

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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WEDNESDAY
APRIL 16, 2014

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The Subcommittee met by
teleconference at 4:00 p.m. Eastern Daylight
Time, Mai Fernandez, Chair, presiding.

PRESENT

MAI FERNANDEZ, Chair

WILLIAM CASSARA

THE HONORABLE ELIZABETH HOLTZMAN

DEAN MICHELLE J. ANDERSON

DEAN LISA SCHENCK

ALSO PRESENT

CANDACE HUNSTIGER, Designated Federal Official

COL PATRICIA HAM, Staff Director

CDR SHERRY KING, Supervising Attorney

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P R O C E E D I N G S

4:07 p.m.

LT COL HUNSTIGER: Hi, everyone.
Welcome to the Victim Services Subcommittee meeting, and the meeting is now open for discussion and deliberation.

CHAIR FERNANDEZ: Great. Thank you. Thank you all for being on the call. This is Mai, for purposes of the court reporter. Again, I'm going to ask the people if you have editing issues to please just submit those and to use the next hour for substantive discussions.

You know, just by starting it off, I want to thank the staff again for putting this together. Overall, I think it captured a lot of what we talked about as part of framing.

My only overall issue is that we think that this should be a more condensed framing that should sort of just very, very quickly point to the issues that we're

1 concerned about and how we're looking at them.
2 I sort of think that a 16-page frame is a
3 little long, and we're going to lose people
4 before we actually capture them.

5 DEAN SCHENCK: This is Lisa. I
6 completely agree with that. My concern on the
7 overall document is that in many instances we
8 are citing to the Department of Defense. We
9 are, in turn, citing to some college surveys
10 that occurred way back in the 90s. I don't
11 want to regurgitate what I consider to be bad
12 Department of Defense information,
13 specifically the extrapolated 26,000 number
14 and that extrapolation fails to take into
15 account non-responsive rapes.

16 So I think I truly agree with Mai.
17 I think this is way too long. I think it's
18 got way too much information. And our
19 citation is not even, to me, information.
20 It's stuff we got from briefing files from the
21 Department of Defense.

22 CHAIR FERNANDEZ: Does anybody

1 have any other overall commentary before we --

2 DEAN ANDERSON: Sure. This is
3 Michelle Anderson, and I wanted to say that
4 it's interesting people come to this material
5 with very different perspectives. I thought
6 that the material was great. I thought it was
7 beautifully written. It was passionate. It
8 highlights the words of the victims, which I
9 think is crucial. And it seems that the text
10 is very committed to situating the problems
11 that victims of sexual assault face and the
12 unique context of military life.

13 And I really want to thank the
14 staff members. I don't know which of the
15 staff members worked on this, but I think it's
16 quite passionate and it highlights the words
17 of the victims and acknowledges the context of
18 military life in ways that are very productive
19 and helpful.

20 But as I said before, I strongly
21 believe that we need to be making findings and
22 recommendations about these issues. Having

1 just read the section very carefully, it does
2 that. It's not actually a framing device,
3 which is what I think both Mai and Lisa are
4 referring to.

5 I do think that there is a section
6 that is a framing device in here, which is
7 section, I believe, two -- it's in the second
8 section, which is a framing device and which
9 says, look, the military can lead the way, can
10 lead the charge for how to address sexual
11 assault. I think that's brilliant. It's a
12 wonderful way of thinking about the military's
13 role vis-a-vis the larger context of sexual
14 assault.

15 But right now what happens is that
16 the findings are in sections one and two and
17 the recommendations are in section three.
18 They're not laid out like findings and
19 recommendations. I think that they should
20 reformat, they should reformat this to nearer
21 the other sections where we have general
22 background and then we come to specific

1 findings and specific recommendations.

2 Right now, findings are sections
3 one and two. They're kind of dispersed.
4 Recommendations are section three. It's not
5 really clear that the recommendations are
6 tightly tied to findings.

7 Like I said, I really think
8 there's a lot of important information here,
9 but it's too long to be a framing device. I
10 do think that there's a smaller section within
11 it that could be a framing device, and I think
12 the rest of it should be formatted the way the
13 other sections are formatted to have specific
14 findings and recommendations.

15 CHAIR FERNANDEZ: Okay. Bill,
16 what's your overall thought on this? Bill?

17 MR. CASSARA: I'm sorry. I just
18 hit the mute button and realized that I was
19 talking to myself. Okay. I tend to be on
20 the, be in agreement with Lisa and Mai. I
21 think that it does go a little bit too far in-
22 depth, and I do, you know, have some concerns

1 about the language that is used that I think,
2 to some degree, over-exaggerate the problem.
3 And I know that there are others on the
4 Committee that will disagree with me, and I'm
5 used to that. But I think that it would be
6 better truncated with less citations to
7 somewhat unreliable sources, as Lisa pointed
8 out.

9 CHAIR FERNANDEZ: So the section
10 that I think is the framing device is actually
11 1C, which is unique military opportunities.
12 And that sort of lays out in a really nice way
13 a frame of thinking about, although this is
14 not, although sexual assault is not a unique
15 problem in the military, it's a problem that
16 the military is, in some ways, uniquely
17 positioned to try to step up to and make a
18 dent in. And I think that it's a terrific
19 subsection, and I think that that or something
20 like it should lead the report and get the
21 framing device we're sort of looking for.

22 You know, generally, when we talk

1 about services of any kind, the general phrase
2 that goes out there is barriers to
3 participation and access to services. So I
4 don't know if part of it is understanding that
5 whatever -- the victim services that we're
6 offering here is not because we're a social
7 service program but because it's got to be
8 linked to military readiness. I think that
9 that's part of what I think is very important.

