

MILITARY JUSTICE REVIEW PANEL (MJRP)

+ + + + +

OPEN SESSION

+ + + + +

WEDNESDAY
OCTOBER 25, 2023

+ + + + +

The Military Justice Review Panel met via Videoconference, at 11:00 a.m. EDT, Dr. Elizabeth Hillman, Chair, presiding.

PRESENT

Dr. Elizabeth Hillman, Chair
Judge Benes Z. Aldana
Capt(R) Steven Barney
Col(R) Kirsten Brunson
MG(R) John Ewers
Col(R) William A. Gunn
MG(R) Robert Kenny
Col(R) Lawrence Morris
Col(R) Tara Osborn
Judge James Redford
Capt(R) Bryan Schroder
Judge Jeri K. Somers

MJRP STAFF

Mr. Pete Yob, Director
Mr. Dale Trexler, Chief of Staff

Ms. Stacy Boggess, Senior Paralegal
Ms. Terry Gallagher, Staff Attorney
Ms. Nalini Gupta, Staff Attorney
Ms. Amanda Hagy, Senior Paralegal
Mr. Michael Libretto, Staff Attorney
Mr. Chuck Mason, Staff Attorney
Mr. Marguerite McKinney, Management & Program
Analyst
Ms. Meghan Peters, Staff Attorney
Ms. Stayce Rozell, Senior Paralegal
Ms. Terri Saunders, Staff Attorney
Ms. Kate Tagert, Staff Attorney
Ms. Eleanor Magers Vuono, Staff Attorney

PRESENTERS

Lieutenant Colonel John Olson, U.S. Army
Colonel Matt Talcott, U.S. Air Force
Commander Bryan Davis, U.S. Navy
Colonel Nicholas Gannon, U.S. Marine Corps
Lieutenant Commander Nicholas DeRenzo, U.S. Coast
Guard

Captain Anita Scott, U.S. Coast Guard
Lieutenant Colonel Keaton Harrell, U.S. Marine
Corps

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

2 (11:01 a.m.)

3 MR. YOB: Okay, well, I'll make a quick
4 comment first, and admin comment just for the
5 panel members. And that is just a reminder we
6 didn't say yesterday, and should have, that
7 during the public session, the next two sessions,
8 please as an admin note, when you're going to
9 make a comment or ask a question, please just
10 when you come on screen and identify yourself by
11 name first, because we're transcribing these
12 parts, and that will help in the transcription to
13 have people identify what they're saying.

14 So, that's my one admin. Actually, a
15 great day yesterday, and I'm looking forward to a
16 great day today.

17 I'm going to throw it over to Dr.
18 Hillman, Chair, and she'll sort of initiate the
19 meeting, yeah.

20 CHAIR HILLMAN: Thank you, Pete.

21 Welcome to Day 2 of the 7th Meeting of
22 the Military Justice Review Panel. I want to

1 thank our staff for pulling together a great
2 meeting yesterday. And thank you to you for
3 making the time from all the different places
4 that you're joining us from around the world.

5 Today we're going to start with two
6 public sessions. The first public session will
7 be the Trial Counsel, service representatives.
8 They're just coming in and joining us now. We'll
9 start that after these opening remarks.

10 And then, and then we're going to hear
11 from the JSC representatives on the recent
12 Executive Order, Military Justice Executive Order
13 that implements the Special Trial Counsel
14 Program, such big sea changes in military
15 justice.

16 So, that's what the morning is. I'll
17 just note in terms of the order of the day, after
18 the morning, those sessions will be an hour, and
19 then another 30 minutes. We'll take a break in
20 the middle of the day, a little shorter than
21 yesterday's break. We're going to take 30
22 minutes in the middle of the day.

1 Then we'll kick into an executive
2 session for deliberations and some breakout
3 groups at the end of the day.

4 So, I think that I just want to give
5 members a chance to, if you have any questions
6 about administrative pieces, or access, or
7 anything like that, in terms of any tech troubles
8 that you're having, we can answer those before we
9 start.

10 And then we may need to pause for a
11 couple minutes as our folks join us from the
12 services for the Service Trial Counsel session
13 that we're having first this morning.

14 Judge Redford.

15 JUDGE REDFORD: Thank you, Dr. Hillman.

16 I just, and I know it's been sent out
17 multiple times, but if someone could just either
18 share now or send an email when the, maybe the
19 first two or three scheduled meetings in 2024
20 are. I've had some, you know, phone issues and
21 some stuff's been deleted from my calendar.

22 So, I would appreciate that. Yes.

1 MR. YOB: Sir, I'll get on that. And
2 we'll make sure that goes out to you on the next
3 break.

4 JUDGE REDFORD: Thank you.

5 MR. TREXLER: Hey, Dr. Hillman, it's
6 Dale.

7 CHAIR HILLMAN: Hey, Dale.

8 MR. TREXLER: Maybe if there's no other
9 questions I can do a quick roll call for Terry
10 Gallagher for her panel on Trial Counsel experts,
11 just to make sure they're all online before we
12 start that session.

13 CHAIR HILLMAN: That sounds great.

14 And, Dale, do you have all the members
15 noted so we know that we have a quorum?

16 MR. TREXLER: Yes, ma'am. We're good.

17 The only member missing, I think,
18 right now is Judge Kasold.

19 CHAIR HILLMAN: Okay, got it. Thank
20 you.

21 MR. TREXLER: All right.

22 So, let me just do a quick roll call.

1 Col. Talcott, Air Force?

2 (No response.)

3 MR. TREXLER: Col Olson, I see you.

4 LTC OLSON: Yes, sir.

5 MR. TREXLER: Commander Davis?

6 Commander Davis?

7 (No response.)

8 MR. TREXLER: Col. Gannon, Marine

9 Corps?

10 (No response.)

11 MR. TREXLER: Okay. So, we're missing
12 three out of the four right now. But, again, I
13 think Terry said that the session wasn't
14 scheduled till 11:15. So, I'd give them,
15 obviously, a few more minutes then.

16 CHAIR HILLMAN: Kudos to Colonel Olson
17 for knowing how being on time is being so darn
18 early for us. I appreciate that.

19 So, I'll just note, then, everybody
20 right now, panel members, as we wait for our
21 distinguished guests to join us, if you didn't
22 have a chance to look over the materials that

1 were sent last night around the ongoing
2 deliberations we're going to do later today, you
3 can take a look at what our director sent out
4 last night.

5 And I appreciate all the staff members
6 who helped us queue that up. It's hard to
7 summarize what a lot of different people are
8 saying during these meetings as we move towards
9 reaching some conclusions on some of the issues
10 ahead of us. So, I appreciate your attention to
11 that.

12 And if anybody's missing anything,
13 Judge Redford asked about dates for the meetings
14 coming up, if you're missing anything else, it's
15 a good time to raise it with our team right now,
16 too, as we look ahead.

17 I do hope we'll be back in person. I
18 appreciate the convenience of the virtual
19 meetings as everybody's working through the
20 technology that we need and how you need to carve
21 out time in your schedule. We moved virtual
22 because of uncertainty about the travel and the

1 funding issues as we approached this meeting.

2 We can, we can do that again as we
3 need to. We'll have to see how this plays out.
4 But I do appreciate the value of being in person.

