UNITED STATES DEPARTMENT OF DEFENSE

RESPONSE SYSTEMS TO ADULT SEXUAL ASSAULT CRIMES PANEL

VICTIM SERVICES SUBCOMMITTEE

CONFERENCE CALL

THURSDAY
APRIL 10, 2014

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

PRESENT:

MAI FERNANDEZ, Chair
WILLIAM CASSARA
MEG GARVIN
THE HONORABLE ELIZABETH HOLTZMAN
THE HONORABLE CHRISTEL MARQUARDT
BG (Ret.) COLLEEN McGUIRE
DEAN MICHELLE J. ANDERSON
DEAN LISA SCHENCK

ALSO PRESENT:

WILLIAM SPRANCE, Designated Federal Official
COL PATRICIA HAM, Staff Director
CDR SHERRY KING, Supervising Attorney
JULIE CARSON, Attorney
MR. SPRANCE: This is Bill Sprance, the Designated Federal Official, and this meeting of the Subcommittee is now open.

CHAIR FERNANDEZ: Hi. This is Mai Fernandez. Julie, I was hoping maybe you could give us a frame for what you did. It's very thorough and a lot of material, but maybe you could just give us a little bit of your thinking as you were putting all of this together.

MS. CARSON: Okay. The findings and recommendations come from the transcripts of the meetings that we have had, ideas that have been expressed by the Subcommittee. Then, we start off with kind of a history of the program, which that was Roman numeral three on page 8.

CDR KING: And just -- you know, we went around and around about how to put this in, and we are thinking that the history of
the program and some of the SAPR updates should probably be in some sort of a chart or diagram, and they may be better at the end of the report. But we wanted to at least list them here, so that you could all see them. So --

REP. HOLTZMAN: This is Liz Holtzman. Can I just ask a question? I'm not sure what document you're reading from.

MS. CARSON: The Victim Services draft report from April 8th, the date on it.

REP. HOLTZMAN: Oh. April 8th. Do you know when you sent it?

MS. CARSON: April 8th.

REP. HOLTZMAN: Okay.

MS. CARSON: I don't know what time.

CDR KING: I can go forward it to you again, ma'am, if you want.

REP. HOLTZMAN: I think

MS. CARSON: I think I sent it --

REP. HOLTZMAN: Yes, on the 8th.
I have it.

CDR KING: Oh, she has it. Okay.

REP. HOLTZMAN: Sorry.

CHAIR FERNANDEZ: Julie, why don't you continue.

MS. CARSON: Okay. So I start out with the history of the SAPR Program and how it has all come to be, and then summarize the NDAA provisions that came after the DTF SAMS report.

So that gives the framework, really, of what the requirements and recommendations have been, and then we start discussing the history of sexual assault in the military with Section 4, and how we report, the restricted reporting, introduce the SARCs, and then we go, in Section 5, through the responsibilities of, really, the fundamental part of the SAPR Program, which is the SARCs and the victim advocates.

And the overview is kind of where they -- what they are and where they fall in
the program, and then Section B is their training. Section C is their responsibilities, and these are set out in policy, so they are just laid out there for you.

And Section D, then, is the victim advocate's responsibilities, which are not nearly as extensive as the SARC. So that shows you right there the difference between what a SARC is and a VA.

JUDGE MARQUARDT: Well, it would have been helpful to have that laid out at the very beginning of this document.

CDR KING: We've talked about ways to rearrange it, and I think that was one of Colonel Ham's suggestions to us, that when we write it or -- that we lay out the SARC and -- you know, the people, and who they are and what their responsibilities are first, and then put the policy sections maybe in a chart or something in the back, or in the NDAA for the history.
JUDGE MARQUARDT: This is Christel.

I just meant to put where the sections are and what pages, and so forth.

BG McGUIRE: This is Colleen. And I would recommend that we -- in your NDAA terms of reference, or even before then, just let us know what we can anticipate in this report. So, for example, you know, we are going to, you know, discuss, you know, the terms of this, the referenced terms of the NDAA. You'll find our recommendations and findings, and then you'll also see, you know, explanations of the military or the DoD sexual assault programs and so on, and then followed by the civilian. Just kind of, you know -- kind of whet our appetite what we can anticipate.

One of the observations I wanted to make was that I think, Julie, this is a great compendium of a lot of all of the sexual assault programs and the players and everything. But I don't really see a
comparison. But we can justify that by saying it's kind of hard to compare a DoD series of programs with the programs of 34,000 jurisdictions of civilian -- civilian jurisdiction programs.

But I think we just need to be very candid and up front that they are not going to see a one-for-one comparison, we do this and they do that. It's more than -- because I think it's more of a you read and you make your comparisons, because that's essentially how it's written right now.

CDR KING: I think that would help to put it all together, if we do something like that. Thank you, ma'am.

BG McGUIRE: And also -- this is Colleen again -- I'm missing a Part 7, by the way.

CHAIR FERNANDEZ: This is Mai. Did somebody just join us?

DEAN SCHENCK: Yes. This is Lisa. I just joined you. Sorry, I had another
conference call.

CHAIR FERNANDEZ: Okay. Thanks, Lisa.

JUDGE MARQUARDT: This is Christel. Does it make more sense to put the findings and recommendations at the end of that report?

COL HAM: Ma'am this is just for the ease of your review. This is Colonel Ham, I'm sorry. This is just for the ease of your review for the draft.

JUDGE MARQUARDT: Okay.

COL HAM: When the final report is put together, we can put them wherever you want them, if you want them after each section. But our overall plan is to have an abstract about the recommendations right at the front of the report, and a full table of findings and recommendations as an appendix, and then however you want to put them throughout the report, either section by section or all at the end of the report, whichever way you want to do it.
CDR KING: Just for clarification, it appears we miscounted when we did this, and there is no Section 7.

MS. CARSON: Yes. This was chopped several times, so we -- it looks like it goes from Section 6 to Section 8. So there is no Section 7. And Section 8 is not there, as you'll see. It is going to be inserted. It's special victims counsel. It's being worked on separately, so that will be a part of it when the final report is put together.

But before that is the Family Advocacy Program. That's Section 6. And so that's giving you -- laying out a bit about the Family Advocacy Program, which is the predecessor, really, of SAPRO and a much older organization, a very different structure than SAPRO. And so we've put it there next to the SARCs and VAs to give you an example of a different program and one that has been there since --

CDR KING: Well, and there were a
couple of issues with that program. We were trying to not make it too long, but a couple issues that we noticed is the victim advocates are certainly kind of organized different and they're full-time and they're mostly civilians.

And also, family advocacy handles the sexual assault cases for families and other domestic violence cases -- or cases that qualify as domestic cases, but then those are actually reported in a different database than all of the sexual assault cases handled by SAPR.

And so once we have sorted things out, that was one of the things we thought -- I don't know if you want to make a recommendation about that, but that was one of the things that we found that were different.

MS. CARSON: I would say the primary differences in the Family Advocacy Program are it is much smaller, much fewer people. It is mostly civilians. They have
different job structures. They have the victim advocates, but they also have program managers and support staff and a separate group who does the education and outreach. And they are not deployable. None of them are deployable.

CHAIR FERNANDEZ: Hi, Michelle.

MS. ANDERSON: Hi, you all. I'm very sorry I'm late.

MS. CARSON: The other fundamental difference in the program -- hi, Ms. Anderson. I'm just going over the Family Advocacy Program. This is Julie Carson.

MS. ANDERSON: Right.

MS. CARSON: The other fundamental difference in the Family Advocacy Program is that they incorporate clinicians in their program. So they have the counselors that are also part of the Family Advocacy Program, and that is not the way -- like the civilians, and that is not a part of the SAPR Program. And that is much more like the civilian systems
CHAIR FERNANDEZ: Folks, why don't we start going through the recommendations. We'll start with Findings 1 and Recommendations 1 and 1a.

My only thing was that I thought 1a should come before 1. It seems like we need to get a full implementation and data-gathering before we evaluate. It's a small change, but I just thought it should be switched. Does anybody have any other comments on that?

(No response.)

