military, that you
17 need two SVCs or one, or maybe it's 10,000.
18 I mean, should it somehow be related to if
19 they find a certain level is necessary to
20 provide adequate services that the funding
21 should be sufficient to do that, or do you
22 think just general language to provide robust

1 funding, I mean to provide funding to provide
2 robust services that meets the needs of --
3 well, I don't know.

4 MS. GARVIN: I think your point is
5 well taken, Liz, that it needs to be, maybe
6 robust is the wrong word --

7 REP. HOLTZMAN: -- I like robust.

8 MS. GARVIN: Yes, so maybe it's
9 robust and adequate to provide services to all
10 servicemen as determined by future
11 evaluations, or something like that. I mean,
12 I'd hate to have it contingent. I'm just
13 worried about the opening language. I agree
14 more specificity of don't cut this down to one
15 SVC per, you know, 15,000. That would be
16 problematic. So I'm not sure of the right
17 language. I agree with you that the more
18 specific we can be the better, but I'm not
19 sure how to do it.

20 REP. HOLTZMAN: But for Congress
21 to allocate the money, we're going to have to
22 have some way to quantify it.

1 CHAIR FERNANDEZ: Well, can't we
2 say, you know, we need, we need adequate
3 funding for X amount of years until this can
4 be evaluated and we know how many SVCs we need
5 per number of troops? I mean, that's also
6 part of the evaluation: do we have enough, do
7 we have enough SVCs to deal with all the
8 problems that are coming up?

9 I mean, I think it's kind of like,
10 we need to keep this going for a few years
11 until we have time to evaluate it, and know
12 exactly how much a really good program will
13 cost because right now we're just guessing.

14 REP. HOLTZMAN: Well, maybe the
15 staff should try to write something like that.

16 CHAIR FERNANDEZ: Fully fund and
17 adequately man, something like that?

18 REP. HOLTZMAN: Let' not use the
19 word "man." I mean, that's an objection I
20 have all the way through this document.

21 CHAIR FERNANDEZ: Adequately
22 staff?

1 BRIG GEN MCGUIRE: One of the ways
2 the SVC talked about the program was right now
3 they're staffing it with reservists for a
4 temporary basis, but they've added and made a
5 request to Congress for X number of additional
6 lawyers in order to adequately staff. So --

7 MS. GARVIN: I'm sorry. Didn't we
8 also hear testimony, however, that right now
9 there's only one paralegal for multiple SVCs?
10 So staffing of the program is more than just
11 the sheer number of SVCs, I think.

12 COL HAM: So the word staff,
13 although that is more than for defense
14 counsel. To give you a comparison, I guess
15 there are about 500,000, a little bit more
16 than 500,000 soldiers in the Army, and there
17 are 130 active-duty defense counsel.

18 MS. GARVIN: And I'm not, I'm not
19 suggesting that we know the specific numbers.
20 I just, I like the general word "staff," at
21 whatever level. I just want to make sure that
22 we don't somehow say staff a certain number of

1 SVCs, because it could be determined that it's
2 SVC plus paralegal equals something. I don't
3 know. So I'm just concurring in the language
4 of staff, but making sure that we don't go on
5 and say how many SVCs.

6 REP. HOLTZMAN: Or you can say
7 that the staffing, that the funding of the SVC
8 program, including SVCs, paralegals, and other
9 support staff, is sufficient to serve the
10 needs of the victims of assault, sexual
11 assault.

12 CHAIR FERNANDEZ: Also, should we
13 take number six and actually put it after
14 number three? I still think that we need to
15 link funding and evaluation together.

16 REP. HOLTZMAN: Yes, good flow.

17 DEAN ANDERSON: But shouldn't
18 number six be number one? This is Michelle.
19 I mean, that's the overwhelming issue here
20 that we've heard from the victims, that they
21 believe that it makes an enormous difference
22 and it is our position that this should be

1 fully funded to sustain a robust program and
2 implement the improvements that we recommend.

3 REP. HOLTZMAN: Well, I sort of
4 liked tying it in with the evaluation just
5 because I think it flows easily that way.

6 CHAIR FERNANDEZ: We could make
7 six number one, and number three number two.
8 Anything that has to do with resources we
9 should sort of clump together. So what you
10 would have is the overarching number six, give
11 us enough money to make sure this thing works.
12 Number two is let's evaluate it. Number
13 three, let's figure out what the best
14 practices are so we can disseminate them.
15 Four, let's figure out a way to disseminate
16 them. And then you get to the actual, how do
17 these things work in court. Does that make
18 sense as far as flow? Hello? What's that?

19 JUDGE MARQUARDT: I said that's
20 fine. This is Christel.

21 REP. HOLTZMAN: I know this is a
22 little off the point, but when you were saying

1 it, speaking it, it occurred to me that, on
2 the best practices, maybe we need more than
3 just dissemination but maybe there needs to be
4 training on them, too.

5 CHAIR FERNANDEZ: Yes. No, I
6 think that that's -- yes, I think we should
7 put that in there. So, again, if we're just
8 going to take them in blocks, one is give us
9 enough money to make sure that we can make
10 this thing work. The next one is let us
11 evaluate it. The third is let's create best
12 practices. Fourth would be figure out how to
13 exchange best practices with one another.
14 Fifth would be training. And then we'd go
15 into six, which would be currently, six would
16 be number one. Seven would be number four.
17 Eight would be number five.