5 And if any of you, you know, need to
6 reach out and talk to our staff, or talk to me or
7 other members of the panel in between, we would
8 normally have a chance to do that during an in-
9 person meeting. And we haven't had that chance
10 in these meetings.

11 I hope you'll, you know, pick up the
12 phone or drop an email. And I'm certainly
13 available to you, as are others, you know, if it
14 would help to clarify some of the issues as we
15 move ahead and look towards the comprehensive
16 report and all the work that's ahead of us.

17 MR. YOB: Dr. Hillman, I'll just point
18 out along those lines, going to the virtual
19 meeting it was, it was a product of two things:
20 one, having a meeting in October, which is in
21 normal circumstances difficult because your
22 funding is getting released; and on top of that,

1 the CR, in which case the funding being released
2 is even delayed more because they have to
3 calculate how much they can release.

4 So, we didn't have time to get the
5 funding done ahead of time.

6 I think we might want to think about
7 a year out not having meetings in October,
8 because it might make it a little bit easier for
9 us if we encounter any problem at all not to have
10 a hitch like this. We might push it to November,
11 which will give us a little bit of breathing room
12 to deal with any things like fiscal things like
13 this that are occurring.

14 So, just a suggestion to think about,
15 put away, and we'll consider that later.

16 CHAIR HILLMAN: So noted.

17 Judge Redford?

18 JUDGE REDFORD: Thanks, Director Yob.

19 I would suggest, respectfully, that as
20 opposed to a November meeting next year we
21 seriously think about a September meeting as
22 opposed. Because it's the end of the FY.

1 Normally that's when, oh my gosh, we've got to
2 spend the authorized funds, but more importantly,
3 when we're coming up on 31 December as a report
4 day, the ability to impact some change if we need
5 to, I would just suggest September.

6 MR. YOB: That makes tremendous sense.
7 And thank you for that comment.

8 CHAIR HILLMAN: We should take a look
9 at that schedule again, and also think about
10 whether if there's a day of the week that we know
11 is consistently not working for members of the
12 panel, that we shift away from that. Which I
13 appreciate everybody doing what they can to get
14 here. Not everybody is going to the great
15 lengths that Captain Aldana is to be with us,
16 from a different time zone over there.

17 But we should do what we can.

18 So, Pete, let's send out another
19 coordination with those meetings times and we'll
20 work out what might work for the panel as best as
21 we look ahead.

22 MS. GALLAGHER: And it appears that

1 everybody's here. You're ready to start.

2 CHAIR HILLMAN: Thank you, Terry.

3 Colonel Brunson, did you have one more
4 point?

5 MR. YOB: Kirsten, I think you're
6 muted.

7 COL BRUNSON: Sorry about that.

8 If we could consider maybe more than
9 the one-and-a-half to two days every three
10 months. I know we have the virtual sessions in
11 between, but it's so much easier to get things
12 done when we're in person. And if we're all
13 taking the time to travel there, my thought is
14 let's use more of that time when we're actually
15 together to get a lot of the work done.

16 Just a thought.

17 CHAIR HILLMAN: Thank you, Colonel
18 Brunson.

19 Okay. We're going to keep pivoting
20 and overcoming the challenges ahead of us, just
21 like our staff has done, honestly, navigating the
22 challenges that they face. And we'll work out a

1 schedule that works for everybody so we can get
2 this important work done.

3 Okay. I'm going to turn it over to
4 the lead attorney on this session, Terry
5 Gallagher, to lead us as we get started here.

6 MS. GALLAGHER: Thank you, Dr. Hillman.

7 So, good morning, everybody. For this
8 panel we have invited Senior Trial Counsel from
9 each of the services to provide their
10 perspectives, opinions, and recommendations on
11 the same topics covered by the Senior Defense
12 Counsel yesterday, including pre-referral
13 proceedings, judge-alone special courts-martial,
14 plea agreements, sentencing procedures, and the
15 process in the retaliation, domestic violence,
16 and sexual harassment allegations.

17 You have each been provided a copy of
18 their biography.

19 And so, joining us from the Army is
20 Lieutenant Colonel John Olson.

21 From the Navy we have with us
22 Commander Bryan Davis.

1 Colonel Matt Talcott is representing
2 the Air Force.

3 The Marine Corps is represented by
4 Colonel Nicholas Gannon.

5 And Lieutenant Commander Nicholas
6 DeRenzo is with the Coast Guard.

7 Each of them will be given an
8 opportunity to state their current assignment and
9 how long they have been in it, followed by a
10 brief statement regarding their thoughts on how a
11 recent change to the military justice system has
12 positively or negatively impacted their ability
13 to assist the command in taking appropriate
14 disciplinary actions for criminal wrongdoing.

15 Following their individual statement
16 they are prepared to field your questions.

17 Please help the court reporter out by stating
18 your name prior to asking your question.

19 Given the virtual presence of everyone
20 in attendance and the challenges associated with
21 that, for general questions posed to the group as
22 a whole the presenters will each be given an

1 opportunity to respond in a predetermined order.

2 The order of response will be Army,
3 Air Force, Navy, Marine Corps, and Coast Guard.
4 We have a number of topics to get through, so we
5 may be required to move on to another topic
6 before all questions can be addressed. Time
7 permitting, we'll circle back to some of those
8 questions.

9 With that, I'll turn it over to
10 Lieutenant Colonel John Olson for his brief
11 statement.

12 LTC OLSON: Good morning. My name is
13 Lieutenant Colonel John Olson, Jr. And I am the
14 Chief Circuit STC for the United States Army in
15 the 3rd Circuit, which we're calling the
16 Mississippi Valley.

17 So, I cover Fort Campbell, Kentucky;
18 Fort Knox, Kentucky; Fort Moore, Georgia; Fort
19 Johnson, Louisiana; Camp Shelby, Mississippi; as
20 well as Fort Novosel in Alabama.

21 I've been doing this essentially since
22 this summer. Prior to that I was Chief of

1 Administrative Law at III Corps. And before that
2 I was a Special Victim Prosecutor for three
3 years, 7th Army Training Command out in Germany.

4 I'd say over the last several years
5 the change that I have found most effective that
6 has really empowered at least my, my role as a
7 prosecutor has been the addition of our ability
8 to use minimum sentences along with sentencing
9 caps.

10 And I know this is something that is
11 a topic du jour, so to speak, but it is something
12 that has allowed the Government a little better
13 footing when it comes to plea agreements, as well
14 as presentation of our sentencing cases in guilty
15 pleas.

16 I find that we're able to capture what
17 the Government at least perceives as the gravamen
18 of the offense, rather than sort of a more
19 sterilized version that ultimately goes in front
20 of the military judge.

21 I know with that --

22 (Audio interference.)

1 CHAIR HILLMAN: Thanks, Colonel Olson.

2 Who's up next then, Terry?

3 MS. GALLAGHER: Colonel Talcott.

4 COL TALCOTT: Okay. Hi. Good

5 afternoon, everybody.

6 I'm Colonel Matt Talcott. I'm the Air
7 Force Chief of Trial and Appellate Operations.

8 In this position I supervise a team of senior
9 attorneys that travel around and prosecute cases
10 that are non-covered offenses, so not OSTC cases.