The last sentence in 1a is not really -- needs to be rewritten, because you can't improve and eliminate at the same time. But other than that, I think it's fine.

JUDGE MARQUARDT: This is Christel. Under Recommendation 1, it says, "The Secretary of Defense direct" -- is it "should direct"?

COL HAM: Ma'am, this is Colonel
Ham. I look -- my information about how to specifically draft these is evolving as we wrote those, the three different reports. I look to the DTF SAMS report for samples I guess of how to direct the different entities to do things. So that is how they were worded in that report. That doesn't mean that's how you would need to do it, but that's why they are worded that way.

It's a recommendation, so it's not a "you have to," so your recommendation is that he direct. But if you want to put "should direct," we could do that as well. I'm trying to -- I'm constantly trying to refine the recommendations to make sure that your recommendation is a direction to the right entity to do the thing that you are recommending, if that makes sense.

JUDGE MARQUARDT: Well, in the other sections that we've already talked about, I think we have inserted the word "should." I think it's awkward the way it is
written, even though it may have been in some
other report.

COL HAM: Yes, ma'am. Whichever
view the Subcommittee members want.

CHAIR FERNANDEZ: Well, let's go
with Christel's recommendation.

DEAN SCHENCK: This is Lisa. It
just sounds funny when you say, "Recommend the
SecDef should." You know what I mean?
Sometimes -- I think in the other report it
says, "Recommend the following," and it just
lists -- "recommend the following," and the
following includes the SecDef doing things,
not "should" do things.

CHAIR FERNANDEZ: Is everybody okay
with that?

DEAN SCHENCK: I think at some
point in the report from the DTF SAMS we have
a list of just recommendations, not findings,
and, therefore, someone could just pull that
list out and give it to DoD. So that's why it
says, "The following recommendations." And it
mirrored those recommendations that were in
the -- spread out through the report.

COL HAM: This is Col Ham, and
that's the overall structure that we put in
your table of contents as well. So there is
an abstract of the recommendations right up
front, and then they are sprinkled throughout,
however you want to put them throughout the
rest of the report.

CHAIR FERNANDEZ: Okay. Should we
move on to Recommendation -- Findings and
Recommendations Number 2.

MS. ANDERSON: Yes. This is
Michelle, and I think this one is too wishy-
washy. It is basically we heard -- you all
will remember we heard about disclosures to --
of confidential information that without the
victim's consent converts the report to an
unrestricted report.

And recommendations -- the first
one is that, "They shall evaluate the extent
to which this happens." And the second is,
"They shall determine whether to implement a policy that permits restricted reports to remain restricted."

I would make a recommendation that the Secretary of Defense direct the DoD SAPRO to develop a policy that permits restricted reports on sexual assault to remain restricted in the event of an inadvertent or improper disclosure.

You know, we are doing a lot of directing that they evaluate when, if there are instances in which this happens, there should be a policy that it doesn't have to happen that way, and that a restricted report could remain restricted when there is inappropriate or inadvertent disclosure.

BG McGuire: So, Michelle, can you clarify that? Because you're saying get rid of one of the recommendations? So under Recommendation 2 -- yes, you guys are looking at Recommendation 2, it's on page 2?

Ms. Anderson: Yes.
BG McGUIRE: Okay. There are two bullets. The first bullet says essentially SAPRO and the services should evaluate what is the extent of inadvertent or improper disclosures. I'm not sure why that's -- why we should spend time on this. Like it happens occasionally. Shouldn't we have a mechanism by which, and a policy by which, that inadvertent disclosure does not mandate or lead inexorably to an unrestricted report?

And then, the second bullet doesn't say that there should be a policy that does that, but the Secretary of Defense shall direct SAPRO to determine whether to implement a policy.

MS. ANDERSON: Right.

BG McGUIRE: That seems like two steps that are not necessary. I think the recommendation should just be we direct that there should be a policy.

DEAN SCHENCK: Okay. This is Lisa. I don't think we should make a recommendation
based on minor anecdotal information. We didn't talk to the cops. We didn't talk to the commanders about this inadvertent disclosure. But I think I -- I have talked to some folks, and they believe that their hands are tied. Once it's leaked out, it's leaked out. We can't revert back. You see what I mean? Because of all the policies in place requiring them to take action. Cops have to take action, commanders have to take action, once that is leaked out.

So I think it requires more -- I think it requires some research as to how widespread this problem is, how often it occurs, and whether or not a policy is a way to do -- to change this. Do you see what I mean? Because we're seeing anecdotal information. We either have hard facts, we have hard data, or we don't.

REP. HOLTZMAN: This is Liz Holtzman. First of all, do we have any testimony that I believe we've had, but I
could be wrong -- have we had any testimony that there have been inadvertent disclosures of restricted reports? Well, inadvertent, improper. Either it was deliberately done or inadvertently done, but a restricted report was made public either by -- do we have any information about that testimony about that?

MS. ANDERSON: This is Michelle. Some of the victims talked about.

REP. HOLTZMAN: Okay. So then assuming that that is the case, I completely agree with Michelle. We should say, number one, that we -- there should be a policy to -- just because it has been inadvertent or improper, that the report should be treated as restricted.

Now, to the extent that that creates other problems, the Secretary of Defense ought to examine what needs to be done to ensure the privacy under these circumstances to the fullest extent possible. But this is just -- I mean, I completely
agree. The way it is now, they don't have to
do anything. I mean, maybe I have it
reversed. Maybe -- but I think that the
directive ought to be to the maximum extent
possible, steps are to be taken to ensure that
despite this breach of confidentiality that
confidentiality should be awarded or preserved
in some way. I don't know to -- you know, how
to do it.

COL HAM: This is Colonel Ham.

Just so everybody is clear on what the policy
currently is, if there is an inadvertent or --
if there is an improper disclosure, it's a --
disciplinary action can be taken. If it's an
inadvertent or improper disclosure, to anyone
other than commander or law enforcement, it
does remain restricted. So the person --

REP. HOLTZMAN: Yes. But, Colonel

Ham --

COL HAM: -- or entity --

REP. HOLTZMAN: Right. But

punishing it doesn't help the victim. This is
Liz Holtzman. That's my point. I think that's Michelle's point.

COL HAM: I understand. I understand what you're saying. I just want to make everyone clear on what the current policy is. So you're just talking about releases to commanders and --

REP. HOLTZMAN: Correct.

COL HAM: -- law enforcement. So --

REP. HOLTZMAN: Right. And by the way -- right. Right. And by the way --

COL HAM: I'm sorry, ma'am.

REP. HOLTZMAN: -- Direction 2 doesn't even deal with the issue of what happens when it's referred to law enforcement. But I think -- I don't know if we could just say it's our recommendation that it should remain restricted, and the Secretary should just take steps to implement, you know, that policy. I don't know what they would be, but that might be one way to do it. I mean, that
would be my way to do it actually, thinking
about it.

MR. CASSARA: Just so I'm clear,
maybe -- I think we are all sort of saying the
same thing, but I want to make sure. Are we
all in agreement that if there is an
inadvertent/improper disclosure of a
restricted report that there should be a
mechanism for that report to remain
restricted? I think we're all saying that.
Am I correct?

CDR KING: Yes.

MR. CASSARA: Okay.

CHAIR FERNANDEZ: This is Mai. Why
is there the policy of -- with inadvertent
that all of a sudden it has to become
restricted -- I mean, unrestricted?

MR. CASSARA: Because commanders
are required -- and, Patty, you can correct me
if I'm wrong -- but commanders are required
under the Uniform Code of Military Justice, if
they find about an alleged act of misconduct,
to initiate an investigation. Is that the reason, Colonel Ham?

    COL HAM: They are specifically required under the NDAA, if they find out about a sexual assault-related allegation, they must report it to the military criminal investigative organizations, without determining its credibility or conducting any investigation of their own.

    MR. CASSARA: Yes. And RCM 303 or 304 as well. So, I mean, the law is pretty clear that if the commander finds out about an allegation of sexual assault they have to report it.