10 But then when we talk about victim
11 services, it really is a what are the barriers
12 to participation and what's the access to
13 participation? Barriers to participation and
14 access to services. And if that could come
15 out very clearly in the first few paragraphs,
16 I think that begins a framing, and then go
17 into the unique opportunity.

18 But above and beyond, we have to
19 say why this is important that we provide
20 these services to military personnel; what's
21 the issue, which is barriers to participation
22 and access to services; and then the unique

1 opportunity. I think, in some ways, that's
2 how I see the frame on this.

3 DEAN ANDERSON: Yes, I think --
4 Mai, this is Michelle Anderson, and I think
5 that the barriers to participation is an
6 important way of thinking about this. What I
7 see that comes up again and again in this
8 section are the structural impediments to
9 reporting. That is, systemic issues within
10 the military that pose an impediment or
11 deterrent for people to report sexual assault.
12 And I completely agree that it needs to be
13 linked to military readiness, and I think that
14 positioning this issue as one in which the
15 reporting of sexual assault is considered part
16 of military readiness so that it's dialogue
17 about, you know, in that way, it's framed in
18 that way within the services, and that it's
19 part of the responsibility of service members
20 and commanders at all levels to identify this
21 problem and address this problem.

22 So I agree that barriers to

1 participation is a helpful construct, and one
2 of the ways that I think that that has to do
3 with the structural impediments to reporting,
4 like the pursuit of collateral misconduct
5 charges, the way that the mental health
6 records interface with the ability to engage
7 in combat services or to advance in one's
8 military career -- I'm sorry. Not combat
9 services but the ability to engage in combat
10 and be certified as being appropriate for
11 that, as well as the ability to progress
12 within one's career. Those are two things, in
13 my mind, that are structural issues within the
14 military that are unique to military life that
15 can deter people from reporting. And they
16 would be barriers to participation really,
17 barriers to participation in this whole life
18 of the community and in the ability to be
19 prepared to go to war.

20 CHAIR FERNANDEZ: Right. And then
21 it's lack of access to services is -- so one
22 thing is barriers to reporting, and then the

1 other one is access to services, what's
2 limiting access to services.

3 DEAN ANDERSON: Right.

4 CHAIR FERNANDEZ: In addition to
5 reporting. And I think those things are
6 somewhat spelled out here, but, like I said,
7 I think that the frame should be very quickly
8 laid out in the first few paragraphs. And as
9 passionate as some of these quotes are, I
10 think it fails to get to the grain of the
11 issue, which is really these personnel have to
12 be ready and they have to be ready and the
13 only way they're going to be ready is if they
14 get access to services and there are systemic
15 barriers to these individuals getting
16 services. And then the services themselves
17 have issues.

18 DEAN ANDERSON: Yes, and I agree
19 with that, Mai. And I think that the way --
20 this is Michelle. Part of the remit here is
21 that this section right now goes into a
22 description of some of those barriers to

1 reporting, some of those barriers to access,
2 and barriers to participation, but it doesn't
3 lay it out as findings and recommendations.

4 And I think that the reason it
5 sort of doesn't feel as tight as it could or
6 should is that it really is, this is stuff
7 that we've heard a lot of testimony on, we've
8 heard a lot of information on, and I think we
9 should be making findings and recommendations
10 on these things, rather than just describing
11 them as background information. I do think
12 we're in a position to make recommendations
13 and findings on the barriers to participation
14 and the access to services; and, clearly,
15 those things are within the scope of our
16 jurisdiction as a subcommittee.

17 CHAIR FERNANDEZ: But haven't we
18 done that already in the other sections?

19 DEAN ANDERSON: Who's speaking?

20 CHAIR FERNANDEZ: Oh, this is Mai.
21 I'm sorry.

22 DEAN ANDERSON: Yes, I think that

1 we have done some of that work in the other
2 sections for sure, the access to services
3 piece for sure, but we haven't done the
4 barriers for participation, that is the
5 structural impediments to reporting. This is
6 the first time we're talking about these
7 things.

8 That's why I think that it's not,
9 although I was probably one of the ones who
10 thought that this was the framing piece, I
11 don't think it is now. I think the framing
12 piece is something slightly different, and I
13 think that these are core issues that we need
14 to be grappling with here on why people don't
15 report, what do we do about the fact that they
16 don't report, what happens when they do
17 report, what are the ways that that impedes
18 the readiness of the troops to handle whatever
19 assignment because there is all of these
20 circumstances in which people are not able to
21 respond effectively because they're not
22 reporting and, therefore, they're sitting with

1 a lot of pain and not accessing the services
2 that they need.

3 So I agree that the other sections
4 do the work of the access to services, but the
5 other sections aren't talking about the
6 structural impediments to reporting. This is
7 the only --

8 COL HAM: Ma'am? I'm sorry, Dean
9 Anderson. Colonel Ham. I'm sorry.

10 DEAN ANDERSON: Go ahead, Colonel
11 Ham.

12 COL HAM: I didn't mean to
13 interrupt you, if you wanted to --

14 DEAN ANDERSON: No, go ahead.

15 COL HAM: Okay. I'm wondering if
16 we can, I guess, make everybody happy by doing
17 what some of the members are saying,
18 shortening the framing section. But, Dean
19 Anderson, we're still working on the victim
20 services section that you've gotten some
21 recommendations on. You're maybe moving the
22 parts of the reasons for not reporting and all

1 those descriptions into that section so you
2 can make the recommendations in that section.

3 Right now, I mean, you've seen a
4 draft where it describes the policy mechanisms
5 in place to reporting. What you haven't seen
6 yet is our sections on barriers to reporting,
7 which would basically be what we've written
8 here. We would just move it.