11 I also supervise all of the Air Force
12 Government Appellate Counsel.

13 I've been in this position since the
14 summer. And this used to be the position that
15 supervised all of our Senior Traveling
16 Prosecutors. So, it's different in that respect
17 with OSTC, now LSB -- STCs.

18 The answer that Colonel Olson gave I
19 concur with. That was a, it's a good change.

20 So, I guess what I'd highlight is the -- I guess
21 I should have said prior to this position I
22 served, I've been a military judge. I've been a

1 military justice instructor. I was a senior
2 prosecutor, traveled around Asia.

3 And the addition of the pre, what are
4 called pre-referral authorities for communication
5 warrants I thought was badly needed and is
6 helpful. I think it's still being underused. I
7 think counsel and judges are still working
8 through how often, when, and how to do it. But
9 having been a judge who did these hearings and
10 been an attorney advising my counsel to seek
11 them, the ability to capture that evidence can be
12 critical in cases.

13 And I think it's a rare case nowadays
14 that doesn't have some form of digital evidence.
15 Sometimes we have to get it through the use of
16 those communication warrants.

17 I think that's all I have for
18 introductory comments.

19 MS. GALLAGHER: Commander Davis.

20 CDR DAVIS: Yes. Good morning,
21 everyone.

22 My name is Commander Bryan Davis. I

1 currently serve as the Deputy Director of the
2 Criminal Law Division here at the United States
3 Navy within the Office of the Judge Advocate
4 General, essentially the criminal law policy wing
5 of the Navy JAG Corps.

6 So, maybe you're wondering, that
7 doesn't sound like a trial, trial counsel
8 position. My involvement in this panel stems
9 from my most recent assignment until I
10 transferred to this position in the summer of
11 this year.

12 Most recently I served as the Senior
13 Trial Counsel at Region Legal Service Office
14 Southwest. Essentially had overall
15 responsibility for prosecutions in the Southwest
16 Region of the United States, going all the way,
17 essentially, from California and pretty much over
18 to Oklahoma.

19 So, I was in that position for about
20 three years overseeing 12 to 15 prosecutors
21 carrying out the day-to-day duties of prosecution
22 in the Southwest Region.

1 Prior to that I served primarily in
2 litigation billets, or really exclusively in
3 litigation billets throughout my career, dating
4 back to 2007, both on the defense and the
5 prosecution side, including a tour with the
6 Office of Military Commissions, also on the
7 prosecution side.

8 To answer the question, I know some of
9 the other panelists have focused on some of the
10 positive changes. So, I apologize, I take this a
11 little of a negative direction.

12 But I think probably the biggest
13 hangup for counsel that I was supervising over
14 the past couple of years have been changes to
15 M.R.E. 513 and its application.

16 As I'm sure panelists are aware, there
17 has been ongoing questions about M.R.E. 513 and
18 the applicability or not of the constitutional
19 exception. That's an issue that's been around
20 for a long time.

21 But speaking more about, you know,
22 more pressing issues, I think the CAAF's decision

1 in United States vs. Mellette, which essentially
2 held that, you know, prescriptions, other medical
3 records, diagnoses, and treatment of victims or
4 witnesses were not covered by M.R.E. 513.

5 The challenges that that's created for
6 us in the Navy is, I think, in virtually every
7 case, regardless of whether, you know, it's a
8 sexual offense or any type of offense, as a
9 standard practice now we see discovery requests
10 in every single case for diagnoses, treatment,
11 prescriptions of witnesses. Which puts counsel
12 in a difficult position because frequently
13 there's not an obvious factual nexus in that
14 particular case that mental health may be at
15 issue.

16 So, the counsel is put in a position
17 to either affirmatively go out and attempt to
18 seek the information, which sometimes puts them
19 at odds with the victim's representation, or the
20 Government can hold the defense to its burden to
21 establish why that information is actually
22 relevant to the preparation of the defense.

1 Should the counsel take that route,
2 and they're essentially waiting until a motions
3 session, you know, a month or two after
4 arraignment has taken place to resolve that
5 issue. In course, you know, understanding that
6 relevance to the preparation of the defense, you
7 know, a fairly low bar, had been pretty regularly
8 ordering the Government to go and seek these
9 records.

10 So, here you are already, you know, a
11 month or two down the line into your trial
12 management schedule going out to seek records.
13 That can be a long, torturous process, especially
14 if we're not just talking about military
15 treatment facilities, but civilian treatment
16 facilities as well. So, it can just really delay
17 the process significantly, leading to continuance
18 after continuance.

19 Then when the defense receives the
20 information ultimately, that can be followed by
21 expert requests, and litigation over that, which
22 just creates additional delay.

1 There can also be litigation
2 surrounding that, you know, particularly when
3 we're talking about civilian providers who, you
4 know, have their own state law, licensing
5 requirements. They don't necessarily see the
6 privilege in the same way that military courts
7 have.

8 So, you can have motions to quash
9 subpoenas and things of the like. Again,
10 additional litigation and additional delay.

11 Taking that one step further, if the
12 records are ultimately obtained, then there's the
13 process of reviewing those records, which has
14 also been particularly problematic where you
15 have, you know, despite how specific a subpoena
16 may be drawn to only include non-privileged
17 information, treatment facilities regularly
18 provide the entire record of the individual,
19 which then includes privileged information.

20 So, you run into issues where, you
21 know, counsel if they review privileged
22 information could be disqualified. Judges are

1 not typically conducting in camera review on, on
2 these records.

3 And so, many offices are seeing up-
4 chain teams in order to be able to review these
5 records, which in a larger office like the one
6 that I led, not as much of a problem. But
7 particularly in our smaller offices, if you have
8 to dedicate another attorney or even seek an
9 outside attorney, that can be a significant
10 undertaking for a particular office.

11 So, you know, essentially it's a kind
12 of significant delay in these cases, which isn't
13 good for the accused. It isn't good for the
14 other witnesses involved.

15 And so, I guess my, my suggestion
16 along those lines would be to take a look, a long
17 hard look at the standards, whether that be
18 including these type of records under 513 as
19 actually being covered, or to increase the burden
20 upon the defense to demonstrate the necessity for
21 those records at the outset, instead of just
22 relevance to the preparation of the defense.

1 Perhaps a higher standing showing,
2 really, a particularized need for the records,
3 and then also layering in in camera review by
4 military judges to avoid something that
5 approaches that. That would be the experience.

6 So, happy to answer any more questions
7 or talk through that. I think I've probably gone
8 over my time. Apologize for that. But I'll
9 yield the floor.

10 CHAIR HILLMAN: Thank you, Commander
11 Davis.

12 Colonel Gannon.

13 COL GANNON: Yes. Good morning, ladies
14 and gentlemen.

15 I'm Colonel Nick Gannon. I'm the
16 Chief Prosecutor of the Marine Corps. Until we
17 fully stand up the Office of the Special Trial
18 Counsel, I supervise all of the prosecutions in
19 the Marine Corps. That's my current billet.
20 I've been in it since June of 2021.