18 I think about things in terms of
19 narratives sometimes, and I'm just thinking,
20 you know, we think that this is a really good
21 program, but we need enough money to run it.
22 We need to make sure that it's doing what it's

1 supposed to be doing, but in addition to that,
2 there's other things that it needs. It needs
3 training, it needs best practices, and it
4 needs a way for people to communicate with
5 each other. And then these are some of the
6 specifics of what we need from the people in
7 it. These are the qualifications. And then,
8 lastly, these are a couple of specific issues
9 on how to deal with them in court.

10 REP. HOLTZMAN: It's a little bit
11 hard to really conceptualize all of that, but
12 once we get it on paper that way I think it
13 will really flow.

14 CHAIR FERNANDEZ: Anybody else?

15 MR. CASSARA: Yes. I'm fine with
16 that. I mean, I'm not particularly worried
17 about what order the recommendations are in,
18 but it certainly does make sense that we group
19 them together in, you know, in the order that
20 Michelle recommended. So I'm fine with that.

21 CHAIR FERNANDEZ: Okay. I think
22 we're done with the findings and

1 recommendations. Do we want to go to the
2 other sections now?

3 COL HAM: Ma'am, this is Colonel
4 Ham. Ms. McGrory -- Kristin is the most
5 familiar with all your transcripts on this,
6 but there was one other -- and I'll ask her to
7 pipe in if I'm misstating anything -- but
8 there was one other issue that you didn't
9 reach consensus on and that is whether you
10 wanted to comment at all on the organization
11 of Special Victims' Counsel programs. If you
12 recall, all the services, except the Army, has
13 set up an independent entity, and the Army has
14 not. And we didn't know if you wanted to
15 recommend the independent entity or something
16 else or just see how things develop and not
17 address it at all.

18 CHAIR FERNANDEZ: Is there some
19 way we can incorporate that into looking at
20 best practices and mention that that
21 specifically is something we want folks to
22 look at? The Army is doing it one way and the

1 rest of the services are doing it the other.
2 We want a moment for the services then to be
3 able to come together and see what's the best
4 practice. I don't know. I mean, that would
5 be my thought on it.

6 COL HAM: And in the body of the
7 discussions, I think the issue of potential
8 conflicts of interest is raised. Would you
9 like them to specifically address that in
10 their evaluation? Evaluation is the wrong
11 word. That's a different recommendation. In
12 their assessment of best practices.

13 CHAIR FERNANDEZ: To assess --
14 you've lost me on this.

15 COL HAM: In the discussion, the
16 body of the document, there's a discussion of
17 the different ways the Special Victims'
18 Counsel programs are organized right now.
19 And, again, the Army is the outlier in not
20 having an independent entity, which could
21 raise potential or actual conflicts of
22 interest because right now --

1 CHAIR FERNANDEZ: Oh, I see what
2 you're saying.

3 COL HAM: -- the SVC works for the
4 same person the trial counsel works for.

5 CHAIR FERNANDEZ: Right.

6 COL HAM: The Army has responded
7 that they think that it's an issue, and we're
8 wondering if you want that specifically
9 addressed in the collaborative best practices
10 assessment.

11 JUDGE MARQUARDT: This is
12 Christel. It seems to me that they should
13 have a separate, and I think that's what our
14 recommendation ought to be, that the Army
15 ought to follow the other branches.

16 MS. GARVIN: This is Meg. I
17 actually agree with Christel on this. I know
18 in some ways, waiting to see how it all
19 fleshes out, you know, so people can develop
20 best practices themselves, but I think the
21 risk of conflict is very real and I'd hate for
22 that to be discovered mid-case for somebody

1 and instead to set up a separate branch, and
2 I know that's the wrong word, but it just
3 seems that that problem is gone.

4 JUDGE MARQUARDT: Or we could have
5 one finding that there is potential for
6 conflict, and therefore, we recommend that the
7 Army follow the others.

8 MR. CASSARA: I would concur with
9 that. I think that the best policy is for the
10 SVCs to be a stovepipe organization.

11 DEAN ANDERSON: This is Michelle.
12 I agree.

13 CHAIR FERNANDEZ: Liz?

14 REP. HOLTZMAN: Yes, I agree, as
15 well.

16 JUDGE MARQUARDT: Colonel Ham, I
17 appreciate you bringing that up.

18 COL HAM: You're welcome, ma'am.
19 It was an issue a long time ago in the defense
20 organizations as well, which are all now
21 separate.

22 MS. GARVIN: This is Meg. May I

1 raise -- I thought we had talked about this
2 previously, and, if not, that's okay, we can
3 just chalk it up to my faulty memory. And I
4 don't know if this is the right place, but one
5 of the things we talked about or heard
6 evidence, took evidence on and I think may
7 have asked some questions when we did one of
8 the site visits was the career development
9 aspect of this for SVCs, like if it's good or
10 bad for your career, and, you know, as a
11 military lawyer and what their perceptions
12 currently were and are.