9 DEAN ANDERSON: I think that's a
10 great idea, Colonel Ham.

11 COL HAM: If the other members
12 agree.

13 DEAN SCHENCK: I think that would
14 be good. I still would cut some of it out
15 when we move it to the other sections. I
16 agree -- yes, this is Lisa. I'm sorry. There
17 are specific reasons why victims in the
18 military do not report. I think we need to
19 focus on those, and so there are unique
20 challenges, as well, in that, when we move
21 those pieces over, we want to make our
22 recommendations.

1 As far as are we still going to
2 have a section that what we're going to call
3 framing an issue, or are we talking about
4 totally eliminating that?

5 COL HAM: That framing the issue,
6 as I understand, you want us to make -- I'm
7 sorry, this is Colonel Ham -- is an
8 introduction, if that's correct, Ms.
9 Fernandez, but much shorter and the
10 introduction actually frames the issue. But
11 it is the introduction to your entire report;
12 am I correct?

13 CHAIR FERNANDEZ: That's what I
14 would suggest. I don't know if others agree.

15 DEAN SCHENCK: This is Lisa. I
16 totally agree. So in other words, rather than
17 having a frame of the issue at every
18 Subcommittee, there would be one framing of
19 the issue for the entire report?

20 CHAIR FERNANDEZ: I think there
21 would be a total framing of the issue for the
22 entire report with a short framing of the

1 issue when you get to our part. I would say,
2 like, I don't know, a page. That would be --

3 MR. CASSARA: Hi, this is Bill. I
4 won't claim to have any expertise at all in
5 this area. Did I hear that there's a
6 technical writer there? I mean, that's what
7 they do. I don't have a clue. I'm truly
8 clueless as it relates to such a thing. Is
9 this what a technical writer would advise us
10 on?

11 CDR KING: There's one person who
12 she just started. She's sort of overwhelmed,
13 I think, because she has the whole report to
14 review and, more, she's, at this point, being
15 used to, like, make the whole report sound,
16 have the same voice throughout is my
17 understanding, more than doing substantive
18 editing for our report.

19 MR. CASSARA: All right. Thanks,
20 Sherry.

21 PARTICIPANT: It's something I can
22 do, but I haven't been able to review this

1 section yet, so it's something eventually we
2 can work on.

3 DEAN ANDERSON: So one question I
4 have -- this is Michelle, just to jump in on
5 this question of, well, what is the framing
6 device -- is does our report stand alone or is
7 it going to be integrated into a larger
8 report?

9 COL HAM: Ma'am, this is Colonel
10 Ham. Your report stands alone. You report to
11 the Response Systems Panel, and Candace can
12 interrupt if I'm saying something wrong under
13 FACA. Then the full panel will adopt, reject,
14 modify, add, delete, you know, their own
15 findings and recommendations. They have to
16 deliberate on their own. Then the full panel
17 will produce a final report, which may and
18 probably will include major sections of all
19 three subcommittee reports that the full panel
20 members are free to change it, add to it,
21 delete, as they see fit.

22 The FACA requirement is they must

1 deliberate on it. They may not accept the
2 subcommittee report without deliberating on
3 it.

4 DEAN ANDERSON: So that's helpful.
5 And I think, to that extent -- this is
6 Michelle -- to that extent, I think that the
7 Section 2, first part of it which is just an
8 overview of unwanted sexual contact in the
9 military, may be the place to start. Just A,
10 not B, 2A.

11 And then I really like 1C, which,
12 although it kind of gets, the first paragraph
13 is a little slow, the rest of it is very
14 clearly saying, look, we've got a unique
15 opportunity in the military with the command
16 structures to make a dent in this issue and to
17 really lead the way. You know, the last
18 sentence of 1C is, "The Department of Defense
19 can lead the nation in the fight against
20 sexual assault." And I think those two pieces
21 together are a fairly short framing device of
22 about a page, a page and a half, which says,

1 look, there are problems in the military with
2 sexual assault, this is the scope of the
3 problem, these are our latest numbers, our
4 best numbers on the scope of the problem. And
5 then we can lead the way -- this is,
6 obviously, a problem in the larger society not
7 unique to the military, but the military has
8 a unique opportunity to lead the way in
9 addressing this issue, and that's the frame
10 for them moving into an analysis of the victim
11 services that the military offers and the
12 barriers to participation and the access to
13 services piece.

14 DEAN SCHENCK: This is Lisa. So
15 where would you put the military readiness
16 piece?

17 DEAN ANDERSON: I do think that
18 the core question of military readiness needs
19 to be embedded throughout the document. I
20 completely agree that the way to think about
21 this issue is that it impedes the ability of
22 the troops to be coherent, cogent, you know,

1 for them to be prepared to go into battle. I
2 think that that piece needs to be woven
3 throughout, Lisa. Do you see it as a separate
4 section?

5 DEAN SCHENCK: No, no, I see it as
6 an underlying theme, as well. This is Lisa.
7 My concern with the piece of readiness is it's
8 just a couple of quotes, and then it doesn't
9 really actually -- there's one line that talks
10 about recruitment, readiness, and retention.
11 It doesn't actually say how it's implicated or
12 hindered by sexual assault.

13 DEAN ANDERSON: Right, right.

14 DEAN SCHENCK: So I think that
15 needs to be fleshed out, flesh that out, I
16 think, throughout.

17 My problem is I agree with what
18 you're saying. And, again, this is Lisa. But
19 my problem is I really am unhappy about
20 section -- let me see. The one that quotes
21 the DoD extrapolated numbers. I am really
22 unhappy about 2A, the overview of USC in the

1 military. I don't want to regurgitate what
2 I've written an article explaining is junk
3 math, and I take offense to identifying the
4 sexual assault problem in the military based
5 on a very bad survey and a very unreliable
6 extrapolated number. And I believe that
7 another subcommittee may come up, the
8 subcommittee that's comparing our numbers to
9 the civilian sector, is going to identify the
10 flaws in our Section A that we're quoting from
11 the DoD.