    So what we're saying is that we want to amend that to where if the victim says, you know, we want it to remain restricted, you know, then we need to put in there that that's what we're asking for and that there needs to be a mechanism for that to happen. Am I correct that that's what we're all saying?
MS. ANDERSON: Yes, Bill. This is Michelle. I think that when one looks at it from the victim's perspective, the fact that the disclosure was inadvertent; that is, a mistake, it was mistaken; or it was improper; that is, it was against procedure and violated confidentiality, both of those circumstances take the control out of the hands of the victim.

And I think one of the things that we are trying to do is try to wrest a little bit more of the control -- not all of the control, obviously, but a little bit more of the control in the hands of the victim when he or she wishes to make a restricted report.

MR. CASSARA: Right. And what I'm saying is as long as we're all aware that what we are saying is that the NDAA is going to have to be amended in order to implement that, then, you know, I'm fine -- frankly, I'm comfortable with that recommendation.

But, you know, I just want
everybody to understand that what we're basically saying is that the NDAA needs to be amended to the degree -- to allow a commander to not report under those exact circumstances.

MS. ANDERSON: Right.

MR. CASSARA: That's my point, and that's -- you know, so -- but, yes, I have no problem at all with saying that the -- you know, the Secretary of Defense should determine whether the NDAA needs -- should be amended to allow for a commander to not report an allegation of sexual assault, if that information came to the commander inadvertently or improperly, and if the victim wishes for that report to remain restricted.

MS. ANDERSON: Yes. I think that's exactly the language, Bill.

MR. CASSARA: Oh, come on. Because then I'm going to have to --

REP. HOLTZMAN: There's one little problem here, which is --

MR. CASSARA: Good thing we a Court
Reporter, because he wrote what I said. So, okay.

REP. HOLTZMAN: This is Liz Holtzman. There is one little problem here, which is, is the commander responsible before -- I mean, this could create a huge loophole. If you require the commander to check, before he or she has referred the case to investigation, with the victim, I think that would open a huge loophole, because where is the victim, how do I find the victim, what is happening, time could, you know, pass. God knows what would happen. So I would make it basically where the victim has somehow communicated that to the commander or to law enforcement, or somehow the commander has been advised that this was -- by official military personnel that this was an improper communication of information.

I would not -- the minute you have to have these -- some checking with the victim before a report is made, I think that that
creates a problem of time, and I'm not sure
that I agree with that.

MS. ANDERSON: Well, this is
Michelle. On that issue, I think that the
problem is that a number of victims' testimony
of instances happened in circumstances in
which the victim found out that it had already
gone unrestricted. In other words, what -- no
one --

REP. HOLTZMAN: Right. That's --

MS. ANDERSON: Right. And that is
the problem, is that it goes unrestricted,
without consultation with the victim. If it
goes unrestricted -- if we're talking about
military investigators, for heaven's sake, the
investigator can contact the victim. That
should be one of the first things they do in
assessing the validity of a complaint, in
terms of whether or not it goes forward as an
unrestricted report.

REP. HOLTZMAN: I just think

MS. ANDERSON: It just puts too
much burden on anyone for them to check with
the victim first.

REP. HOLTZMAN: Well, it's not an
issue of a burden. It's not -- this is Liz
Holtzman. It's not an issue of burden. It's
an issue of time. Maybe the victim -- you,
maybe the victim is found -- you know, maybe
-- what you're saying is that the victim has
found out later that there is a -- that the
report has been made. It seems to me the
obligation is on the victim at that point to
communicate that.

Otherwise, I'm just saying to you
that if a commander, if a law enforcement
person has to check with the victim before
they start, you may say the first thing they
should do is talk to the victim. Maybe the
first thing they have to do, if they've gotten
sufficient reports, is go and find, apprehend
the culprit.

I mean, I don't want to be
dictating to law enforcement personnel what
their first step should be to take. And finding the victim could be a problem. It could be a matter of minutes in some cases, or seconds, but it could be a matter of days. I don't think you should hold up the
investigation or hold up the process because you are looking for the victim.

MS. ANDERSON: Well, I don't think that that --

REP. HOLTZMAN: It's a unique problem.

MS. ANDERSON: Yes. I don't think we need to micromanage how this shakes out.

REP. HOLTZMAN: This is a loophole that is -- but this is a loophole that is created that you --

MS. ANDERSON: But you're deciding -- or you're proposing that you decide or that we decide that they don't have to check with the victim when we are not on the ground and we don't know how realistic that is. Why not defer to the policymakers, the SAPRO office,
to come up with the appropriate kinds of policies to implement our basic position, which is that victims should have a mechanism by which it remains restricted.

Is this going to be foolproof? No. Is it going to work in every instance? No. There are going to be instances in which it doesn't. But I wouldn't want to dictate from our vantage point the precise contours of what the policy looks like vis-à-vis who gets, you know, assessed first or who gets consulted first.

(Simultaneous speaking.)

CHAIR FERNANDEZ: Hold on one second. This is Mai. Can I ask a quick question that might be clarifying? My understanding is you can go from restricted to unrestricted to restricted again.

COL HAM: No, ma'am. You can go from restricted to unrestricted, but you cannot go back to restricted.

CHAIR FERNANDEZ: You cannot go
back to restricted. That's what we're talking about.

COL HAM: You may decline to participate in the investigation, even if you make an unrestricted report or if you make a restricted report --

CHAIR FERNANDEZ: Okay. I thought that would be clarifying in that I thought maybe you could go back to unrestricted. I mean, back to restricted. So you can decline to participate, but the investigation pushes forward.

COL HAM: It may push -- it may go forward.

CHAIR FERNANDEZ: Okay. Liz, I don't understand what loophole you're talking about. What exactly is --

REP. HOLTZMAN: Well, if we were -- I can't remember how somebody had phrased it, but the way it was phrased suggested that they had to check with the victim first, and that was just my only concern. I completely agree
with the suggestion that Michelle made and
that everybody agrees with that we should,
even if the report has become unrestricted,
that if it's done in an improper way, against
the -- that it should be -- it should go back
to being restricted.

But I'm just wondering and worried
about -- it's just a question of wording here,
I think, because I think you could leave it
open enough so that they could figure out the
policy and how actually to implement such a
direction. I just don't want us to leave the
implication that they are required to check
with the victim before they initiate any
reporting or any investigation. Personally,
I think that would be a mistake. But that's
just my -- that's just my reaction, because --
today.

CHAIR FERNANDEZ: I'm just trying
to figure out the mechanics of that, though.
I file a restricted report. I called my
roommate, and she accidentally, while having
drinks with my commander, said something.

(Laughter.)

I'm putting it out there. Let's just say that's the scenario. I mean, the commander now knows and feels like he's got to go forward. But he needs to check with me first to find out if I was -- I mean, I think it just logically seems that you always have to check with the victim.

REP. HOLTZMAN: Well, let's take another example. Let's just take another example where this is -- the information is not over a drink, but the information comes from a SAPRO person or comes from a medical person or comes from a military investigative person. There is no reason to believe there is any question about the legitimacy of its being unrestricted.

And then the commander -- now what you're saying is that no matter what the circumstances are the commander then has to check with the victim before reporting. First
of all, I don't think this is going to -- you
know, I think that that creates an unnecessary
burden, particularly when you are talking
about the way it's likely to happen, not over
a drink, but because somebody got -- made a
mistake or there is some -- something else
like that, but that it's under indicia that
it's totally -- that what the person is doing
who is reporting it is totally -- acting
totally appropriately.

But I think we haven't heard -- I
mean, I'm just concerned that we create -- we
are creating a new problem for the reporting
cycle. And I would not like -- I would not
recommend that. I would just -- I'd like to
recommend making this unrestricted to the full
extent it can be.

I mean, you've let the cat out of
the box. Can you put it -- or the toothpaste
out of the tubes? Can you ever put it back
in? Probably not perfectly. But to the
fullest extent of protecting the victim, I
completely agree with that. So --

MS. ANDERSON: I think we are -- I

think this is just a matter -- this is

Michelle. Sorry, you all. I definitely hear

Liz's concern, and I also hear Mai's impulse
to just have a policy whereby we inform the
victim.