13 And I'm just raising it again
14 because one of the things I think we talked
15 about when we were down in Texas with some of
16 the SVCs was, you know, how are you perceiving
17 this, you know, is this going to hurt your
18 long-term JAG career, is it good for your JAG
19 career, and had some casual conversations
20 about, you know, is there a way to make sure
21 somehow that this is a -- if it's not a
22 positive at least it's not a negative in the

1 career track? I'm just re-raising it. I
2 don't know if this is the right time to talk
3 about it, whether that was just side
4 conversation that actually isn't relevant for
5 recommendation purposes or is it something
6 that we should put in here at all, in our
7 recommendations, since this is the SVC
8 chapter.

9 COL HAM: Ma'am, this is Colonel
10 Ham. If there's an independent entity that
11 adds to the protection for the attorney, you
12 could also perhaps add in your selection
13 criteria that something like -- I don't know.
14 I don't know what the right words are.

15 MS. GARVIN: There's different
16 words, I think, in different services.

17 COL HAM: Yes, yes. Encourage --
18 if they're selecting their best people for
19 them, then they become great jobs.

20 MS. GARVIN: If there's a way to
21 do that, I would like the Subcommittee to
22 consider adding some of that language just

1 because I just really don't want this to then
2 be perceived as a side mandatory duty that
3 comes up and it's an oh, dear god moment. So
4 that would be my two cents on it.

5 CHAIR FERNANDEZ: How do you say
6 that? I mean, how do you say, this is a job
7 that's going to get you promoted?

8 MS. GARVIN: Well, I do think
9 what Colonel Ham was just saying is that it's,
10 you know, the selection criteria is top people
11 get selected for this -- and I'm not saying
12 defense shouldn't have top people or actually
13 happen to think that -- but, you know, that if
14 it's parallel language in some way to, it's a
15 prestigious job, we encourage the best of the
16 best to apply or something or to be selected,
17 we only select the best of the best. I think
18 that may achieve it.

19 CHAIR FERNANDEZ: We're going to
20 need to look at recommendation number one
21 again.

22 MS. GARVIN: One suggestion might

1 be to recommend or encourage the Judge
2 Advocates General to select -- what's the
3 right word? You know, carefully monitor the
4 selection, ensure the -- I don't know. I'm
5 trying to think of some words. Put special
6 emphasis on, especially because they're new
7 and they're all breaking new ground with the
8 law, maybe there's a way that we could
9 wordsmith that if that captures what you're
10 saying. Special emphasis, select your most
11 qualified, you know, judge advocate, something
12 like that.

13 REP. HOLTZMAN: Can you get
14 special credit in the military?

15 CHAIR FERNANDEZ: Special pay?

16 CDR KING: They've been working on
17 that for years for military justice, at least
18 for in the Navy, where they told selection
19 boards that they have to give special
20 consideration to people in military justice
21 because a lot of times people in operational
22 billets got promoted over people in military

1 justice overall. So, you know, I think people
2 have been grappling with this overall some,
3 but I think at least if it was something in
4 the JAG Corps that counted as a prestigious,
5 you know, the trial position that was
6 important, that would even it out with the
7 other trial people or with the other military
8 personnel.

9 REP. HOLTZMAN: This is Liz
10 Holtzman. Would it be enough to do something
11 general, like saying that the services should
12 make sure that the position is not viewed as
13 something of a hamper to career opportunities
14 in the military, instead to take appropriate
15 measures to enhance its attractiveness? Just
16 a thought.

17 CHAIR FERNANDEZ: I think to get
18 into negative is not a good idea. I think if
19 somehow we can describe it as the most
20 qualified, you know, the --

21 REP. HOLTZMAN: Well, I'm not sure
22 I agree with you about necessarily the most

1 qualified. You know, we just want qualified
2 people, not the most necessarily. I don't
3 know. To me, you could argue about whether
4 the defense counsel or the trial counsel
5 should be the most.

6 So I don't know. That's just my
7 thought. But, you know, maybe -- I'm just, I
8 just don't want this to be seen as a bottom
9 of the totem pole assignment for a lawyer.

10 MS. GARVIN: Yes, and that's my
11 concern, too. I share Mai's concern, though,
12 about phrasing it in the negative. I'm just
13 wondering if, you know, staff, I hate always
14 saying maybe staff can come up with language,
15 but you might know the language that is used
16 in the other units to demarcate what is a
17 prestigious moment and what isn't a
18 prestigious moment in a career, I think,
19 better than we do. And if we just have a
20 recommendation that says selection criteria
21 shall include that somehow or shall be
22 encouraged to make sure selection includes

1 this, whatever that language is, I think that
2 would be a good recommendation.

3 And it shouldn't be, you know, I
4 agree with Liz, maybe it's not the best and
5 the brightest because all of the trial
6 counsel, defense counsel, and victim counsel
7 should all be excellent. But I think whatever
8 makes it prestigious would be good,
9 particularly for a few years.

10 CHAIR FERNANDEZ: Am I wrong in
11 saying that legal services is usually looked
12 upon in military as not a great place to go?