21 And as far as in response to the
22 question, I'm going to go ahead and just parrot a

1 little bit what my Army colleague said.
2 Negotiating sentences certain or close to certain
3 is extraordinarily helpful to the commander.
4 That's a very positive development.

5 Thank you.

6 CHAIR HILLMAN: Thank you, Colonel
7 Gannon.

8 MS. GALLAGHER: And Commander DeRenzo,
9 please.

10 LCDR DeRENZO: Good morning, everyone.
11 Thanks for the opportunity to speak with you all.

12 My name is Lieutenant Commander Nick
13 DeRenzo. My current day job is the Chief of the
14 Litigation Division of the Coast Guard's Office
15 of the Chief Prosecutor, which is our version of
16 the Office of the Special Trial Counsel in the
17 United States Navy.

18 Essentially, my day job is supervising
19 all of the Coast Guard's trial counsel and
20 prosecution of the Coast Guard courts-martial,
21 basically throughout the United States.

22 We made a tactical choice to sort of

1 split up the division of duties for the
2 department head, for the pre-litigation
3 investigations, disposition decision, and then
4 litigation. So, I'm doing the latter, so,
5 training, supervising all the Coast Guard's
6 courts-martial.

7 I've been in this job since last
8 summer where I flected up to my previous position
9 where I was, essentially, what the Coast Guard's
10 version of a senior trial counsel in Alameda,
11 California, where I supervised all of the Coast
12 Guard's trial counsel in the Pacific area of
13 responsibility, basically from, right from report
14 of offense through the end of the case, however
15 that was disposed.

16 In terms of things that in my
17 experience have been a positive impact on
18 prosecution efforts since, well, in recent years,
19 I would echo some of the sentiments of my
20 colleagues.

21 In particular, the ability to get
22 stored communications and electronic evidence

1 before a charging decision is made, and before
2 we're in a litigation posture, whether that be,
3 you know, in my world there's pretty much an
4 enormous amount of information, social media,
5 stored communications, ring camera videos, I mean
6 you name it. We do that in a surprising amount
7 of our cases.

8 And I've found it incredibly useful,
9 both in deciding what is the right answer -- do
10 we charge, do we not charge? -- you know, the
11 overall search for truth. And then weed out what
12 we believe is a solid case, getting a significant
13 amount of corroboration, sometimes through
14 witness testimony, which is, as everyone knows,
15 crucial.

16 And then the ability to get pre-
17 referral subpoenas. And anybody who has
18 practiced law for a time knows you have to wait
19 for the referral to go get those documents that
20 you think exist. And that can both create delays
21 in the trial, or even potentially change the
22 posture of the case from the evidentiary

1 perspective.

2 So, the ability to get that before we
3 make decisions and move out in a prosecution
4 effort has been enormous and I'm sure we'll talk
5 more about that.

6 And then, lastly, the changes in plea
7 agreements, having practiced in the civilian
8 sector a little bit, you know, began my career as
9 an Assistant Public Defender in Florida, and then
10 spent two years as a Special Assistant United
11 States Attorney prosecuting basically Coast Guard
12 federal drug cases in the Military District of
13 Florida, it was kind of surprising to see the old
14 way we did plea agreements where we had two
15 parts, and the judge couldn't see the second
16 part. And it was sort of a beat-the-deal
17 concept. Created a lot of uncertainty, I think,
18 for everybody involved, whether you're accused,
19 witness, victim, command.

20 So, the change to have more certainty
21 -- and I think that's only going to expand, I
22 would assume, with the military judge sentencing

1 -- I think has been a positive for everybody
2 involved in terms of certainty of outcomes, you
3 know, slightly more efficient sentencing hearings
4 and the like.

5 Look forward to speaking to everyone
6 and answering your questions. Thank you.

7 CHAIR HILLMAN: Thank you, Lieutenant
8 Commander DeRenzo.

9 So, I'm going to start. We're going
10 to hit on all these categories, too. And, you
11 know, I'll remind the panel members, if you have
12 particular questions just let me know, and you
13 can jump in at any time, too.

14 But we'll start with plea agreements,
15 which many of you already spoke about, including,
16 you know, you just now here, Lieutenant Commander
17 DeRenzo.

18 So, I just want to make sure that we
19 have a sense of how you see the new plea
20 agreements versus the old PTAs, for those of you
21 who didn't comment on it already.

22 And two other things:

1 How do you think they are affecting
2 judicial discretion and sentencing?

3 And do you think something, we have
4 the advantage hearing from you, we talked to
5 defense counsel, we heard from defense counsel
6 yesterday and asked them questions. They found
7 that the absence of what you just described as
8 the beat-the-deal phenomenon had reduced the
9 vigorous advocacy in some case of those hearings
10 because there wasn't as much -- there wasn't as
11 much to be gained.

12 And I wondered what you think about
13 the impact on advocacy skills of some of the
14 change in military justice in recent months and
15 years?

16 CHAIR HILLMAN: Lieutenant Colonel
17 Olson?

18 LTC OLSON: Absolutely. So, I'd like
19 to address a couple of those things. I
20 appreciate the question.

21 So, first, just sort of considering
22 the pre-change PTAs and that sort of process and

1 system if you will, both as a prosecutor and as a
2 defense counsel I had a certain amount of angst
3 about it.

4 First, I start from the baseline of
5 the accused should always have some sort of
6 benefit for pleading guilty, otherwise why is he
7 or she doing it? And so, you know, wherever the
8 Government would value the case, I always
9 believed it was the right thing to do to, you
10 know, back that off at least a bit, obviously
11 circumstance depending.

12 The problem that I always found in the
13 previous system was that, you know, we may come
14 up, we may negotiate a maximum sort of a ceiling
15 if you will, a maximum sentence that the
16 convening authority would agree to, disapprove
17 anything above. And then the negotiations would
18 then turn to, okay, well, what exactly is the
19 accused going to plead to?

20 And some charges would fall off,
21 specifications would fall off. So that,
22 ultimately, what was presented to the military

1 judge, you know, at the sentencing hearing was a
2 very watered-down, even sterile version of what
3 the Government truly believed the case was.

4 And, you know, young Captain Olson
5 would always wonder, you know, why the heck am I,
6 am I getting my butt kicked every time I go into
7 these sentencing hearings?

8 And later on it sort of occurred to
9 me, well, it's because the judge doesn't really
10 have any understanding of the case as I see it,
11 because it has evolved and changed so much in
12 those plea negotiations.

13 So, now as we have these, you know,
14 the ability to have both a maximum and minimum,
15 now as the Government counsel I have the ability
16 to essentially set the Government value on this
17 case. So, all right, you know, the standard
18 garden variety 120 hearing -- I know that's a,
19 you know, a little bit tongue-in-cheek -- but,
20 so, I value this as, you know, let's say 24
21 months for a simple matter. I'm not going to go
22 below that.

1 You know, we can haggle over what the
2 maximum might be, but now even if, you know, a
3 couple specifications fall off, so on and so
4 forth, the value that I've put on, or and that
5 the Government has put on what we view as the
6 liability, criminal liability in this case is
7 still captured, is still there. I can still take
8 that back to the command. I can still take that
9 back to the victim.