12 So I really think, if we're going
13 to talk about USC in the military, we need to
14 be accurate and we should also identify the
15 actual reports because there's nothing
16 mentioned about the actual reports and how
17 many of those reports are identifying unknown
18 offenders and foreign offenders and civilian
19 offenders and people that aren't in the
20 military, people that we do not have
21 jurisdiction over. So it's a quarter of the
22 picture that, an overview of USC.

1 MR. CASSARA: Hey, Lisa, it's
2 Bill. I just, I want to make sure I'm on the
3 same page as you are. I think I am. You are
4 talking about paragraph 2A, right?

5 DEAN SCHENCK: Yes. Lisa. Yes.

6 REP HOLTZMAN: Could you give the
7 page?

8 DEAN SCHENCK: Page five. This is
9 Lisa. Page five.

10 MR. CASSARA: And you said a
11 couple of times US, and I'm not catching the
12 acronym. I think because I have an echo --

13 DEAN SCHENCK: Yes, this is Lisa.
14 unwanted sexual contact, USC. That is how the
15 Department of Defense identifies what they
16 consider to be sexual assaults and identify it
17 as an estimated 26,000 active duty victims in
18 their extrapolation from that survey.

19 MR. CASSARA: Thank you. And I
20 will say, you know, I mean, I've read Lisa's
21 article and I agree with her that those
22 numbers are suspect, at best. And, you know,

1 nobody is trying to downplay the problem here,
2 but, if we use numbers that are suspect as we
3 come to a recommendation, I believe that --
4 what's the word I'm looking for -- clouds are
5 recommendation. That's probably not the word
6 I'm looking for, but you get the gist.

7 DEAN ANDERSON: So, Lisa and Bill,
8 this is Michelle. Do you have a better survey
9 instrument or a better sense of how we might,
10 in a very -- you know, we don't need to be
11 perfect here in terms of the framing device.
12 Again, no one is claiming that the military
13 has a unique, at least no one here is claiming
14 that the military has a unique, that is unique
15 in having the problem of sexual assault. I
16 think it's a problem that pervades society in
17 the United States. No one is claiming that it
18 is, you know, one extreme or the other. All
19 we need is something generally to lay out
20 that's --

21 DEAN SCHENCK: I agree. This is
22 Lisa. I agree. I think one sexual assault is

1 one too many. So I think it's easily
2 identified that the Department of Defense has
3 indicated there's a problem with sexual
4 assault in the military services. They have
5 identified this through an extrapolated number
6 estimating 26,000 military victims, footnote
7 to their extrapolation which is they're going
8 to account for non-responses from the survey.

9 But to flesh it out in a whole
10 page is problematic. And we don't even
11 mention the restricted versus unrestricted and
12 the number of cases that were actually
13 reported.

14 So I think that we can do maybe
15 three lines. We don't need to drag it out.
16 That's my problem.

17 Just give me one second and let me
18 point out that -- just to show you why I
19 believe this is inaccurate. I don't do math,
20 but I can tell you that DoD sent out emailed
21 surveys to 108,000 active duty service
22 members. They had 85,000 surveys that didn't

1 have enough questions to answer or were
2 considered not good enough to be counted.
3 They were non-responses, yet DoD doesn't
4 account for the non-response rate. And so
5 that is a problem, in addition to the wording
6 of some of the questions on the survey.

7 So I think we should actually cite
8 to the number of reports that's provided in
9 their DoD report, 3,900 reports for sexual
10 assault, again, some not within our
11 jurisdiction. But I think that we can come up
12 with a paragraph more general regarding
13 unwanted sexual contact.

14 REP HOLTZMAN: This is -- I'm
15 sorry?

16 CHAIR FERNANDEZ: The
17 restricted/unrestricted reports. This is Mai.

18 DEAN SCHENCK: Okay. So DoD, in
19 their big 1600, 1400-page report that they
20 publish every year has in the front of it the
21 WGRA, this survey we are citing to responses.
22 And in the back, they also include in that

1 report the actual reports. That means the
2 reports provided to the military that were
3 either restricted or non-restricted. And they
4 then scoop it up and it comes to about 3,900
5 reports. And then they separate it out and
6 say this many were restricted, which means we
7 can't investigate them, we're going to
8 separate them out; this many people were
9 unknown offenders; and it goes on and on and
10 on. It turns out there's only about 1400
11 cases that can actually be, that are actually
12 triable and have been investigated and tried.

13 Anyway, the point being this is a
14 public health survey they've got here, and
15 we're using that as a point, but, yet, we
16 don't have the point about the actual reports.
17 So I think in one paragraph, and I guess I
18 could work with Sherry and Julie and the staff
19 to come up with a paragraph, that there's no,
20 it's an extrapolated number that also notes
21 the actual reporting number, and that's going
22 to change, and there's the problem.

1 REP HOLTZMAN: This is Liz
2 Holtzman. I completely agree with anybody who
3 wants to attack these numbers. I'm just, my
4 view -- and I'm sorry I'm late. I couldn't
5 get into -- I was given the wrong number to
6 call in.

7 I think if we, in any way, fudge
8 this number of the 26,000 or whatever the
9 number is, we're going to be attacked for
10 trying to minimize the problem. So I don't
11 think we can do that. I think that would be
12 -- and I would certainly be very strongly
13 opposed to that. I have no problem with
14 putting a footnote in saying that the
15 reliability of this study has been or the
16 study has been severely criticized for many
17 quarters and the methodology, whatever you
18 want to say. But I would put it in a
19 footnote. I wouldn't have a whole paragraph
20 about how, well, the numbers aren't really
21 right because then it sounds like we're just
22 saying the problem isn't as big as people

1 think it is or as serious.