I actually don't think that either

of those things need to be in the

recommendation. I think the recommendations

need to be something like "to the fullest

extent possible," you know, some of the

language that Liz just said is fine. None of

these things are going to be perfect, but

currently there is no mechanism by which one
can go from an unrestricted back to a

restricted. And that's what we're trying to

establish.

We're not trying to make it

foolproof. We're not trying to make it happen
every single time. But we are saying that

there should be a mechanism by which these
reports can go from unrestricted back to
restricted when the unrestricted nature of the
report was a mistake or was violative of the
rules. You know, it was inadvertent or
improper.

REP. HOLTZMAN: I agree. I mean,
it seems that there is just a wording issue.
That's what I think, but --

REP. HOLTZMAN: Yes, I agree.

COL HAM: This is Colonel Ham.
Again, Mr. Cassara pointed out that the NDAA
requires the commander -- I'm looking at it,
Section 1742, so you -- what I'm throwing out
to you is, does your recommendation need to
include enacting legislation? Right now,
there are no exceptions.

The statute says, "The commanding
officer who receives a report of a sex-related
offense involving a member of the Armed
Forces, and the chain of command of such
officer, shall act upon the receipt --
immediately after receipt of the report by the
commanding officer. The action required is referral of the report to the military criminal investigative organization with responsibility for investigating that offense."

MS. ANDERSON: I think you're right to point that out, Colonel Ham, and -- this is Michelle -- and I think that that is something that we would need to make a recommendation to --

REP. HOLTZMAN: Well, probably -- this is Liz Holtzman. Probably -- I mean, just thinking about this practically, probably the commander is not going to be the person who is going to know because he or she has already transmitted the information. This probably is going to the -- this will probably be rectified when it goes to the -- when the matter is already in the hands of the investigators, the military -- the law enforcement personnel.

So, but even so, they have to --
there is nothing that allows them not to investigate something, even if the victim tells them they don't want to -- they don't want to have an investigation, they're still not compelled to listen to that.

So I do think that you may need a statutory change. That's all.

CHAIR FERNANDEZ: I think if a statutory change is needed, we are going to be asking for that. So are we in agreement we ask for Congress to make the statutory change?

MS. ANDERSON: I think so.

MR. CASSARA: I agree. I mean, you know, in order to enact the recommendation, that is what is going to have to happen.

DEAN SCHENCK: This is Lisa. I agree. There's got to be something, because the commanders sometimes are getting the information from the roommates of the victims or other parties, and the commander has got to investigate that. This is a very strict statutory requirement.
CHAIR FERNANDEZ: Okay. I think --

I think we are all in agreement. Pass it back to Congress on this one.

Let's move on to Finding Number 3.

I'm just -- for matters of logistics --

REP. HOLTZMAN: Oh, can I -- on Recommendation Number 2, by the way, it only relates to the commander. It doesn't relate to law enforcement, the second part of Recommendation Number 2. Anyway, but it may be moot because we have changed the recommendation, so -- okay.

CHAIR FERNANDEZ: Okay. We've been on the phone for 43 minutes. We have only got another 47 to go, and we have several recommendations to go. I'm just putting that out there.

So let's look at Recommendation Number 3. I thought that this one was pretty clear up front.

JUDGE MARQUARDT: This is Christel. I don't understand the last sentence in
Recommendation Number 3. I don't know what "post sexual assault prevention" means.

CHAIR FERNANDEZ: Julie?

MS. CARSON: I don't think that was my language. I --

COL HAM: No. This is Colonel Ham. I think that's language directly from the DTF SAMS recommendation. I just wanted -- which required putting up, you know, in poster form, making visibly apparent throughout the military entrance processing stations the sexual assault prevention --

JUDGE MARQUARDT: Well, it's putting something on a wall. That's the difference.

CHAIR FERNANDEZ: Christel, you are reading it as some -- like something that happens after the sexual assault, correct?

JUDGE MARQUARDT: Correct. But I think we could use some other word if it means, you know, making the information available to others, like by posting.
COL HAM: This is Colonel Ham. I was trying to -- I was trying to point out the difference between what you're recommending and what is already required.

JUDGE MARQUARDT: It is already required that the information be made available and be visibly posted.

COL HAM: My understanding was your recommendation was provide additional information on specific subjects, not by putting up a poster or something like that, or maybe that is what you mean. But that is already required.

MS. ANDERSON: So, Colonel Ham, this is Michelle. Just to clarify, the point of this recommendation is the 14-day differential between initial entry where the recommendation says we should be making at least an initial pass over this information and entry. Does that happen under the status quo?

COL HAM: My understanding is that
-- well, a couple of points. I think you heard from some recruits at Lackland who saw the information at the military entrance processing stations and the DTF SAMS recommendation, which to my understanding was implemented, was that information be made available and posted at the military entrance processing stations.

Maybe Dean Schenck remembers some more about that? Because she was a legal advisor to -- or a senior advisor to DTF SAMS.

My understanding was you wanted additional information made available earlier than the 14-day briefing.

CDR KING: This is Sherry. My understanding was, based on Bill Cassara's language also, is that you wanted the material provided to be more specific than just information about the SAPR Program and what victims could do, and that that information should include the definition of what sexual assault is and what can happen to an offender
also who commits those acts in the military, as well as now information about the DoD helpline.

So that it is more specific information being provided at the MEP station also. Because there is already a policy, or at least in some places there is already being some information provided at the MEP. So when I was trying to interpret your recommendations, I was trying to make it as specific as possible to make it not be the same as what is already happening in some places.

CHAIR FERNANDEZ: This recommendation seems pretty clear, I mean, to me. Unless somebody has any real problems I'd like to move on to Recommendation Number 4. Okay. Going once, going twice, Recommendation Number 4.

MS. ANDERSON: Sorry. Back on Recommendation 3 -- I know it just went -- this is very minor, but I would just suggest
-- this is Michelle, sorry. I would just suggest the word "visibly" in front of the word "post," because then it identifies post as a verb and not an adjective, because I have the same read that Christel did. I was like, post sexual assault? What happened after the sexual assault? Rather than the verb. So I think the adverb "visibly" is -- would solve that problem.

On to four.

REP. HOLTZMAN: This is Liz Holtzman. I don't really understand what the objective here is. Is the point, do we need it earlier than eight days? Or what is the -- what are we trying to get at with Number 4?

COL HAM: Ma'am, this is Colonel Ham. The requirement only applies to unrestricted reports, and our understanding was that you wanted it to apply to all reports, restricted reports as well.

REP. HOLTZMAN: Okay. Thank you.

MR. CASSARA: Hey, it's Bill. I
just had a quick question. On Recommendation 4, on the first bullet, I assume that we are leaving it up to the services as to who actually does the reporting? When it says we require written --

CDR KING: I think Julie was -- we were just trying to list what was in the NDAA already.

MR. CASSARA: That's fine. That's fine. All right. Thank you.

MS. ANDERSON: This is Michelle. I think that this is a pretty straightforward recommendation, and I support it. And perhaps if that's true of many of you, or all of you, it seems pretty -- yes, it's just straightforward.

CDR KING: Is there anything anybody wants to tell us to change or --

REP. HOLTZMAN: Where are you? On Section 4, Recommendation 5 or 4?

CDR KING: Four.

JUDGE MARQUARDT: Well, you're
going to say "require written incident
reports," I think it should be either
"required written into the incident reports"
or "requires an incident report."

CDR KING: Okay.

CHAIR FERNANDEZ: If we're good on
Recommendation Number 4, let's go to
Recommendation Number 5.

BG McGUIRE: This is Colleen. I
only have a recommendation for Number 5 in
that we may want to leave room for waiver for
law enforcement units, so that if military
police is sexually assaulted, and they just
want to confide with their buddy that also
happens to be an MP --

CHAIR FERNANDEZ: That makes sense,
Colleen, if I understand you, to say that the
friend, roommate, or family member may also be
an MP. Is that what you're saying?

BG McGUIRE: Yes. Yes.