10 And so, in my opinion, that's made it
11 far more equitable when we've actually gotten
12 into sentencing.

13 Now, the second question I believe was
14 on judicial discretion. So, I guess the larger
15 the window or the range, the more discretion the
16 military judge is going to have.

17 Just from my own personal anecdotal
18 experience, until very recently we've been pretty
19 reticent to do, you know, specified sentences or,
20 you know, say a minimum of, again for simple
21 math, 12 months and a maximum of, you know, 12
22 months and a day, so to speak, because there was

1 always that sense, you know, be it regulatory or
2 even cultural, that the accused has that,
3 essentially that right to that meaningful
4 sentencing case, that advocacy that you spoke of.

5 Personally, and I look at this both,
6 you know, from my experience as a trial counsel
7 as well as a defense counsel, I think that might
8 be overstated, a little bit overblown. I mean,
9 there were times, you know, consulting -- or,
10 excuse me, counseling, you know, my client as
11 defense counsel where, you know, I was asked, you
12 know, What am I looking at here? What am I going
13 to get?

14 Well, you know, the maximum is 35
15 years. You know, and then my client would freak
16 out.

17 Don't worry, you're not going to get
18 anywhere near that.

19 Well, what am I going to get?

20 Well, this judge is, at sentence this
21 judge gives these sentences typically. You know,
22 we don't know what's going to happen if we have a

1 panel.

2 So, it was sort of all over the map.
3 And it was actually very difficult to counsel a
4 client as to, you know, what may be the benefits
5 of a deal, what may not be the benefits of a
6 deal, so on and so forth.

7 So, in my opinion that, that
8 predictability, making the system a little bit
9 more certain, while that does rob a little bit of
10 that judicial discretion, especially, you know,
11 the smaller the range gets, to me, in my opinion,
12 it hasn't really reduced the meaningfulness of,
13 you know, what the accused is getting because of
14 that certainty, because of that predictability,
15 because of that ability to, you know, negotiate
16 to the -- with the Government and come to an
17 agreed-upon decision.

18 So, that particular piece doesn't
19 really, it doesn't really bother me personally.
20 I'm looking forward to the, you know, more
21 specified sentences. I'm really looking forward
22 to these parameters for all of these same

1 reasons.

2 And then, finally, you asked about
3 advocacy. I think there's plenty of opportunity
4 for advocacy when it comes to the merits. In my
5 personal opinion I think there might be a bit too
6 much advocacy when it comes to sentencing.

7 In preparation for this hearing I've
8 looked at a couple other jurisdictions just, you
9 know, across the country, you know, in areas or
10 locations similarly situated to Army
11 installations. And, you know, when I consider,
12 you know, pre-sentencing reports, when I've
13 looked at, you know, some of the federal
14 sentencing guidelines and how that works, it
15 actually is reducing sentencing quite a bit.

16 I see that as a positive. I would
17 like to see us go more in that direction where
18 we're considering, you know, the various sides,
19 and take some of the advocacy out of it.

20 We're considering everything from
21 victim impact to, you know, impact on good order
22 and discipline, as well as the ability of

1 potential, you know, potential recidivism risk,
2 all of these sort of things, where it's a little
3 more scientific and less, you know, just sort of
4 knock-down, drag-out fight at the sentencing
5 hearing, the same way it would be at findings.

6 So, from my perspective, while, yes,
7 it does cut down on advocacy, I don't necessarily
8 think that's a bad thing. And as far as, you
9 know, the atrophy of those skills, well, we
10 certainly still have findings where advocacy is,
11 you know, at its height.

12 So, that's, those are my thoughts on
13 that particular question. Thank you.

14 CHAIR HILLMAN: Thank you, Colonel
15 Olson.

16 Colonel Talcott, I think you're up
17 next.

18 COL TALCOTT: Yeah, I'm trying to think
19 of a clear way to say. I agree with Colonel
20 Olson's comments actually pretty uniformly. But
21 I have I think just a slightly different way of
22 thinking about it.

1 I suspect we're all going to say we
2 like the new plea agreements better than the old
3 PTAs. So, I can just, just move on past that.

4 The larger question about, you know,
5 if we have mins and maxes, or we agree on
6 something so to decrease the need for advocacy or
7 remove judicial discretion, well, I don't want to
8 over simplify this but, yeah, I think yes.

9 But I guess what I would say is, along
10 the lines of what Colonel Olson was saying, I
11 have two points here. And one is advocacy at
12 sentencing is not as valuable, and really
13 shouldn't be thought of as valuable to advocacy
14 at findings. You know, convincing someone the
15 facts prove the case, that, there's some real
16 value to that because there's some real nuance.

17 But sentencing, or looking at a trial
18 counsel and saying, What is this human worth?
19 You know, How much is this case really worth?
20 And what do the princ -- These are very high-
21 level things that, you know, the judge, or the
22 convening authority or, you know, people that

1 have been with this case for the year it took to
2 get to trial have a much better perspective on,
3 and the accused himself, too.

4 So, to the extent -- in some way this
5 is maybe a part of my second point which is, you
6 know, when I was a trial judge, in some ways when
7 I was an SJA, I, I was always afraid that the
8 advocacy or the sentencing hearing -- and this
9 not, I don't mean this pejorative about defense
10 attorneys or trial counsel -- but the advocacy is
11 sort of an effort, and it's not exactly that, I'm
12 going to use the word "tool," but it's sort of to
13 convince the judge that this case is worth either
14 more than it is or less than it is.

15 (Audio interference.)

16 COL TALCOTT: (continuing) -- of that
17 happening, so that the accused has negotiated
18 for, I think on either side, and so has the
19 Government.

20 So, the judge is going to come in and
21 just kind of review this case through a
22 microscope, you know, on a single day on evidence

1 that's been highly filtered through those, the
2 sentencing rules, and try to do his best.

3 But if he's got guideposts, it's much
4 easier for the judge to get it right.

5 So, overall I don't have any concerns
6 with the fact that maybe the judge's discretion
7 is limited. Maybe it's appropriate. Nor do I
8 have concerns advocacy limited, I've not -- while
9 I think advocacy is important, I just, I think
10 its value could be overstated if it's, if it's
11 acquitted somehow to advocacy at a findings
12 portion of a trial.

13 So, those are my comments.

14 CHAIR HILLMAN: Thank you, Colonel
15 Talcott.

16 Commander Davis.

17 CDR DAVIS: Yes. So, I certainly
18 concur with my colleagues as far as the change to
19 the new plea agreements being overall a positive
20 one.

21 I think that that comes down to this
22 idea of predictability. But I think what I'd

1 like to focus on is really, you know, increasing
2 the faith in the process, that I think these new
3 agreements increases faith in the process.

4 And what do I mean by that? I think
5 under the old system where, you know, we had a
6 feeling, though we certainly didn't know what the
7 floor was going to be, you know, from a convening
8 authority perspective, you know, they could end
9 up with what they viewed to be a particularly
10 anomalous result.

11 They may have viewed it as being
12 fairly significant misconduct. And then because
13 there's no floor, the military judge comes back
14 with a fairly low sentence, which I think does
15 kind of erode the confidence that commanders have
16 in the military justice process.