13 CDR KING: You mean prosecutor and
14 defense, or --

15 PARTICIPANT: Legal assistance?

16 CHAIR FERNANDEZ: Legal assistance
17 is what I was looking for.

18 CDR KING: No, it's generally the
19 --

20 CHAIR FERNANDEZ: What's looked
21 upon as a bad place to go as a lawyer in the
22 military?

1 CDR KING: No, it's generally a
2 junior position. It's not a bad position.
3 It's a place to expose junior attorneys to how
4 a lot of the things in the military work.

5 CHAIR FERNANDEZ: What's a job,
6 though, in the military that nobody wants?

7 CDR KING: Claims. I mean, you
8 wouldn't want to be a colonel and be put in
9 legal assistance. I would say that. But it's
10 very -- it's very common. That's where I
11 started, legal assistance. And --

12 MR. CASSARA: As did I.

13 COL HAM: Again, for the legal
14 point, legal assistance is the statutory hook
15 to establish this program. NDAA amended legal
16 assistance statutory provision in order to
17 provide Special Victims' Counsel. So that's
18 the legal -- what's the right word?
19 Corroboration? No, the legal connection
20 between Special Victims' Counsel and legal
21 assistance attorneys, as it's part of.

22 CHAIR FERNANDEZ: No, I chose the

1 wrong, I chose the wrong -- I guess I wanted
2 to say that if somebody was, if there's a bad
3 place to go and their criteria is a certain
4 set of criteria, we want to make sure that it
5 at least doesn't reflect, that our criteria is
6 very different.

7 I'm with Meg. Why don't you guys
8 give this a stab?

9 CDR KING: We'll try.

10 COL HAM: Yes, ma'am.

11 CHAIR FERNANDEZ: Okay. When in
12 doubt, punt. Was there anything else out
13 there that we talked about that we should be
14 making findings and recommendations on?

15 (No verbal response.)

16 Okay. We have another 17 minutes.
17 How do we want to spend this? Do we want to
18 go section by section or --

19 MS. GARVIN: I don't think we want
20 to go section by section. I think we might
21 get bogged down in the weeds. I will say that
22 there was one thing that was unclear to me in

1 reading the process to obtain an SVC, and that
2 is, there's a sentence on page seven toward
3 the end of the first paragraph under
4 Subsection C, the process to obtain an SVC.
5 It says, but, in accordance with DoD policy,
6 an SVC may not receive a restricted report.

7 And I guess I understood or was
8 confused that that conflicted with that
9 someone who made a restricted report could
10 have access to it if it was appropriate. Is
11 that correct?

12 COL HAM: Yes, that's correct.

13 MS. GARVIN: But what does it mean
14 that an SVC may not receive a restricted
15 report? What does that mean?

16 MS. MCGRORY: Ma'am, this is
17 Kristin on the line. What that means, and
18 it's actually set forth, I believe, in both
19 the Air Force Rules of Practice and Procedure
20 and the Army's handbook, is they're saying
21 that an SVC is not one of the enumerated
22 individuals within the DoD instruction that

1 can actually accept the report -- a restricted
2 report. So when they're laying out the
3 process for obtaining an SVC, it actually
4 starts with the report to one of the
5 enumerated individuals if it's a restricted
6 report, who then directs the victim to the SVC
7 for legal guidance.

8 So they're actually putting out in
9 their handbooks, which obviously are not
10 regulation or policy, that the SVC can't take
11 a restricted report. And they tie that back
12 into DoD instruction.

13 DEAN ANDERSON: This is Michelle.
14 Just to understand this, should an SVC come
15 upon someone who wishes to make a report but
16 wishes to make it restricted, the SVC has an
17 obligation to make it an unrestricted report
18 and report it up the chain of command?

19 MS. MCGRORY: No. Then, I think
20 they're actually bound by attorney-client
21 privilege, so it's sort of, I don't know why
22 they have it out there that an SVC can't take

1 a restricted report because they're still
2 bound by attorney-client privilege. We're
3 just saying, based on DoD policy, they're not
4 one of the enumerated individuals.

5 CDR KING: But those individuals
6 are listed in Footnote 40, the SARC, victim
7 advocate, or medical personnel. Remember,
8 even though it's restricted, though, if it's
9 not covered by attorney-client privilege,
10 there's going to, it's a report, so there is
11 some information obtained, you know, by the
12 SARC, et cetera, which would not -- that
13 wouldn't go anywhere if it was covered by the
14 attorney-client privilege. So the --

15 REP. HOLTZMAN: Wait a minute. Is
16 the client necessarily covered by attorney-
17 client privilege? I mean, I was puzzled by
18 that because I didn't understand where that
19 was going. This is Liz Holtzman. I didn't
20 understand what that meant. So now I
21 understand that it means that you can't, the
22 SVC can't, is not one of the people to receive

1 a report, whatever that means. That has
2 nothing to do with the trial or after. That
3 wasn't clear, so the way you have it it's just
4 not clear what that means.

5 But that raises a very important
6 point. Suppose somebody has made a restricted
7 report or hasn't decided to make a restricted
8 report or not. If they go to an SVC right
9 away, is it clear that anything that -- well,
10 to be protected for attorney-client privilege,
11 but is there something about the report that
12 could somehow be made public? I mean, for
13 example, the name? Is the name protected by
14 attorney-client privilege? Name of the
15 client? I'm not sure about that.