CHAIR FERNANDEZ: Got it. I think
that's right. That's a good clarification.
REP. HOLTZMAN: With regard to the recommendation, it should be clear that -- that it can be -- it can remain confidential, not just file a restricted or unrestricted report. I mean, I'd just like it to say somewhere that, you know, it's confidential and the person does not preclude the opportunity, that the -- that the confidence can remain -- or that the statements can remain confidential, and that the victim still has the opportunity to file a restricted report, because this doesn't -- you know, it's just too technical, and I just want to make it clear that it's confidential still.

COL HAM: Ma'am, this is Colonel Ham. The wording was chosen I guess -- well, I'll just -- current policy very clearly states that it is not confidential. It just isn't a -- it doesn't --

REP. HOLTZMAN: Okay. Well, so then there -- so if you don't want to use the word "confidential," then just say "before
determining whether to" -- and does not --
does not mean that the person can still -- and
means that the person can still file an
unrestricted -- a restricted report.

"Before determining" sounds like --
it's just a very complicated and abstract way
of describing the situation, and I'd like it
just to be more practical, so that someone who
is reading this -- I don't know if there is
any victim that would ever read this -- would
understand what this is about.

COL HAM: Ma'am, yes. This is
Colonel Ham. Thank you. I'm sorry. This one
was very hard to draft because of the way the
current policy is worded, which may be why you
saw that it's confused out in the site visits.
It's not --

REP. HOLTZMAN: Okay. So then
start out by saying, "Clarify policies to make
it clear to the victim that he or she can
discuss" -- you can use the word
"confidentiality." I don't -- just because
the policy doesn't say it doesn't mean we
can't use that word.

COL HAM: Yes, ma'am.

REP. HOLTZMAN: I think. So we
would just it -- that statements made in
confidence, you know, to a roommate, friend,
or family member, can remain in confidence and
don't -- you know, don't preclude or don't
prevent -- I don't know. I can't figure out
the language. You can figure it out better.

But I just think it's just too
technical. That's all.

COL HAM: Yes, ma'am.

REP. HOLTZMAN: Not that it's
inaccurate.

CHAIR FERNANDEZ: Are we good with
five?

(No response.)

Let's move to six, then.

BG McGUIRE: This is Colleen, and
I just wanted to start a conversation on this
particular recommendation. Speaking on behalf
of all of the experience of a commander, I don't know -- this particular recommendation is very weak, and I think it's kind of a -- it's wrought with all sorts of concerns.

One, we're asking them to -- we're asking the Secretary of Defense to direct SAPRO to extend the option to request an expedited transfer following a credible report of sexual assault for a victim.

Well, how are you going to justify that to a commander, that this person needs to leave, or needs to transfer? Well, why? What is the reason? You know, immediately just by identifying that a particular individual needs to leave the area is a red flag that, you know, something is up. And if you're not going to tell me why they have to leave, then I am going to assume it's because of a sexual assault, because that's the only reason, if that's the case here, that they would leave a unit just to leave the unit.

Also, I see that this is -- the
potential for abuse for this is huge. If I
don't like my unit, I don't like my job, I can
make a request to transfer. This
recommendation is going to be very hard to
implement, let alone explain.

CHAIR FERNANDEZ: My initial
reaction is to -- this is Mai -- is to agree
with Colleen. But I understand that in
certain circumstances you want to provide that
flexibility. I just don't know if you can
have both.

BG McGuire: I think they currently
already have it. There is nothing to preclude
a compelling reason for -- you know, if the
SAPRO community got together and talked to the
commander and said, "This person needs to
leave," this option already exists on the
table. I mean, I would suspect that they are
already doing it to some degree. But to
mandate it is just wrought with potential
abuse, and hard to implement.

COL Ham: This is Colonel Ham. Who
just joined the meeting, please? I'm sorry.

I couldn't hear.

(Brief interruption by a participant who joined the incorrect teleconference.)

MR. CASSARA: Wait. This isn't the symphony meeting? What have I been doing here for the last six months?

(Laughter.)

Sorry. A little levity here and there.

I actually -- not actually, I tend to agree with General McGuire. I think that the option that we are seeking under Recommendation 6 already exists for commanders, and I'm not sure -- because I think we have to draw that balance that I think it was Mai was talking about, I think we would have to water down the recommendation so much that it really would have no -- little to no effect outside of what we currently have in place.
Colleen, am I understanding your concerns correctly?

BG McGuire: Yes, you are. And the potential for abuse by mandating this.

Mr. Cassara: Yes.

Rep. Holtzman: General McGuire -- this is Liz Holtzman -- my only question about this, and I think you've raised very legitimate points, is if you had the -- if the requests were supported, for example, by -- by the SAPRO person, by the -- by medical -- you know, medical recommendation, it wasn't just the victims were alone --

BG McGuire: Right.

Rep. Holtzman: -- does that solve part of the problem here? And whether the commander suspects or doesn't suspect it's one thing. But the commander doesn't actually know. So if the -- if there could be some, you know, medical, mental health, or --

BG McGuire: Liz, I would tell you that it doesn't tell you that --
COL HAM: The person joining the meeting, who -- this is not the same meeting.

PARTICIPANT: I apologize. This is the number that we were given by Louis Gardner at Zuckerman. So maybe we're not supposed to be on this, but this is the number he gave everyone. So do you want the parties to drop off?

COL HAM: Yes, please. And we'll have to clarify with them.

PARTICIPANT: Okay. Thank you.

BG McGuire: This is Colleen again, and I want to quickly try to answer Liz's point -- is that the scenario you described, if the commander today -- and I'm going to make the assumption that a good percentage of the commanders are good commanders, would take that and permit this individual to leave.

They would accept that currently, without this --

REP. HOLTZMAN: So we wouldn't need this. So this is not -- what you're saying is
that it's unnecessary.

BG McGUIRE: Yes. Yes. Because there have also been instances of the commanders refusing to --

(Simultaneous speaking.)

CHAIR FERNANDEZ: You all, I'm having trouble hearing. I think there's a lot of people on who aren't necessarily -- I'm not sure what's going on, but I just wanted to put that out there, that --

COL HAM: If everybody can hold on for one minute, we're going to make sure the line is clear. If everybody could just hold on for one minute.

(Whereupon, the proceedings in the foregoing matter went off the record at 3:32 p.m. and went back on the record at 3:36 p.m.)

CHAIR FERNANDEZ: Let's go to finding number six. It looks like we're all pretty much in consensus that we should eliminate it.
BG MCGUIRE: I move we can eliminate it. This is Colleen.

MS. ANDERSON: And Colleen, this is Michelle. Just to understand for sure for someone who's not and has never been a military officer, your understanding is that there is already the authority --

BG MCGUIRE: Yes.

MS. ANDERSON: -- to engage in this expedited transfer --

BG MCGUIRE: Yes.

MS. ANDERSON: -- for someone who files a restriction report.

BG MCGUIRE: Correct.

MS. ANDERSON: Do we want to clarify that that's the policy?

BG MCGUIRE: Well, it's not a policy, it's always, you know, for the health of the individual, the organization, whatever and based on the recommendations of, you know, dental, medical, health, mental health, whatever, without a report, they will have
that meeting with the commander and make that recommendation that this individual needs to go. The commanders might want to keep that individual there.

But if we put it as a recommendation, that also means that, okay, it's now -- we're holding the potential that this could be used by those other than that would need to use it. It is just what was a potential of, like I said, abuse.

Now we're getting into how do you define credible? And that I can tell you right now, in the implementation of this, you're going to have different installations coming up with a check list of what defines a credible, restricted report that would be eligible for a transfer without identifying the individual to the, you know, whole population.

It would -- this would just be very difficult to implement. Not only, I mean, as you've written it now, it already is an option
and is already available to commanders. I will tell you I've used it. It wasn't for sexual assault but it was something else. It was bullying and it made sense to move the individual.

We do this all the time. It's call rehab transfers. It doesn't even have to be tied to sexual assault. We have instances where we knew the individual was of a particular sexual persuasion, they weren't getting along with the individuals in the unit, we transferred them.

CHAIR FERNANDEZ: I think in this one, we have to give some deference to the commander, that's my take on that.