17 Along similar lines, I think, you
18 know, with respect to victim input as well, I
19 think the level of certainty that we're able to
20 provide victims of crime, and also, you know, not
21 having the anomalous results and the resulting
22 erosion of faith in the process on the victims

1 and as well.

2 So, I look at it similarly but with
3 just a different slant to it.

4 The only negative I think that I view
5 from the new plea agreement system is this idea
6 of a suspended sentence. So, under, under the
7 old system if the military judge sentenced the
8 individual over the ceiling allowed in a plea
9 agreement, typically the pre-trial agreement
10 would have that additional amount over the
11 ceiling be suspended for a period of time.

12 And so, we just don't see that nearly
13 as much. And I think there's at least some
14 marginal value to those suspended sentences in
15 terms of maintaining good order and discipline,
16 keeping people on the right path, and reducing
17 the likelihood of recidivism.

18 So, that's one, one negative aspect to
19 it.

20 I think it's clear that the new system
21 has reduced the amount of judicial discretion.

22 Yeah, I definitely saw a range as the Senior

1 Trial Counsel, and we would have cases that had a
2 fairly large range that did allow for judicial
3 discretion. And then I certainly saw plenty of
4 cases that gave no discretion whatsoever to the
5 military judge.

6 So, there does seem to be a range,
7 obviously, and there's cases where, where there's
8 no range, no discretion.

9 In terms of how that impacts advocacy,
10 I would, I would push back on that point. My
11 observations as a Senior Trial Counsel in San
12 Diego was that advocacy was as good as it had
13 ever been. And I did not see diminished
14 advocacy, regardless of the nature of what the
15 agreement set out.

16 So, regardless of whether the
17 Government had the potential to increase its
18 position, or advance its position, or whether the
19 defense did as well, even in those cases where
20 there was no range provided whatsoever, I still
21 saw counsel vigorously advocating their
22 positions.

1 I saw defense counsel being well
2 prepared. I saw them calling witnesses, putting
3 together really effective unsworn statements.
4 And I saw the Government operating in the same
5 fashion.

6 I think that comes down to a couple of
7 things. I think that comes down to just pride in
8 doing one's job well. That, you know, regardless
9 of what the stakes in a particular proceeding
10 are, you understand that it's still the most
11 important proceeding that is happening in a
12 person's life, whether that be the accused or the
13 victim of a crime.

14 And I think counsel, and if, you know,
15 if their supervisors are paying attention, really
16 see it as a growing process, or a training
17 process. So, my junior counsel knew that they
18 would start out by doing guilty pleas. And if
19 they performed on those guilty pleas, then they
20 may get additional responsibilities and the
21 ability to appear on the record and contest their
22 cases.

1 So, there was kind of
2 internal/external motivation to really present a
3 good case.

4 And then beyond that, I mean on the
5 defense perspective you still have your client
6 sitting next to you. And I think you want to
7 enhance the faith that your client has in you.
8 You want to communicate to your client that, you
9 know, while they may have committed misconduct,
10 that there's still somebody that believes in
11 them.

12 And I think that counsel have that
13 kind of mindset. I don't think you see a drop-
14 off in that that you see whatsoever.

15 Same thing on the Government side.
16 And to the extent that the Government counsel,
17 you know, recognizes how important this process
18 is for a victim of the crime, you know,
19 frequently victims will be present in the
20 courtroom. So, you know, really speaking to what
21 they experienced so that at the end of the day
22 they feel like they were hurt in the process,

1 regardless of whether -- or what the sentence may
2 be, I think motivates counsel to really rise to
3 the occasion, regardless of what the, you know,
4 whether there's any discretion for the military
5 judge or not.

6 And then I guess the only additional
7 piece I'll mention, you know, judges do still
8 maintain a small fraction of discretion, and that
9 in terms of their recommendation for clemency.
10 So, I certainly saw defense counsel vigorously
11 advocating and putting on their best sentencing
12 case, yet encouraging the judge to make a
13 recommendation for clemency, which I did see
14 judges do on a fairly regular basis.

15 So, there is certainly diminished
16 discretion, but at least in terms of that
17 recommendation for clemency, I think that is
18 still a motivator for putting on the best case
19 that you can and continued high-level advocacy.

20 Thank you.

21 CHAIR HILLMAN: Thank you, Commander
22 Davis.

1 Colonel Gannon.

2 COL GANNON: Yes. So, I'm a big fan of
3 the current sentencing setup. I think that the
4 bottom line is that predictability is good for
5 everybody. Predictability or, you know, some
6 predictability in terms of sentence is good for
7 the defense, good for the accused, is good for
8 the command, it's good for the victim, current
9 victims of crime. It's good for the trial
10 counsel, the Government at large.

11 It's just I just don't see a lot of
12 downside to predictability in terms of not only
13 the true and actual fairness of the system, but
14 the perceived, whether that's important or not,
15 the perceived fairness of the system.

16 Everybody's going into these agreements with
17 relatively solid knowledge on what's going to
18 take place.

19 On the advocacy side, I'm mixed on
20 that. The term "advocacy" is kind of nebulous.
21 You know, there's a different set of advocacy for
22 a pre-sentencing hearing than there is for a

1 trial in the merits phase.

2 My concern in terms of, you know,
3 building and training trial counsel to be
4 effective in the well, at least at the beginning,
5 you know, the captain, the O-3 level, O-2/O-3
6 level, we're very focused on sort of what I
7 phrase, you know, you hear the phrase blocking
8 and tackle, brilliance in the basics. That's a
9 different set. You know, laying foundations,
10 understanding the parameters of cross-
11 examination.

12 Having a relatively good command of
13 the military rules of evidence. You know,
14 planning a case out.

15 I think Colonel, I think my Air Force
16 colleague kind of alluded to this. And I agree
17 that it's a very -- I'm not going to say it's all
18 advocacy, but I'd say all the capabilities that
19 trial counsel bring in the merits phase, but it's
20 just, it's just a different type of advocacy to
21 be effective in the findings phase versus pre-
22 sentencing.

1 I don't know if I've seen a
2 degradation. If we just focus on the advocacy
3 for a second, so I don't know if I've seen a
4 degradation of that or not.

5 I do think there's a de facto
6 lightening of the load, if you will, in terms of
7 the, you know, this notion of beating the deal,
8 since that's kind of not really our practice
9 anymore, for everybody to go in with a, you know,
10 I'm just going to be making a record, and they're
11 going to do what they're going to do. And I'm
12 not saying anybody's shortchanging the hearing,
13 but there is this de facto less advocacy for sure
14 when you have a sentence semi-certain that's been
15 negotiated.

16 I think that's a fair observation for
17 the pre-sentencing phase of the case.

18 But I don't see that as being
19 necessarily deleterious to the overall efficacy
20 of trial counsel when it comes to their
21 capabilities in the merits phase, which I am much
22 more focused on because that, that is obviously,

1 you know, we're not going to get to sentencing if
2 we're not successful in a merits phase.

3 So, yeah, I mean, finally, discretion,
4 yeah, obviously there's going to be some
5 reduction there. We took an extraordinary risk
6 in the form of mandamus writ about six, eight,
7 ten months ago. Military judges at Camp Lejeune
8 in our Eastern Region were pushing back on
9 discharges. They were not willing to be beholden
10 to that negotiated provision.