16 JUDGE MARQUARDT: This is
17 Christel. I had that highlighted as well, on
18 my sheet. And, you know, I think that maybe
19 there ought to be a recommendation that an SVC
20 can take a restricted report.

21 DEAN ANDERSON: I agree. It seems
22 obvious that a victim, if they knew that an

1 SVC existed, may be confused about the chains
2 of authority that different people have --
3 this is Michelle, by the way -- and may
4 approach an SVC to make a restricted report.
5 And I don't see why we would want to have
6 confusion about whether or not the SVC has to
7 disclose, you know, the scope of what the SVC
8 had to disclose, given that they are not a
9 restricted report receiver, as it were. Maybe
10 the name, maybe nothing, maybe it's all
11 covered by attorney-client privilege. But why
12 not just clarify that? If anyone related to,
13 you know, a SARC, a victim advocate, a medical
14 professional. I'm also wondering about a
15 religious leader of some kind. Can, can --

16 BRIG GEN MCGUIRE: They're also
17 bound by the --

18 CDR KING: This is Sherry. I
19 think what Kristin was just trying to say is
20 that there's a -- if a victim comes to a
21 victim counsel the first thing, that
22 discussion would be confidential, but that

1 doesn't start the official process even for a
2 restricted report where you're eligible, you
3 know, when you go to a SARC or a victim
4 advocate, they tell you what your rights are.
5 They send you to medical or wherever you need
6 to go.

7 DEAN ANDERSON: I agree. Why
8 shouldn't it? Why shouldn't it be that the
9 SVC can do that?

10 CDR KING: Maybe that could be,
11 that could maybe be one of your
12 recommendations, but that's not what the
13 policy is right now is what she was trying to
14 say. It's not an official, it's still
15 confidential, like it is if you go to a --
16 it's privileged, like if you go to a minister,
17 you know, or a chaplain or whatever.

18 DEAN ANDERSON: Well, that would
19 be a -- you'd make an exception to the
20 attorney-client privilege. I'm wondering, I'm
21 asking, would you be carving an exception into
22 the attorney-client privilege if a Special

1 Victims' Counsel was authorized to receive a
2 restricted report because a restricted report
3 --

4 COL HAM: You still have to give
5 that information.

6 DEAN ANDERSON: So that's an
7 important point. That's an important point,
8 Colonel Ham. I do think that -- this is
9 Michelle. I do think that the SVC should be
10 charged with getting this person to a SARC or
11 victim advocate. I mean, if a medical
12 professional can receive a restricted report,
13 you know, if a medical professional has a
14 privilege, you know, the religious person has
15 a privilege and the Special Victims' Counsel
16 has a privilege, I would think that if a
17 medical professional can receive a restricted
18 report or can get somebody to a SARC, the SVC
19 should be charged with getting somebody to a
20 SARC so that they can make an appropriate
21 restricted report.

22 CDR KING: Can I make a suggestion

1 about this? Julie has written a huge amount
2 on this when it comes to victim services in
3 the SAPRO program and the duties and
4 responsibilities of the SARC and various
5 things. Perhaps you want to continue your
6 discussion after you've reviewed all the stuff
7 she's written about it and maybe make a
8 finding, we can go back and make a finding
9 here but --

10 DEAN ANDERSON: Or is there a
11 different section, just to understand, is
12 there a different section on the SARCs that
13 we're going to take a look at?

14 CDR KING: Yes, you sure are.
15 Right now, it's kind of long, but we're
16 working on it and hopefully we'll get that
17 part next week.

18 DEAN ANDERSON: Okay. That's fine
19 with me. You know, maybe the staff can just
20 note that as a question that certain members
21 of the -- it sounds like I wasn't alone in
22 highlighting that and that we are wondering

1 about that question and want to deliberate on
2 it once we get the full information about the
3 SARC.

4 REP. HOLTZMAN: See, the other
5 thing, too, about that, I'm just concerned
6 about this whole issue of confidentiality
7 because I'm just -- whatever worth that has,
8 you know, I can't say. But, you know, one of
9 the grounds for invoking attorney-client
10 privilege is you that you have to be an actual
11 client of the lawyer. Well, what point does
12 the reporting victim become a client of the
13 Special Victims' Counsel? Not clear when that
14 happens. So if you find someone who's acted
15 as a Special Victims' Counsel for your best
16 friend and you know this person's name and you
17 go up to that person and say, gee, I'd like
18 you to be my Special Victims' Counsel, I was
19 just assaulted by my commander, that person
20 may not be your counsel at that point. So
21 where's the privilege?

22 I'm just arguing that there's an

1 ambiguity here about what privilege attaches.
2 So it may be necessary, even if they don't
3 have an obligation to report under whatever
4 rules you have in the military for reporting
5 these confidences, still it should be
6 confidential if material is given to them.

7 DEAN ANDERSON: Well, and I have a
8 question on page 16.

9 REP. HOLTZMAN: Yes, the Navy
10 people know more about attorney-client
11 privilege than I do, so I just throw that out
12 as a concern. That's all. Sorry.