BG MCGUIRE: Yes.

CHAIR FERNANDEZ: Is that you can't -- somebody can't automatically say I've been sexually assaulted, transfer me because you'd get havoc. So I think to me, we need to give deference to the commander in this one. And I think we need to eliminate this.
I get why we put it in, but I think after Colleen's talked about it, we need to take it out.

MS. ANDERSON: But I just -- this is Michelle, again, just to try to understand the reason that you want to take it out is if there's already the authority to do this.

BG MCGUIRE: Yes.

MS. ANDERSON: So, why wouldn't we just have a recommendation that we clarify that this authority to engage in expedited transfer for restricted reports, that the authority that they have to engage in any -- that the authority they have to engage in transfer applies to those who file unrestricted reports.

Because apparently, there is some confusion about that or we would not have this in front of us because -- go ahead.

BG MCGUIRE: Yes, I think that if we use the verbiage of rehabilitation transfer, that that would resonate better.
MS. ANDERSON: Well, let's do that.

Let's do that. Say that the current DoD policy on -- what did you call it?

BG MCGUIRE: Well, I'm not so sure there's a policy on that, it's just a tool that's available to commanders for rehab transfers.

MS. ANDERSON: Well, so what would be the problem with saying that the current DoD policy should provide explicitly that rehab transfers apply and can be used for circumstances of unrestricted reports.

BG MCGUIRE: Okay.

REP HOLTZMAN: Can I just make a point. This is Liz Holtzman. You know, the recommendation is just to study whether this needs to be done. It's not --

BG MCGUIRE: It's already being done.

REP HOLTZMAN: Okay. Well because my concern about this would be to see whether
there is any issue even what do you call it, rehabilitation transfer? With each -- whether there are problems in terms of getting rehabilitation transfers in these circumstances.

MS. ANDERSON: Right.

REP HOLTZMAN: So I have no problem with studying that. That's what I, you know, so I don't think General McGuire, that your concern about this is really 100 -- I mean I agree with the content of your concern. I definitely do with that. But I think all we've asked for here is to study the issue.

So I don't know. I mean you still may be right, maybe we should just eliminate it. I mean I'm not necessarily --

BG MCGUIRE: But you know, I'm looking at the credibility of the report and the credibility of the work that we have been doing now for the last six months. To make a recommendation like this on something that already exists or is a tool that's available...
to commanders just kind of looks like we're filling up the report. I'll be blunt.

REP HOLTZMAN: Okay.

BG MCGUIRE: We felt compelled to add another recommendation.

CHAIR FERNANDEZ: We have three options here. We have the option to leave it as is as a study. We have an option to eliminate it completely and we have the option to state specifically that the rehabilitative transfer applies to restricted reports, people who have filed a restricted report.

BG MCGUIRE: Well I don't know if it even says it's a study, it says recommendation is to determine whether or not to extend the option to request an expedited transfer following a credible report. It doesn't say study.

MS. ANDERSON: Yes, so this is Michelle. I think that the recommendation is not really a recommendation, it's a recommendation to think about and I guess then
determine whether or not there's something
that already exists apparently, according to
Colleen, and I defer to her expertise on this.

How about the recommendation is just to
clarify that the rehabilitation transfer
mechanism can apply to restricted sexual
assault victims.

BG MCGUIRE: There you go.

CHAIR FERNANDEZ: This is Mai. Can
I ask who we're clarifying for? And I'm
asking that in earnestness. Do commanders
need clarification on this or are we saying it
needs to be clarified to the victims and their
SVCs that are advocates know that this might
be something they ask for?

CHAIR FERNANDEZ: Well, there is a
finding that we have here that the policy does
not permit expedited transfer for those who
file restricted reports and Colleen has
indicated that actually it does go through a
different route.

It does seem that if the policy
says you can engage in temporary or permanent expedited transfer for an unrestricted report, but not for a restricted report, that by implication, many commanders would conclude that they may not be able to engage in a transfer. All we want to do is clarify for both victims, SARC folks who are set up to support the victims and for commanders for anyone in the military that this is an option.

BG MCGUIRE: Okay, I understand.

REP HOLTZMAN: Well, this is Liz Holtzman. Have we had any testimony though that people don't know that they can do this with restricted reports? I mean I'm just going to play devil's advocate here. Do we have any testimony that commanders don't know about this power? Do we have any testimony that victims don't?

BG MCGUIRE: We had the testimony on March the 13th --

COL HAM: You heard from one victim who filed a restricted report and then changed
it to an unrestricted report so she could
request an expedited transfer.

REP HOLTZMAN: She lived next door
to him.

COL HAM: She lived next door to
him in a --

REP HOLTZMAN: Right, right, right,
I heard that. So maybe Mai's point is exactly
right that the clarification is really to the
victims and their, you know, as opposed to the
commanders.

And maybe the clarification is that
even though an unrestricted report -- even
though a restricted report does not
automatically confer the right to a transfer,
a transfer still can be made, clarify to
victims and to whoever, you know, their SARC
people and their counselors that a request for
transfer can still be made under the
rehabilitation.

COL HAM: That's the Army term --
this is Colonel Ham. I don't know if the
other services use that term but it refers to
-- General McGuire, correct me if I'm wrong --
it's the inherent authority of the commander
to do what's best for their unit and request
that personnel be moved for many, many reasons
or not moved for many reasons.

    CHAIR FERNANDEZ: Could I just --
ok, while we're at this, okay, so I go and
my SARC to my victim's advocates advocates to
my commander and say, we've got to move this
woman to another base.

    Now isn't the commander at that
point informed of my case and needs to move my
case -- make it unrestricted?

    COL HAM: No, they don't need to
say for what reason, I mean it could be for
mental health, behavioral health and even
after -- as a result of, you know, sexual
assault. She's seeking, you know, counseling
or whatever. He doesn't know or she doesn't
know -- the commander does not need to know
those kinds of specifics.
And so it could be for a whole host of reasons that it would be medical and/or staffer or a FAP or whatever community can come together and make that recommendation.

DEAN ANDERSON: But if it's the SARC and the VA that's coming forward, isn't that inherently just going to be like this is for a sexual assault. Otherwise it would be somebody else coming forward.

MS. CARSON: Yes, we'll have to work through those mechanisms and that's what that recommendation six is going to generate is some other interpretation.

DEAN ANDERSON: It just seems that, I get what you're saying, Colleen, that this is available, but it's only available if the commander knows. And once the commander knows, it needs to go unrestricted.

BG MCGUIRE: I mean that is a -- because even as a commander, I think that I could still work around it. I could. And if I was a SARC or a staffer or individual, I
would probably work with maybe the mental
health community to maybe make my argument.

CHAIR FERNANDEZ: Well I think it's
important for us to acknowledge how truly
innovative a leader Colleen is and I am
impressed by that.

BG MCGUIRE: I know, I don't it
though, too, I'm sorry.

CHAIR FERNANDEZ: However, I guess
I'm just concerned about the clarification
question.

I think allowing both victims and
SAPRO offices and commanders understand that
they can creatively deploy, and that's not the
verb because that's something specific in the
military, but that they can creatively use
their ability to transfer people in the best
interest of the troops and that that can apply
to a circumstance in which there's an
unrestricted report, I think is worthy.

BG MCGUIRE: Okay.

CHAIR FERNANDEZ: That way,
everyone is as creative and innovative as
Colleen is.

MS. GARVIN: We can certainly lift
it and see how it falls out, but my fear is
that not everybody is as creative and
innovative as Colleen. I have --

BG MCGUIRE: I don't have faith in
most of mankind. So I just don't know that
once that commander finds out that they're
going to feel compelled to go unrestricted.

REP HOLTZMAN: Well, but the
commander's not going to find out the details.
The commander doesn't know what this has to do
with. The commander's just going to know that
a SARC has come, maybe there's a sexual
assault involved but the commander may not
know when the sexual assault took place. Did
it take place in the military? Did it take
place some other time? Exactly what the
reason is for the need to move.