11 The defense actually joined us in
12 that. And we went to our first layer court of
13 appeals, the NMCCA, and we got some rudder on
14 that.

15 So, I think that some of our judges
16 are exploring that avenue of where is my left and
17 right outer limits? Am I bound by this?
18 Instead, I think the term that they're using in
19 the case law is this, is this agreement rendered
20 an empty vessel because there is limited
21 discretion?

22 We've actually dealt with that in

1 actual cases on the Marines side and got some
2 good rudder from our appellate court.

3 But, yeah, there's no doubt about it,
4 there's certainly reduced judicial discretion in
5 terms of sentencing. And I certainly don't see
6 that as problematic in my current capacity.

7 Thank you.

8 CHAIR HILLMAN: Thank you, Colonel
9 Gannon.

10 Lieutenant Commander DeRenzo.

11 LCDR DeRENZO: Yes, ma'am.

12 As you can probably tell from my
13 opening comments I'm in favor of the changes.
14 And I don't add much to what my colleagues have
15 said on those subjects in terms of efficiency,
16 certainty, and the like.

17 I certainly concur that I think in a
18 positive way it streamlines the decisions that
19 need to be made in the sentencing hearing when we
20 have reduced range of sentence, or a certain
21 sentence. So, specifically, like, how much
22 evidence do we need to put in in aggravation? Do

1 we need to put in the entire report of
2 investigation or parts of it?

3 There again, take a lot of time by the
4 judge to consider how and whether or not a victim
5 chooses to make an impact statement, you know,
6 now they have that sort of standalone decision on
7 their own. But oftentimes we're engaged in
8 debate whether we call them as the Government.
9 And that discretion is, I think, simplified.
10 Obviously they can still provide a statement even
11 if there is a finite sentence in terms of their
12 right to be heard.

13 But I think that certainty certainly
14 helps to make those decisions more streamlined.

15 In terms of the advocacy piece, I
16 certainly think there is impact on it, but it's a
17 welcome impact in my view. One observation I
18 had, and just in comparing civilian practice to
19 military practice, was that there was, in my
20 view, over-advocacy in the sentencing hearing. I
21 certainly am in favor of the more sniper approach
22 as opposed to shotgun approach when you're

1 talking about sentencing, particularly if you
2 have a judge who's the one deciding these things.

3 I think particularly the Senior
4 Counsel, you know, they want to hit all of the
5 issues. And I've encouraged them to, you know,
6 really streamline their approach to sentencing.
7 Where are the inflection points in terms of what
8 is going to make a difference in this decider's
9 mind?

10 And I think that the change in how we
11 do sentencing requires them to think more
12 tactically about exactly what it is they want to
13 focus on, rather than every single theory of
14 punishment, or every single piece of evidence.

15 So, that is a welcome change in my
16 view. And I think we're able to, you know, more
17 efficiently get to these proceedings, which is
18 good for everybody. You know, maybe we can do
19 multiple sentencing hearings a day, as is common
20 in civilian practice, as opposed to what is
21 frequently the case, at least in Coast Guard
22 courts, it's an entire day affair.

1 Thank you.

2 CHAIR HILLMAN: Thanks, Lieutenant
3 Commander DeRenzo.

4 So, let me press on to sentencing a
5 little bit more.

6 Colonel Brunson, do you have a
7 question there? No, not yet.

8 So, okay, just on sentencing, you
9 know, you mentioned, actually Commander Davis and
10 then Colonel Gannon at least was nodding on this,
11 that being able to suspend portions of a sentence
12 was something you'd like judges to be able to do.

13 Are there other authorities you think
14 would be, would be helpful for a military judge
15 to have in sentencing? For instance,
16 restitution, compensation, reducing an officer,
17 you know, rehabilitative and diversionary
18 programs, do you think those would be, would be
19 welcome additions to the sentencing process?

20 And we'll go with the usual order
21 here. So, Colonel Olson, you're up first.

22 LTC OLSON: It's an interesting

1 question. And I'm trying to think it through.

2 I'm certainly not opposed to the idea.
3 I have a difficult time kind of seeing what the
4 application would be, or I guess the mechanics of
5 it.

6 But when I think about this, I tend to
7 think that that's more of a question of whether
8 or not it's a further shift from what the command
9 does versus what, say, the judiciary is doing.
10 So, in other words, you know, transferring more
11 authority, more power from the command over to
12 the judiciary.

13 And just, again, my personal opinion
14 is that I don't know that that's the best idea.
15 Whether it's non-judicial punishment, Article 15,
16 whether it's, you know, administrative action, so
17 on and so forth, we have some of those things in
18 a manner of speaking. Right? You know, it's not
19 suspended sentences, it's not probation, you
20 know, that sort of thing. But in my opinion it
21 certainly acts in that same capacity.

22 Non-judicial punishment, as we're

1 taught, as we're trained, is in fact a training
2 tool. Now, obviously it often leads to
3 separation. Oftentimes it's the precursor to
4 separation, but it doesn't have to be.

5 So, whether it's retraining or sort of
6 rethinking that particular process, in my opinion
7 that works just fine.

8 If we transfer that over to the
9 judiciary, in my opinion we're taking more
10 discretion, you know, especially that good order
11 and discipline piece, away from the command.

12 To the extent that good order and
13 discipline is still a, you know, a driving force
14 in what we do, that's really where it should be
15 anchored with the command still. Otherwise, I
16 mean, they, they lose even more of a vote in
17 this.

18 So, I think it works as it is. Having those
19 other outlets and those other possible
20 dispositions in ways that our civilian
21 counterparts really don't have, I think it works
22 in the same ways.

1 And so, that would be my
2 recommendation is to, you know, keep that
3 authority with the command as is for that good
4 order and discipline purpose, that retraining
5 purpose, so on and so forth.

6 Thank you.

7 CHAIR HILLMAN: Thanks, Colonel Olson.
8 Colonel Talcott.

9 COL TALCOTT: Yeah. I'd like to add
10 something here valuable.

11 So, I always start with, you know, if
12 we're -- I don't think the Air Force is that
13 different from the other services. But if you've
14 been convicted at a court-martial, your likely
15 time in the Air Force is short. So, some of
16 these that seem to, seem to presume this member
17 will have an extended time in service I think are
18 going to be less practical.

19 And along the lines of what Colonel
20 Olson was saying, to the extent there is an
21 appetite for this member to continue to serve,
22 that I think is the kind of decisions that

1 commanders are in a better position to make than
2 military judges, at least to the extent he wasn't
3 punitively separated by the judge.

4 The judge has sort of said, yeah, it's
5 back to the command now.

6 So, I don't know if they have enormous
7 utility, at least on first blush, or
8 appropriateness with the judge. I say that. I
9 could see it, you know, in the right case, in the
10 right circumstance, you know, perhaps.

11 They might also perhaps be valuable
12 tools in the plea agreement bag, that is, the
13 accused and the command could agree to some of
14 these under certain circumstances maybe. But a
15 judge just doing them on his own, I'm not sure of
16 value added.