13 COL HAM: Ma'am, actually, the
14 staff discussed that quite a bit, too. The
15 analogy is, or perhaps, that if you are
16 suspected of an offense, even if you're not
17 charged or you haven't been read your rights
18 or anything, you can go and talk to a defense
19 counsel and you form an attorney-client
20 privilege as a suspect or someone seeking
21 legal advice from a criminal defense counsel
22 in the military. And would the Subcommittee

1 members -- right now, that victim can go to a
2 legal assistance attorney, can go to a trial
3 defense attorney if they think they're
4 suspected of collateral misconduct, and form
5 an attorney-client relationship, and is there
6 something similar that the Subcommittee
7 members would want to think about for advice
8 prior to making a report, that an alleged
9 victim can seek legal assistance -- although
10 not using that word as a term of art -- can
11 seek legal advice from a Special Victims'
12 Counsel just as their status as an alleged
13 victim before they've reported?

14 Right now, that may be happening.
15 It's not covered in the NDAA. That may, in
16 fact, be happening; I don't know. But it's
17 not covered right now.

18 CHAIR FERNANDEZ: Okay. Colonel
19 Ham, walk me through this. I've been
20 assaulted. I just know that there's an
21 attorney and somebody has told me that they're
22 a Special Victims' Counsel, and I go to them

1 and I go I've been assaulted. What am I
2 asking at this point? Am I asking what do I
3 do next?

4 COL HAM: I don't know. I guess
5 you could be asking I've heard of the Special
6 Victims' Counsel, can you explain to me, you
7 know, whether I should report this? A lot of
8 that stuff would be replicated by the SARC,
9 but the question I guess for the Subcommittee
10 to decide if you'd want to deliberate on and
11 make a recommendation on is are Special
12 Victims' Counsel authorized to provide legal
13 advice to alleged victims who have not made a
14 restricted or unrestricted report?

15 REP. HOLTZMAN: I'm even asking a
16 preliminary question. Suppose they're not
17 even giving legal advice. Once they get that
18 information, is that privileged information?
19 Is that confidential, even because they
20 haven't been assigned as their counsel? When
21 does it become a counsel? You know, that kind
22 of question which is what I'm asking.

1 CHAIR FERNANDEZ: I think what
2 Colonel Ham is saying, though, Liz, is that
3 the moment you start talking, the privilege
4 attaches.

5 REP. HOLTZMAN: Well, I don't know
6 that that's the case. I mean, maybe that is
7 true.

8 CHAIR FERNANDEZ: Well, we could
9 say that.

10 REP. HOLTZMAN: Oh, okay, okay.
11 That's the point I'm making, should we be
12 dealing with the question not only with regard
13 to the legal advice that's given but with
14 regard to the confidentiality of any
15 information that's given before the, to an SVC
16 or someone who acts as an SVC before they're
17 actually assigned or before they're actually
18 the counsel?

19 MR. CASSARA: Well -- this is
20 Bill. Let me give you a quick analogy in our
21 final five minutes before I have to hang up.
22 If somebody walks into the trial defense

1 office or an ADC in the Air Force or a NLSO in
2 the Navy and they say I've been suspected of
3 an offense, what should I do? They're going
4 to speak to a lawyer, and that lawyer is going
5 to tell them, you know, these are your rights.
6 That lawyer is not detailed or assigned to
7 represent that person until and unless charges
8 are brought against that individual.
9 Nonetheless, everything that that person says
10 to that lawyer is privileged, and I think the
11 same thing would apply here. Am I correct,
12 Colonel Ham?

13 COL HAM: You're correct in that,
14 of course, in the defense world there is an
15 attorney-client privilege and the counsel is
16 bound to represent that person. The question
17 I'm throwing out is, that has not been spelled
18 out, as far as I know, for Special Victims'
19 Counsel, and do the members want to spell that
20 out as the scope of what the Special Victims'
21 Counsel's representation may entail? Someone
22 may seek them out without making a report.

1 MS. GARVIN: Yes. This is Meg. I
2 would say yes. We want it to be parallel so
3 if victims go there first, it's protected.
4 And if that's not clear at this point, I think
5 we need to make it clear or recommend that it
6 be made clear.

7 JUDGE MARQUARDT: And as I said
8 before, I am a little disturbed by what is on
9 page 16 because, if there's a communication by
10 the victim or the SVC with the victim's
11 liaison, it's not protected by
12 confidentiality. I mean --

13 MS. GARVIN: Yes, I agree.

14 CHAIR FERNANDEZ: But, again,
15 doesn't that person work for the prosecutor?

16 COL HAM: Yes, ma'am.

17 JUDGE MARQUARDT: The liaison?

18 COL HAM: Yes, the victim witness
19 liaison is -- that's a fancy name for a
20 paralegal for the prosecutor.

21 JUDGE MARQUARDT: That's not what
22 it meant to me. The victim's liaison, I

1 thought, handled the victim's problems.

2 MS. GARVIN: No. No, that came up
3 in our last discussion. The name is a bad
4 name because that person really just works for
5 the prosecutor.

6 COL HAM: Judge Marquardt, you
7 might be thinking of the victim advocate,
8 ma'am, and there is a victim advocate-victim
9 privilege.