I mean I think that a smart SARC or
a smart anybody doesn't have to give the
details and a commander can understand. So I don't think it necessarily would trigger a report.

COL HAM: It could be a case of a civilian assault as well.

REP HOLTZMAN: Correct, correct.

CHAIR FERNANDEZ: Okay, so then, Michelle, I think you had some phrasing. Why don't you give it -- try to give it one more shot?

MS. ANDERSON: Okay. That the Secretaries in the military departments, actually, I'm on the wrong one, hold on. That the Secretary of Defense direct SAPRO in conjunction with the services to clarify that commanders can use their inherent authority to engage in transfers of an expedited nature when there is an unrestricted report of sexual assault. I'm sorry, when there is a restricted report of sexual assault.

CHAIR FERNANDEZ: Everybody okay
with that language?

COL HAM: This is Colonel Ham. I think it raises the same issue you've been discussing, that if the commander knows it's a restricted report, he's got to take action. So perhaps some language just to move -- to transfer service members for a myriad of reasons, including mental, physical health, or whatever. Something like that. I have not run into that problem.

REP HOLTZMAN: Yes, maybe we should just -- let's not write -- my suggestion, this is Liz Holtzman, is not to write it right here but to get some -- maybe the staff can write up an option for us and we can maybe finish.

CHAIR FERNANDEZ: Agreed. Okay, let's go to recommendation seven.

JUDGE MARQUARDT: This is Christel and on the second recommendation there, I thought that we wanted to make sure that DoD Safe Helpline was established so that it would be available for all the services and that it
would be manned for 24-hours. Because it seems like some of them were not manned 24-hours.

COL HAM: This is Colonel Ham, Judge Marquardt. I think you did hear that a local SARC or a local helpline was not answered by one victim who appeared in March. That would be the local one, not the DoD SAFE Helpline.

I think this recommendation is directed to your concern, if that makes sense.

JUDGE MARQUARDT: Didn't we suggest that the same helpline be available -- the same number be available for all the services? Because it would be easy to remember if you had one number.

MS. ANDERSON: Yes, could folks just clarify, this is Michelle, I think what I'm a little unclear on is why we publish our RAINN number as well as information numbers which are not 24/7 apparently.

CDR KING: I think we were trying
to accommodate what the regulations actually are. So there's a SAFE helpline number that RAINN runs. It is 24/7 and the agreement is, per my understanding, is that they answer the line when anyone calls that number and then transfers the individual to a SARC or a Victim Advocate at a local installation. And the local installations are supposed to give accurate phone numbers.

But the regulations also says that military installations can have their own phone lines that the RAINN number doesn't prohibit installations from having their own phone lines also.

MS. ANDERSON: Sorry, just to clarify a question, Sherry, that's really helpful what you just said.

Is the problem that when RAINN gives the number to the local facility, that local facility may not be staffed 24/7 or is the problem that when we advertise two numbers, the RAINN number which is always
supposed to be up, and the military
installation Safe Helpline that sometimes the
Safe Helpline is not always answered.

CDR KING: Yes, what DoD policy is
intending to do here is to establish this one
DoD help line as the universal phone number to
call for any kind of crisis sexual assault
support that will then connect you to a SARC
on the local installation.

The SARCs are required to have a
24/7 capability but what the installations are
doing is setting up their own 24/7 hotline.

If you go to the Fort Hood website
homepage, they advertise the SHARP hotline,
not the DoD hotline, on their homepage. And
so that's where the confusion is going. So
they're calling the local installation which
that's not monitored. We don't know whether
it's always going to be staffed 24/7. It's up
to the installation.

But the DoD policy intent is for
the helpline to be that 24/7 number and the
additional recommendation we have currently, they only have to provide the -- commanders only have to provide one phone number and one alternate number for the SAFE helpline responders to call.

And our recommendation, or your recommendation, is that the installations need to provide enough contact information so that the DoD helpline responder can find someone on that installation to help find a Victim Advocate or a SARC.

MS. ANDERSON: So are the -- sorry, this is Michelle, I've just got one clarifying question on that. Is the local SAPRO office or not the SAPRO office, the local SARC, are they sort of on a 24/7 availability to victims as they emerge?

CDR KING: Yes, they are required to go to the victim wherever the victim is, if it's in the emergency care, they are required to go there 24/7, there's someone on call.

MS. ANDERSON: So I guess my
question is, what's falling through the cracks?

CDR KING: Well, the falling through the cracks I think is the immediate availability and the clear understanding of having someone always answer the phone at whichever number they call.

MS. ANDERSON: Whatever number that is. Is that they have to be there.

CDR KING: Right, so --

MS. ANDERSON: Go ahead.

CDR KING: We heard from some of the victim advocates that sometimes the number is a cell phone number, they have places where there's not cell reception on the installation and there's just a lot of problems. And then we heard in Texas and we heard here in victim testimony that when they call, they will sometimes get a voice mail and the policy is to call back within 15 minutes. So their policy itself doesn't require someone to pick up the phone.
MS. ANDERSON: Right. Okay, so is the local safe helpline an advance over the issue if RAINN is always available 24/7. I mean that's pretty much all RAINN does is this hotline.

MS. CARSON: That's right because they have a staff of 80. They have crisis counseling backgrounds. They have a Master's degree supervisor who is there, so they've invested a lot in this service the DoD has.

MS. ANDERSON: So I guess I'm just wondering why we're not always directing folks to the RAINN hotline. It does seem like there's a little bit of slippage with the local help line but maybe I'm -- that's what I understood from the testimony. And the staff is closer to the testimony having reviewed it more carefully and more recently. Is that accurate?

MS. CARSON: That's right. If you search the website of installations, and I made a couple of different checks, all the
Navy installations, the only number that they post is the DoD SAFE Helpline. But you can click on that link and get there.

The Air Force and the Army both, or I believe it was Air Force -- no, the Air Force was difficult to find any number and then they had a local number. And Army advertises SHARP as their program and their hotline.

So it's different by service really.

MS. ANDERSON: So the recommendations are that there's clear guidelines for the SAFE Helpline and to establish an easy-to-remember number. Is that sufficient to attend to the problems? In other words, having an easily remembered number doesn't attend to the -- it may be good or interesting but it doesn't necessarily -- it doesn't attend to the 24/7. But it looks like the first bullet does. So right, I think we're okay.
CDR KING: I think we added the second bullet based on your discussions maybe when we were in Texas. I know at some point, we heard some subcommittee members discuss that and that's why we put that in there.

And some of the things we put in were just based on other discussions, not the formal discussions here when we related to Victim Services, so you may or may not want that now. We just put it in there so it didn't get lost in the paper, you know, in all the prior discussion we'd had.

MS. ANDERSON: Yes, I don't have a problem with recommendation seven. I think I'm still somewhat interested in the relationship between the RAINN hotline and the DoD SAFE Helpline but not necessarily --

CDR KING: Those are the same -- the DoD SAFE Helpline and RAINN, they're the same one. It's their local installations that have separate lines. And maybe we're not making it clear.
MS. ANDERSON: Yes, I'm not sure, but I think I understand now.

BG MCGUIRE: RAINN also operates their own hotline separate from the DoD specific hotline. Is that maybe what the confusion is?

MS. ANDERSON: Yes, that is. And so we have 80 staff that are dedicated to the Department of Defense SAFE Helpline specifically, those two things don't cross.

CDR KING: I think we need to change finding one to add the word SAFE Helpline -- that it's called the SAFE Helpline under the first finding under number seven just to add SAFE Helpline to that for sure.

CHAIR FERNANDEZ: Doesn't it say SAFE help line?

CDR KING: It's DoD SAFE Helpline is what it's called.

CHAIR FERNANDEZ: Okay. What is the E in there?

CDR KING: It's a typo.
CHAIR FERNANDEZ: Can we not use the term warm hand-off and explain that that's a referral to a person?

REP HOLTZMAN: Well the footnote says that.

COL HAM: I'll change it to refer the caller.

CDR KING: We can change that so that if you want so that it says refer the caller to a local SARC or connect the caller to a local SARC.

BG MCGUIRE: That's actually the language in their contract with RAINN.