2 I just think it's going to be
3 misunderstood. I don't mean to say that
4 you're not a thousand percent right about the
5 methodology used here. But I think the
6 numbers are out there, and I wouldn't spend a
7 lot of time on it. These are the numbers, the
8 methodology of the report has been criticized,
9 and let's move on from there because I just --
10 what they want us to do, I mean, I don't even
11 think this is the focus of what we're supposed
12 to do.

13 DEAN SCHENCK: I agree with Liz.
14 This is Lisa. I agree with that, and I'm not
15 saying fudge the numbers. What I'm saying is
16 I don't think we should be publicizing in a
17 whole page of our report, regurgitating
18 something that's already out there that I
19 believe is inaccurate. What I'm saying is in
20 a paragraph we can describe the problem, cite
21 to the 26,000 extrapolated, cite to the actual
22 numbers that were reported, drop a footnote to

1 DoD's 1400-page report, and move on.

2 REP HOLTZMAN: Well, I only see a
3 paragraph. I don't see a page. I just see a
4 paragraph --

5 DEAN SCHENCK: The entire --

6 REP HOLTZMAN: -- the survey
7 report.

8 DEAN SCHENCK: All of page five is
9 all about this WGRA survey, the entire page
10 five.

11 REP HOLTZMAN: Yes, but only one
12 paragraph deals with the numbers. And I would
13 just, if you think these numbers are really
14 bad, which they probably are, who knows, I
15 mean, why not put it in a footnote and say
16 these numbers have been, you know, severely
17 criticized, including by one of our members,
18 as being inaccurate and whatever you want to
19 say about it?

20 COL HAM: This is Colonel Ham.
21 You could refer to the Comparative Systems
22 Subcommittee, as well. They're looking at

1 sexual assault surveying in general in some
2 great detail.

3 MR. CASSARA: This is Bill. I
4 don't want to beat a dead horse, but why do we
5 need to cite to anything? I mean, we're all
6 in agreement that, you know, like Lisa said,
7 one is too many. So without citing to the
8 survey or any counter survey or any counter
9 numbers, why don't we just put in a paragraph
10 that talks about sexual assault in the
11 military and that's what we're here to
12 address? I don't know what the exact language
13 would be, but I don't think we need to float
14 a survey and then say, well, maybe that survey
15 is not so great.

16 Like Lisa said, one is too many,
17 so we're addressing a problem and we do a
18 quick introductory paragraph that's, you know,
19 we are addressing the problem of unwanted
20 sexual contact in the military and here's what
21 we're recommending as our subcommittee report.

22 REP HOLTZMAN: This is Liz

1 Holtzman. The reason that we can't just do
2 that is because -- maybe you could take out
3 the preliminary paragraph in this because I
4 think if we don't cite to these numbers people
5 might suggest that we're trying to minimize
6 the problem. That's the difficulty.

7 The numbers are out there, whether
8 we like it or not. That's a reality. So
9 either you just sort of acknowledge, you can
10 just say, you know, the problem of, you know
11 -- I mean, you could cut the whole paragraph,
12 I mean the whole section out, Section 2, about
13 the overview of the numbers if you want to do
14 that, but I think that it's a problem if we
15 don't say something about it. That's just my
16 view, but I could, you know, have your view.

17 But that's the reason, Bill. You
18 know, we don't all agree. I don't agree with
19 that.

20 DEAN ANDERSON: So I think -- this
21 is Michelle, just to jump in. I think that,
22 as a matter of proffered expertise, we are

1 under an obligation to grapple with the most
2 recent and what we believe are most accurate
3 numbers and to identify their limitations
4 either in text or in footnotes, but we do have
5 an obligation, it seems to me. We've been
6 charged to master this information; and,
7 therefore, I think we have an obligation to
8 share what we think are the best numbers.
9 Even if limited, even if imperfect, these are
10 the best information we have out there is the
11 following on the scope of the problem.

12 And I agree that there are
13 delicate political questions about how not to
14 minimize and how not to exaggerate. I think
15 those are always going to be with us when
16 we're talking about something so politically
17 charged.

18 You know, another route in is to
19 say that this issue has dogged the military
20 for a long time and there have been scandal
21 after scandal. I don't think that's actually
22 a better way into the issue, though. I think

1 a better way into the issue is sort of a
2 reflective, more academic question of these
3 are the studies, this is what they tell us,
4 and then footnote the limitations or grapple
5 with the limitations in text. You know, I do
6 think that we have an obligation to talk about
7 the best data that we have, even if it's
8 limited and imperfect.

9 CHAIR FERNANDEZ: This is Mai. I
10 think Lisa said that she would help in putting
11 together sort of the right wording where we
12 could quote the 26,000 but to a minimum and
13 then work it with the staff so we could get
14 the right wording on how to use the numbers.
15 Is that correct, Lisa?

16 DEAN SCHENCK: Yes, absolutely.
17 This is Lisa.

18 CHAIR FERNANDEZ: So why don't we
19 just say that we'll have Lisa work with the
20 staff on getting the right wording and use the
21 26,000 but use it with all the caveats
22 necessary?

1 DEAN SCHENCK: Yes, and I think we
2 do need to -- this is Lisa. I do think we
3 need to include the actual reports, too. You
4 know, we're only doing one side. This is a
5 survey. People actually reported. There are
6 actual factual numbers that aren't represented
7 on page five, and I think that's an important
8 piece. You know, that's why every one picks
9 on the military because there are 3,900
10 reports and only 206 court-martials or however
11 many court-martials there were. You see what
12 I mean? I mean, we're lawyers. We should
13 provide the actual reporting numbers and the
14 survey data. I believe both.