10 JUDGE MARQUARDT: There is.

11 REP. HOLTZMAN: Maybe when we talk
12 about the special victim liaison person or
13 whatever you want to call it, the victim's
14 liaison person, that maybe we just put in
15 parens, paralegal who works for the prosecutor
16 so that it becomes clear to readers. I don't
17 know how many times we use that term, but you
18 might just want to think about whether we
19 could clarify things by doing that.

20 DEAN ANDERSON: We may want to
21 clarify that they need a new name because it
22 really is a terrible name, and it sounds like

1 somebody who would have privilege and
2 everything else that we get confused with. So
3 I don't -- it sounds silly, but I don't think
4 it's a bad idea to say that that should be a
5 different name, like paralegal.

6 JUDGE MARQUARDT: Okay.

7 MR. CASSARA: Hey, folks, I hate
8 to interrupt, but I have to hang up.

9 CHAIR FERNANDEZ: Okay, Bill.
10 Thank you.

11 MR. CASSARA: So I bid you all
12 adieu, and I'll talk to you all next week.

13 CHAIR FERNANDEZ: All right. Bye,
14 Bill.

15 MR. CASSARA: Bye-bye.

16 REP. HOLTZMAN: Are we finished?

17 DEAN ANDERSON: This is Michelle.
18 I've got a couple of other things that I was
19 wondering about, and that is the relationship
20 between the SVC and collateral misconduct and
21 whether or not we want to make a
22 recommendation on that question.

1 We didn't hear a lot about it. It
2 does sound like the services vary on the
3 question on whether the SVC represents the
4 victim during proceedings involving collateral
5 misconduct. I do strongly think that we
6 should make a recommendation about collateral
7 misconduct -- and I'm not sure if this is the
8 place for that, but I want to make sure that
9 there is a place for that.

10 Also, I'm particularly interested
11 in seeing kind of the introductory materials
12 that are about the incentives created by the
13 structures in the military and the existence
14 of collateral misconduct charges in terms of
15 the propensity of victims to come forward. So
16 I hope that that is not the last thing we look
17 at. I hope that's one of the earlier sections
18 that we all are able to pull together and we
19 can review because I do think it shapes a
20 little bit the way we think about what we're
21 doing with the rest of these pieces of the
22 puzzle throughout the document.

1 So I was wondering about
2 collateral misconduct because it did come up
3 here and whether or not there was a best
4 practice to use SVCs to defend victims in
5 charges of collateral misconduct because they
6 know the victim's experience the best. I
7 don't know.

8 JUDGE MARQUARDT: Well, the
9 handbooks spell out the whole procedure pretty
10 well, I think.

11 DEAN ANDERSON: Right. But all
12 that we've got in this document is that that
13 it varies across the services, and I guess the
14 SVC tells the victim about what's happening
15 but then, if the victim is just handed off to
16 whatever assigned defense counsel, it might
17 not be as effective as the SVC who has
18 developed a stake in representing this victim,
19 being the one to take forward when there are
20 criminal or administrative or other punitive
21 action against the, you know, that the service
22 proceeds against the victim on.

1 CDR KING: This is Sherry. Can I
2 just comment, if no one else has something,
3 real quick? I think, you know, that's a good
4 point. Some of the services let there be
5 joint representation. The problem, I think,
6 is that now we've developed such specialized
7 services for the defense and they have such a
8 big support team where, you know, they provide
9 each other information and they have a
10 supervisor who's a very experienced defense
11 attorney and that defense attorneys have gone
12 to defense attorney training so they know how
13 to handle certain issues, they're used to it,
14 they have collaboration between other defense
15 attorneys, that -- the problem is the Special
16 Victims' Counsel has their own chain of
17 command and their own support that I think
18 that's the concern of some of the services and
19 why they haven't done that perhaps is that
20 then the victim would be getting less services
21 for his or her defense work than another
22 accused or defendant would be getting because

1 that person would be under the standard
2 defense command.

3 DEAN ANDERSON: Right. That makes
4 a lot of sense to me, and maybe that's the
5 best way to proceed. I do think that we
6 should talk about maybe the next section or
7 the section right after that because I know
8 you guys are probably working on these --

9 CDR KING: We are.

10 DEAN ANDERSON: -- at the same
11 time, but it would be great to kind of look at
12 the big picture. One, the overview one and
13 the collateral misconduct question. I think
14 if we could make a recommendation on that, it
15 may solve some of these issues here. And I
16 agree with you that specialized defense
17 counsel who have been trained to be defense
18 counsel are better than people who just have
19 some trial experience and then have been
20 specially trained to be SVCs but don't have
21 experience as defense counsel. So that makes
22 sense.

1 CDR KING: Yes. And the other
2 problem with that is, in order to be a defense
3 counsel, you have to be certified to represent
4 them in court, to appear in court. And some
5 of the SVCs may not have that certification.
6 Some may if they were really experienced and
7 had done all the jobs, but a lot of them won't
8 have done all those jobs so they wouldn't be
9 able to appear in court.

10 COL HAM: Dean Anderson, this is
11 Colonel Ham. The issue of collateral
12 misconduct has been discussed extensively by
13 the Comparative Systems Subcommittee and,
14 actually, this is probably the one issue that
15 has run across all three subcommittees. So
16 I'm sure the full panel is going to be
17 interested in this Subcommittee's thoughts on
18 it, as well.