CHAIR FERNANDEZ: It's 4:04 folks, if we're okay with recommendation number eight, we're done with the recommendations but there also seems be these things that we could work on and there's quite a few of those.

Sherry, do we have a suggestion on how to move forward?

CDR KING: I'm sorry, on how to move forward as far as the rest of these
discussions?

CHAIR FERNANDEZ: Yes.

CDR KING: Okay. Just to clarify, we want to keep number seven somewhat as it is but to be the main number and someone should always -- and they should always make sure someone answers.

CHAIR FERNANDEZ: Yes.

CDR KING: And as far as looking forward on the additional recommendations, they're really --

CHAIR FERNANDEZ: Number eight, Sherry, let's do number eight. I skipped over.

CDR KING: Oh, I'm sorry, I missed that one. Yes.

MS. ANDERSON: Folks, this is Michelle, I need to sign off and I appreciate the hard work of everyone and we'll talk to you all later.

CHAIR FERNANDEZ: Thanks Michelle.

MR. CASSARA: Hey Sherry, it's
Bill. I've got a meeting in like four minutes, are we going to have enough for a quorum?

CHAIR FERNANDEZ: We'll wait, Bill, and if you've got to go, you've got to go but let's --

MR. CASSARA: Oh, no, no, no, I mean, if I'm going to bust quorum, then I'll postpone my other call for a bit.

CHAIR FERNANDEZ: I think we can keep going. If we have to without you.

MR. CASSARA: Okay, well I'm sure it will be terribly difficult, but I'm sure you all will manage, so.

CHAIR FERNANDEZ: I'm sure everybody would prefer that you were here but if you have to go, you have to go and we can --

MR. CASSARA: All right, I'll talk to y'all next week.

CHAIR FERNANDEZ: Bye Bill.
MR. CASSARA: Take care, bye-bye.

CDR KING: Eight was just -- and you may or may not even want this in here, we had talked some about the evaluations and the DoD evaluating the training for SARCs and VAs and that the evaluation forms or the way they do it are not even consistent at this point.

So, we were trying to make a recommendation that the periodic evaluations be consistent across the services.

JUDGE MARQUARDT: This is Christel. I thought it was a good thing to include because if we're going to ask for money or ask money to continue the program, you need some kind of evaluation. So I thought it was good to include this.

COL HAM: And this is Colonel Ham. They were directed -- this was their initial evaluation. There's a document that the National Defense Authorization Act required, unfortunately, had to do 120 days from when the Act was passed, which is the end of April,
so it's going to come out after your reports are due that has the Secretary of Defense report to Congress on the evaluation of this training.

So we know there's something else coming, we don't have it and we're not going to have it for your reports. We may have it for the whole Response Systems Panel final report.

So, these were the initial evaluations that were done. Evidently, there's more coming. I don't know if we didn't note that in the recommendation, you might want us to do that. That's up to you that you're aware there's additional evaluation coming or a report to Congress on this.

CHAIR FERNANDEZ: What are you saying, that we should mention these evaluations in any forthcoming evaluations?

COL HAM: We know that the NDAA requires a report to Congress evaluating the
training. So the information that you have right now is current but we know there's more coming that we don't have and we're not going to have. I don't know if that affects you or your thoughts on the recommendation.

CHAIR FERNANDEZ: I guess it's still that they be consistent. I mean I think that whatever we have now, whatever is coming, that they have to be consistent across the services is what we're recommending.

CDR KING: Do you want us put in the mention that of the NDAA requirements just to show in case they make the same recommendations that you are making yours before theirs came out?

CHAIR FERNANDEZ: I think that would be a good idea.

CDR KING: Okay. Okay, and then as far as the additional recommendations if there's no more on that, we kind of went through the reports and kind of put in things that you had mentioned in other deliberation.
sessions and other -- or talked to witnesses
about and the first one -- maybe these are
kind of -- it might take too long for now.

    I don't know if you want to give us
written comments about what you want, if you
want to include these or what you want --
which ones you might want to include and then
I can combine them and send them out to you so
you can read each other's and decide if you
even want them.

    CHAIR FERNANDEZ:  I think that's
fine. The only thing I didn't see in here,
Sherry, and tell me if I'm wrong, one of the
things that we discussed was that some of the
other services have civilian counterparts and
that the SARCS maybe should have some civilian
counterparts included. I didn't see anything
like that in here.

    CDR KING:  You mean as far as
having a certain part of them be civilians
like some in the Air Force might be civilians
and in the Navy they're not or vice versa or
in the Army? Is that --

CHAIR FERNANDEZ: Well, my sense was that all the SARCS were active military, that's not the case. No?

MS. CARSON: This is Julie, no, the SARCS can be civilians or uniform in all the services except the Coast Guard, I believe, they're all civilians.

CHAIR FERNANDEZ: I know it was an issue when we compared the family victim services to the SARCS and they all have sort of a consistent tour of people that don't -- that don't deploy, if they're Victim Advocates.

MS. CARSON: We thought we had talked about that in one of our deliberations that maybe the SARCS should also have a consistent number of civilian employees so that you have a consistent core of individuals at any given spot.

JUDGE MARQUARDT: Well I noticed, this is Christel, I noticed in the report on
Page 26 that it's -- the Quick Compass Survey noted that the SARCS had too many responsibilities.

CHAIR FERNANDEZ: Right.

JUDGE MARQUARDT: And maybe that's something that we should comment on.

CDR KING: I think we did in number three of the additional recommendations. And maybe it got kind of a little bit blurred but we commented -- I think we tried to comment that they have different recommendations.

We could make that one a little -- or different jobs, so many different jobs. And so maybe you want to include that in both that maybe they should break those out and determine if some of them would be better as civilian positions instead of all military or instead of military or I'm not exactly sure but I think that's where we tried to address that issue.

BG MCGUIRE: I think we need to talk about it maybe a little more clearly.
CDR KING: Do you want to do that now or do you want to do that at the next meeting or at another meeting?

CHAIR FERNANDEZ: I think at another meeting. I've got to get going.

CDR KING: Okay, do you want us to take that one and try to write it more clearly and make an actual recommendation -- a proposed recommendation for you?

CHAIR FERNANDEZ: Yes.

CDR KING: Okay. Are there any other of these slots that we had that you want us to work on making a more specific recommendation?

CHAIR FERNANDEZ: I think we need to get through them, Sherry. I mean or people need to recommend on their own.

CDR KING: Okay.

BG MCGUIRE: I think folks need to go through these and at least list out which ones they think need to go forward into a recommendation. I think if you could send a
message like that to all the subcommittee members.

CHAIR FERNANDEZ: Okay.

CDR KING: I don't think we can just say three, four, five right now.

CHAIR FERNANDEZ: Okay, I'll do that and then people can let me know and then I can send it out to everybody for at least some more thought on it and more discussion at another meeting and we can try to write it. If people tell me they want recommendations on these, we can try to write them out.

COL HAM: Or any others.

CDR KING: Right, or anything else you have that we haven't mentioned.

CHAIR FERNANDEZ: Okay.

CDR KING: Okay, so I'll send out an e-mail after this meeting with that so that everybody can look at that since some of the people aren't on the phone call anymore.

CHAIR FERNANDEZ: Okay.

REP HOLTZMAN: Okay. This is Liz
Holtzman. I'm going to get off now. I think we're finished, right?

CDR KING: Okay.

REP HOLTZMAN: Thanks, bye.

CDR KING: Okay.

CHAIR FERNANDEZ: Okay. Thank you guys.

COL HAM: Okay, thank you very much.

CHAIR FERNANDEZ: Thanks everyone.

COL HAM: Oh, I think we need to say the magic words.

CHAIR FERNANDEZ: Oh, yes.

MR. SPRANCE: This is Bill Sprance, the DFO, and the meeting is closed.

CHAIR FERNANDEZ: Meeting adjourned.

(Whereupon, the foregoing matter went off the record at 4:15 p.m.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Victim Services Subcommitte

Before: Mai Fernandez, Chair

Date: Thursday, April 10

Place: Teleconference

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

[Signature]
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