15 CHAIR FERNANDEZ: Is everybody in
16 accordance with that? This is Mai. Liz, did
17 you have something?

18 REP HOLTZMAN: I think it's kind
19 of off track. I really think what they're
20 interested in is -- I mean, what we have to do
21 is acknowledge that this is a serious and big
22 problem. Now, maybe it's not 26,000, but I'm

1 just afraid -- all right. Add the numbers.
2 That's fine. Add the numbers about the number
3 of cases reported. If you think that's
4 important, then do that. I don't know what it
5 adds. I really don't know what it adds.

6 DEAN SCHENCK: Well, this is Lisa.
7 I think it adds, first of all, actual case
8 numbers. Second of all, I believe it shows
9 that it's under-reported in the military, as
10 it is in civilian sector.

11 COL HAM: This is Colonel Ham. I
12 don't want to suggest how to do the part.
13 That's up to you. I just want to let you know
14 again both Role of the Commander and
15 Comparative Systems have looked at the survey
16 in some detail. Victim Services did not or
17 didn't see part of your, for whatever reason,
18 didn't see part of your terms of reference,
19 and Comparative Systems has looked in great
20 detail into DoD SAPRO, and other sexual
21 assault surveys like the National Crime
22 Victimization Survey, the National Intimate

1 Partner and Sexual Violence Survey. They have
2 talked to the director of the Bureau of
3 Justice Statistics, former director of the
4 Bureau of Justice Statistics. The Role of the
5 Commander has talked to the Centers for
6 Disease Control.

7 So they've looked at the kind of
8 scope of the problem issue in terms of
9 surveying, just to inform you. So that may
10 help you decide how much or how little to go
11 into it and refer to the Comparative Systems
12 for more, the Comparative Systems Subcommittee
13 report for an in-depth discussion of it.

14 DEAN ANDERSON: Yes, this is
15 Michelle, and I think Colonel Ham is brilliant
16 on this point. The reality is that we haven't
17 done as much on that issue, looking at those
18 reports, as the other committees had, and it
19 provides us with an opportunity to streamline
20 the framework and say sexual assault, unwanted
21 sexual conduct and sexual assault remain
22 substantial problems in the military and the

1 military is in a unique position to lead the
2 way on reforming systems and providing victim
3 services, such that it can be a beacon for the
4 rest of society.

5 You know, I don't think we have to
6 get into the details as much in our section
7 if, as Colonel Ham indicates, the other
8 committees have done a much more thorough job
9 of analyzing the question of how to count, how
10 to count the number of assaults.

11 COL HAM: And I'll tell you there
12 is no right answer to that, according to --

13 DEAN ANDERSON: Right, right.

14 COL HAM: -- the director of the
15 Bureau of Justice Statistics.

16 DEAN ANDERSON: Yes, no doubt, no
17 doubt. You know, I think that this is an
18 important issue, but I'm not sure that it's
19 all of what's here. I think there's a lot of
20 interesting recommendations and findings that
21 are in this section that's not going to be
22 part of the framework anymore but that's going

1 to be embedded in other sections in the way
2 that Colonel Ham has suggested about the
3 structural impediments to reporting, the
4 barriers to participation that we were talking
5 about earlier. And I'm wondering if it might
6 make sense to talk about a few of those before
7 we have to break.

8 CHAIR FERNANDEZ: I would agree
9 with that. Let's see. Well, let's look at --
10 this is Mai -- the reasons for reporting and
11 not reporting, which would be on page six and
12 it would be 2B.

13 DEAN ANDERSON: So I think this is
14 fascinating. This is Michelle. I look at the
15 survey instruments for the questions that are
16 listed here of why victims do and don't
17 report, and it's absolutely fascinating. I
18 know that the staff has taken a look more
19 carefully, but I went back and looked at it on
20 the basis of this writing. And it has a list
21 of reasons why one did report already scripted
22 out and a list of reasons why one didn't

1 report scripted out, and I think there, as I
2 mentioned in the last dialogue that we had, I
3 think there's, I have some concern about
4 making firm conclusions about why victims do
5 and don't report based on responses that are
6 scripted for them.

7 But this survey instrument is even
8 more interesting in that it doesn't say select
9 one or select the top three. Instead, what it
10 says is that it asks the victims to say yes or
11 no to a list of reasons why they did report
12 if, in fact, they reported that they did
13 report or a list of reasons why they chose not
14 to report. And so the victim is required to
15 answer either yes or no to each one of these
16 things, which it's extraordinary.

17 What it means is that the victim
18 is required to answer, say a victim who
19 reported is required to answer yes or no to
20 the question "I reported because it was the
21 right thing to do." And it's no surprise that
22 what the right thing to do ends up garnering

1 the most yeses. Because of the construction
2 of the survey instrument, it would require a
3 victim to believe that it was not the right
4 thing to do to say the word "no" to that
5 reason.

6 Again, the victims are required to
7 say yes or no to each one of these rationales,
8 rather than an open-ended question asking why
9 did you choose to report or an open-ended
10 question why did you choose not to report or
11 a list of possible answers where the victim
12 was asked to choose one as the reason or a top
13 few as the reason.

14 Now, why does this matter? Well,
15 I think it matters because I don't want to, I
16 don't want us to put so much stock in these
17 answers that it sounds as if we know why
18 exactly victims report or choose not to
19 report. So I think that we want to be a
20 little bit more careful with how we talk about
21 these reasons. You know, the top three
22 reasons why. It's like, well, the top three

1 reasons that received a yes in a survey
2 instrument that was designed to really, it
3 very much personalizes the answers. It
4 doesn't talk about systemic issues. So,
5 anyway, I would want to make more subtle an
6 analysis of what the survey instrument does
7 and doesn't do on these rationales.