19 DEAN ANDERSON: Yes, I think
20 you're right. It does really cross all of the
21 jurisdictions of the three subcommittees, and,
22 you know, I think it's an important one.

1 CHAIR FERNANDEZ: So what do we
2 want to do here?

3 DEAN ANDERSON: Maybe, maybe
4 nothing. I think I'd like to dive into, you
5 know, I understand that the staff are working
6 on a lot of different sections at the same
7 time. I would make a recommendation, to the
8 extent that it's feasible and appropriate,
9 that we be able to take a look at some of the,
10 you know, the first section that we talked
11 about where we sort of talked about victims
12 who report and who choose not to report, why,
13 what that's about, what their experiences are,
14 what the structures in the military are that
15 may deter them from reporting. I think that's
16 all, and that's going to lead us into an
17 analysis of collateral misconduct.

18 CHAIR FERNANDEZ: Okay.

19 REP. HOLTZMAN: Well, it could
20 come in under victims' rights, as well.

21 DEAN ANDERSON: Yes.

22 CDR KING: And along the line of

1 victims' rights, if any of you have any
2 written edits for the actual, you know, report
3 part, please feel free to still send them. We
4 were getting --

5 REP. HOLTZMAN: Yes, I'm going to
6 do that.

7 CDR KING: Yes. Before we put it
8 together, we wanted to make sure everybody had
9 a chance to do that and then also to have the
10 transcript of what you actually said to make
11 sure that we actually got it exactly right and
12 didn't just rely on our notes or our memories.
13 So you can still send those in if you have
14 them.

15 The other thing we'll have ready
16 for you pretty soon, I think, or is about
17 ready is the initiatives that the services
18 have undertaken in the last -- how many years?

19 COL HAM: Since 2007.

20 CDR KING: Since 2007. There's a
21 lot of them. Rachel has been putting them
22 together for a long time because there was no

1 particular format they gave them to us in, and
2 there's at least over 150 pages worth. So
3 it's taken us a lot longer than we thought it
4 would. We didn't realize it would be such an
5 undertaking, and she's trying to, like,
6 assemble something to give you a little bit of
7 an overview of them. But they're enormous,
8 and we really don't know what to do with them
9 or have any particular ideas exactly what to
10 do with them. So maybe would it be okay if we
11 put a link to them for you and then maybe you
12 guys can all develop some ideas at least of
13 what you want to say about them?

14 REP. HOLTZMAN: Maybe you should
15 publish a book with them and send them out.

16 (Laughter.)

17 CDR KING: Yes, but we couldn't do
18 it by next week.

19 REP. HOLTZMAN: My copy machine is
20 going crazy.

21 CDR KING: Well, that's why -- I
22 know. There's so much information, and I'm

1 always concerned that you'll want something I
2 didn't send you. But that's why we were
3 thinking of putting this on the website --

4 CHAIR FERNANDEZ: If somebody asks
5 for it, then send it. But I don't think quite
6 that much information needs to be brought our
7 way.

8 CDR KING: Okay, okay.

9 MS. GARVIN: This is Meg. I like
10 the idea of the links, rather than sending it.
11 You know, I think links are fine because then,
12 as questions pop up as we're reading, we can
13 go to it rather than having you have sent it
14 to us.

15 CDR KING: We'll put it on the
16 website. I'll let you know as soon as it gets
17 done so you can look at it and, hopefully,
18 come to -- have at least some way to formulate
19 some recommendations or conclusions or if you
20 want to say anything about it at all. Because
21 there's a lot. Some of them told us dollar
22 amounts for the cost of the initiatives. Some

1 of them said, yes, there were costs or, no,
2 there weren't costs, just yes or no. Some of
3 them left it blank. So I don't know if that's
4 going to help you a huge amount to assess the
5 cost of them, but it might somewhat.

6 CHAIR FERNANDEZ: Folks, we've
7 gone on about ten minutes beyond what we said
8 we were going to do. How do you want to
9 proceed?

10 DEAN ANDERSON: I'm good, and I
11 need to get off. This is Michelle. I really
12 want to thank the staff for their
13 extraordinary work, and I look forward to
14 speaking to you all next week.

15 COL HAM: Dean Anderson, if you
16 had any other substantive or editing comments,
17 can you send those to Commander King?

18 DEAN ANDERSON: I just emailed
19 them.

20 COL HAM: Oh, great. Thank you,
21 ma'am.

22 DEAN ANDERSON: Thank you. Take

1 care. Bye.

2 CHAIR FERNANDEZ: Thank you.

3 REP HOLTZMAN: Okay, thanks
4 everyone. Thanks to the staff. This is Liz
5 Holtzman, bye-bye.

6 (Whereupon, the foregoing matter
7 was concluded at 4:11 p.m.)

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C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Response Systems to Adult Sexual
Assault Crimes Panel Meeting

Before: US DOD

Date: 03-27-14

Place: teleconference

was duly recorded and accurately transcribed under
my direction; further, that said transcript is a
true and accurate record of the proceedings.

Neal R Gross

Court Reporter

NEAL R. GROSS

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