8 The other thing is that I'm not
9 sure that it's also clear why we're comparing
10 and contrasting it with non-military female
11 rapes or sexual assault victims. It's usually
12 been the survey instruments in those surveys
13 were very different and did not require the
14 victim to give a yes/no response to each one
15 and may not have even listed the same answer.
16 In other words, may not have listed the answer
17 of "It was the right thing to do," which has
18 a very high response rate of, yes, it was the
19 right thing to do when one, in fact, reported.

20 So I think the comparative piece
21 is misplaced here. I understand the impulse
22 to have a comparison and, if the survey

1 instruments were consonant with one another,
2 I would agree that it was relevant and
3 helpful, particularly with an added
4 discussion. But it seems a little bit in the
5 weeds to me. So I would take out the non-
6 military rape and sexual assault victims
7 because their survey instruments are
8 different.

9 So that's what I would say, I
10 think, about the reasons for reporting. I
11 actually think that we, what we haven't done,
12 at least in terms of surveys that I know of,
13 what we haven't done are open-ended interviews
14 with victims where we ask the victims
15 themselves to describe why they did or did not
16 report. Those are very time-intensive,
17 expensive kinds of surveys to engage in,
18 obviously. So it's understandable why we
19 don't have that textured analysis. I think
20 the testimony gives us some of that textured
21 analysis, but I wouldn't want to substitute
22 the survey instruments that we have now and

1 the data that we have from those survey
2 instruments for the more textured analysis
3 that open-ended questions would give us.

4 COL HAM: Ma'am, again, not to go
5 too much into surveys, but that's what the
6 National Crime Victimization Survey does and
7 that's the female non-military numbers that
8 we're talking about. And just on behalf of
9 the staff, the reason we put any of this in
10 here at all was to at least put some data next
11 to the anecdotes that you heard because we
12 don't know how to quantify the anecdotes.

13 So whether the data is good, bad,
14 comparable, not comparable, we thought you
15 would want some data to add to the anecdotes
16 so that you couldn't be or wouldn't be --

17 CHAIR FERNANDEZ: Floating a
18 little bit.

19 COL HAM: Yes, yes. Effectiveness
20 by just making recommendations based on the
21 anecdotes, if that's what you were doing,
22 which I'm not saying you are and I don't think

1 you are, that's the only reason we put that in
2 there. If nobody wants it in there, we're
3 happy to take it out.

4 DEAN ANDERSON: No, actually, this
5 is Michelle. I just want to square this point
6 and then turn it over because I know that
7 there are other voices that want in on this.
8 I think that it's helpful to have it in,
9 Colonel Ham. I just want a little bit more
10 subtlety in how we introduce it, and I'm not
11 sure that there is comparability between the
12 military survey instruments and the non-
13 military survey instruments. You're telling
14 me that the non-military survey instruments
15 were open-ended interview questions?

16 COL HAM: The National Crime
17 Victimization Center, I think they're the
18 major one in the nation that reports for why
19 people don't report and why they do report.

20 DEAN ANDERSON: Right. And those
21 were more open-ended questions. I mean, I
22 agree with you that we should have it and was

1 one who advocated this on the beginning. I
2 think as, you know, part of our
3 responsibility, part of our duty is to grapple
4 with the information that we have, the data
5 that we have, limited as is. I would just
6 want to frame the limitations of that data
7 either in a footnote or in the text. That's
8 all.

9 DEAN SCHENCK: This is Lisa. I
10 agree with Michelle. I think she's right. I
11 guess we could drop a footnote and indicate
12 DoD's respondents were asked to provide a
13 list, to a respond to a list of reasons, and
14 the college victim data is -- I think the
15 college victim data comes from, according to
16 a footnote, it does come from the NCVS, right?
17 So they get interviewed in-person, I think.

18 Anyway, I do have one --

19 COL HAM: The college data comes
20 from --

21 DEAN SCHENCK: The college data --
22 okay. This is Lisa. On this section, I think

1 we should, the third paragraph gives the
2 general reasons for reporting. The first
3 paragraph doesn't seem to fit. It seems to
4 tell us, oh, we have to make them feel
5 comfortable and confident and safe. It
6 doesn't say, it just says, it kind of sets the
7 scene for what we're supposed to do to get
8 them to report, rather than give us reasons
9 why they're reporting or not reporting.

10 REP HOLTZMAN: Where are you
11 citing to, please, Lisa?

12 DEAN SCHENCK: The very first, the
13 very first paragraph under -- it's on page
14 six, the first paragraph under the victims'
15 reasons for reporting or non-reporting. It
16 says, while reporting their assault, it should
17 be so law enforcement authorities can conduct,
18 law enforcement authorities can conduct a full
19 investigation, blah, blah, blah. The first
20 hurdle is making them feel confident.

21 So, I mean, are we talking about,
22 you know, barriers to reporting and getting

1 rid of barriers to reporting? I just think
2 that paragraph doesn't fit. I think we should
3 start out with, if we're cutting down, we
4 should start out with the reasons they say
5 they're reporting and then go to the reasons
6 why they're not reporting, footnote on how we
7 asked them, and, if we're going to keep the
8 comparisons, footnote how the college victims
9 were questioned, as well.

10 CHAIR FERNANDEZ: Along that, I
11 wouldn't quote me as a source. This is Mai.
12 I'm highly genius, I must say. But that was
13 me speaking for the panel. It was not
14 testimony, nor am I speaking and quoting some
15 authority. So I would strike me as a
16 footnote.

17 DEAN SCHENCK: Oh, one last thing.
18 This is Lisa. I also think, rather than cite
19 to the DoD slides, is there any way we can get
20 better citations for that, like DoD slide 23?
21 I don't know. I think we could maybe get
22 their source.

1 COL HAM: Yes, the footnotes are
2 not complete in any way.

3 DEAN ANDERSON: I really want to
4 acknowledge -- this is Michelle. I really
5 want to acknowledge the last sentence of the
6 second paragraph, which says, "In addition,
7 regardless of whether a victim reports an
8 assault, every victim is entitled to receive
9 all available services in a timely manner
10 that does not detract from his or her career,
11 mission, or the many other demands on that
12 service member's life." This is really a
13 great sentence and, in some ways, frames what
14 we're trying to do in the entire Victim
15 Services Subcommittee, it seems to me.

16 DEAN SCHENCK: I agree. This is
17 Lisa. I just don't think it fits there.

18 DEAN ANDERSON: Yes. And I think
19 that that sentence actually can provide a way
20 into analysis of everything that we're talking
21 about from the beginning: why victims do and
22 don't report, which is now going to be moved

1 to a different subsection, what is the scope
2 of the problem, what is the structural
3 impediments to reporting, barriers to
4 participation, access to services, all of
5 those things. I really like this sentence,
6 and it just really jumped out as me as a
7 terrific sentence and a terrific way to
8 explain everything that we're doing.

9 REP HOLTZMAN: This is Liz
10 Holtzman. I like the first part of the
11 sentence. I don't understand the second part
12 of the sentence, and I'm not sure I agree with
13 it because you're entitled to all available
14 services in a timely manner that does not
15 detract from his or her career, mission, or
16 the many other demands, what does that mean?
17 I mean, the military can say, well, your
18 mission is to go, you know, overseas and fight
19 right now in Afghanistan, so you can't have
20 mental health services? That's how I read it,
21 and I don't agree with that, so I'm very
22 concerned about that sentence, the part of the

1 sentence that starts after timely manner.

2 DEAN ANDERSON: Well, I think the
3 part that attracts me, Liz -- this is Michelle
4 -- is the part that says it does not detract
5 from his or her career. And the mission in
6 the military remains independent of the
7 individual circumstances of any service
8 member, but it does seem to me that the, you
9 know, we heard, what we heard was -- and I
10 think the second part, the last bit of the
11 sentence, in terms of the demands on the
12 service member's life, has to do with services
13 alleviating the trauma of experiencing
14 victimization.

15 So I might change it to say every
16 victim is entitled to receive all available
17 services in a timely manner that seeks to
18 alleviate trauma and does not detract from his
19 or her career.

20 REP HOLTZMAN: Well, when you say
21 does not detract from his or her career, it
22 sounds to me like there's this other higher

1 mission which is more important than giving
2 services, which is to not detract from her
3 career or his career. That's a decision that
4 the person makes, but this doesn't say that.
5 It suggests that if the military thinks that
6 this is going to detract from your career,
7 they can decide not to give you those
8 services. That's how it's written.

9 So if someone can figure out how
10 to write it without that ambiguity, I'm fine.
11 But that creates an ambiguity where there's a
12 higher value than what the individual wants,
13 and that's the career mission and so forth.
14 That's how it's written. Sorry. So that's
15 the ambiguity I see there, so if somebody
16 wants to address that that's fine with me. I
17 don't have any other problems with that whole
18 section.

19 CHAIR FERNANDEZ: Okay, folks.
20 We've been on for an hour. I personally need
21 to go. I think that we've come to the
22 conclusion that we're okay with shortening all

1 of this. I think we've sort of laid out the
2 frame of how we want to look at it.

3 And then I would like to see this
4 section with the other information that we
5 have out there on reporting and to see it
6 together so that we're not editing this or
7 commenting on it piecemeal because there's
8 other information on reporting that we haven't
9 seen yet, and I would personally like to see
10 it together.

11 MR. CASSARA: I've got to roll
12 out, too. I know we have it scheduled for
13 Friday. What time is that call?

14 COL HAM: Ten o'clock, Bill.

15 MR. CASSARA: Oh, boy. I've got a
16 ten and an eleven o'clock call. Okay. Well,
17 I'll try and do both. Okay. We're work it
18 out. All right. We'll talk to you all then.

19 DEAN SCHENCK: And is the Friday
20 call for three hours?

21 CDR KING: It's scheduled for
22 three hours.

1 MR. CASSARA: Well, I'll be on for
2 half of it then.

3 CDR KING: That way, people can
4 come and go, I guess, as they need to.

5 DEAN SCHENCK: I just want to
6 underscore that we've, as I understood this
7 conversation, the sections that are about
8 thinking they would not be believed, being a
9 troublemaker, collateral consequences,
10 collateral misconduct, etcetera, that those
11 sections are going to go into another section
12 --

13 COL HAM: Yes, ma'am.

14 DEAN SCHENCK: -- on reporting
15 where we can do findings and recommendations.

16 COL HAM: Yes, ma'am.

17 DEAN SCHENCK: Thanks. I
18 appreciate your work. This is, I think it's
19 one of the hardest sections, and framing this
20 question is one of the hardest things to do.
21 So I really appreciate the staff's work.

22 CHAIR FERNANDEZ: Should we get

1 the closing words?

2 LT COL HUNSTIGER: Sure. Has
3 everyone spoken that needs to speak before I
4 close? I'll take that as a yes. All right.
5 So this meeting is closed.

6 (Whereupon, the foregoing matter
7 was concluded at 5:04 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: DOHA RSP VSS

Before: Mai Fernandez, Chair

Date: April 16, 2014

Place: Teleconference

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