17 CHAIR HILLMAN: Thank you, Colonel
18 Talcott.

19 Commander Davis.

20 CDR DAVIS: Yes, thank you.

21 Yeah, I would tend to agree that those
22 authorities don't necessary need to be vested in

1 the military judge. I believe those are
2 provisions that can be negotiated as part of a
3 plea agreement.

4 I've certainly seen at least several
5 examples of things like restitution or
6 compensation to the victim being a negotiated
7 provision on a plea agreement or as a precursor
8 to the pleas. I think we're able to do that
9 effectively without empowering the military
10 judges to exercise that authority.

11 You know, similar to my previous
12 concern about somewhat anomalous results or
13 unexpected results have eroded faith in the
14 system, I think if we do empower military judges
15 to have these other remedies that are outside of
16 the plea agreement or the punishment that's
17 contemplated in the plea agreement, that we may
18 end up with more of these anomalous results.

19 So, I would not recommend vesting
20 military judges with those additional powers,
21 including the suspended sentence aspect. I do
22 believe that a suspended sentence could also be

1 negotiated as part of a plea agreement.

2 Beyond that, I think one of the main
3 impediments, and this may go to a separate
4 question, but when we are talking about
5 administrative consequences of convictions, I do
6 believe there is an impediment for reaching
7 resolutions in cases due to our inability to
8 control kind of the administrative ramifications
9 of a particular, of a particular case.

10 So, what I mean by that is, you know,
11 frequently, particularly in officer cases, you
12 know, there's this constant refrain of, well, you
13 know, we are not able to bind a separate
14 authority. So, we're not able to bind, for
15 example, the Secretary of the Navy or the Chief
16 of Naval Personnel to guarantee a particular
17 characterization of discharge, or to guarantee a
18 particular grade at retirement.

19 So, particularly with officer clients,
20 I think you'll see officer clients that are
21 willing, essentially, to roll the dice at a
22 court-martial, understanding that, you know, at

1 some, some later action if they are found guilty
2 could, you know, reduce them significantly in
3 terms of their retirement, in terms of their pay
4 grade.

5 So, I would, I think it would be
6 beneficial if we were able to exercise additional
7 authority to actually bind the Government, so big
8 "G" Government, to certain outcomes in cases.

9 And I do wonder, and this is, it's a
10 little bit of an academic conversation but it's
11 something I'm interested in, as to whether the
12 change to a Special Trial Counsel will, at least
13 in the Navy, reporting directly to the Secretary
14 of the Navy, whether they may be in a better
15 position to guarantee some of those
16 administrative outcomes, you know, to essentially
17 sign for the Secretary of the Navy, or whatever
18 the other authority may be that control these
19 administrative outcomes, to, to get greater
20 clarity and predictability within the, within the
21 sentencing process, and to avoid cases going to
22 trial that otherwise would not get to it.

1 Thank you.

2 CHAIR HILLMAN: Thanks, Commander
3 Davis.

4 Before we go to you, Colonel Gannon,
5 we're going to get Judge Redford in with an
6 additional question.

7 JUDGE REDFORD: Thank you, Dr. Hillman.

8 Commander Davis, and anyone else who
9 wants to respond, why can't the Federal
10 Government be bound in a plea agreement to
11 subsequent administrative action?

12 If there's a paragraph that says
13 Secretary of the Navy has been consulted and
14 approved, or CNP, or, you know, whomever, why is
15 that -- is that somehow unlawful or is it just
16 too difficult to get done?

17 And I'm not, I'm not saying too
18 difficult in a pejorative way of, you know,
19 people aren't working hard enough, but just it
20 takes too long, it's not administratively
21 available.

22 CDR DAVIS: Yes, sir.

1 So, I think it's, I think it's more
2 than just a cultural issue: this is the way that
3 we've always done things, or this is the way that
4 we've always understood it. I think looking at
5 it from a perspective of who is entering into the
6 agreement, you know, that would be a convening
7 authority and the defense or the accused.

8 The convening authority is usually,
9 may be a command of a particular region, may be a
10 commander, you know, of a particular element.
11 That individual essentially doesn't, doesn't have
12 the authority to, to dictate, for example, what
13 the Secretary of the Navy ultimately will do with
14 regard to a retirement grade determination.

15 JUDGE REDFORD: I understand the flag
16 officer or the OSTC cannot -- doesn't have the
17 authority standing alone. But they -- I don't
18 understand why the Government, a Government
19 representative cannot bind the Secretary or
20 whomever, communicate that to the convening
21 authority, and then have a provision in a plea
22 agreement that says if this is violated, you have

1 a right to withdraw and we start all over again.

2 I'm just conceptually having a little
3 difficulty understanding why they couldn't do it.

4 But thank you for your response.

5 CDR DAVIS: Yes, sir.

6 CHAIR HILLMAN: Thanks, Commander
7 Davis.

8 So, we're going to go to Colonel
9 Gannon to take on that question, and then the
10 others that are before us right now.

11 COL GANNON: So I'll hit first just
12 the overall that, you know, my position on
13 vesting additional authorities with Military
14 judges and maybe enhancing their discretion,
15 which I think is the call of your question.

16 As I sit here I guess I'm opposed to
17 anything that reduces or tricks the
18 predictability of the system. I found that the
19 predictability has absolutely been beneficial, as
20 I said earlier, for everyone. All of the parties
21 and non-parties involved. Predictability is key
22 to the just outcome of the case, and in

1 individual case in the system as a whole.

2 With respect to binding the convening
3 authority ultimately, I just, I don't, I
4 understand the thought that certainly a
5 government actor could theoretically bind the
6 United States. As the Commander was saying, it's
7 just, and it's not just because it's not
8 something we do, it's because we have to have,
9 the Military judge is going to have to make a
10 finding in fact or in actuality that there is a
11 meeting of the minds on the agreement between the
12 parties.

13 And if there is not a meeting of the
14 minds, in that the Secretary, at least in the
15 Secretary of the Navy is not, I would not permit
16 a trial counsel to negotiate a provision that
17 binds the Secretary because I don't believe
18 that's within our authority to do that. And so
19 it would be very difficult for us to come to a
20 meeting of the minds between the parties.

21 As I just think about it, you know, as
22 I go through it, because it's not something that

1 I believe a trial counsel has the authority to
2 do, from the statutory perspective, it just isn't
3 something that we would negotiate with the
4 defense because we're not going to take a step to
5 bind a higher authority on these, particularly on
6 the administrative outcome.

7 So again, I absolutely agree,
8 theoretically a government actor can bind, and if
9 there is not a meeting of the minds we start
10 over, but, you know, when it comes to
11 predictability and efficiencies of the system, it
12 just doesn't, from my perspective, it doesn't
13 make any sense to start negotiating provisions
14 that you at least, arguably, statutorily, don't
15 have authority to do it.

16 CHAIR HILLMAN: Thank you, Colonel
17 Gannon. Lieutenant Commander DeRenzo.

18 LCDR DERENZO: Yes, ma'am. To answer
19 the recent question, I think it's legally
20 possible, but extremely unlikely given some of
21 the reasons that have already been discussed.
22 Having gone through some of the situations in the

1 past, where we're talking about characterizations
2 of service, gotten a lot of push back from our
3 personnel command in terms of both their lack of
4 desire for plea agreements to reflect those
5 things and general hesitancy to enforce them.

6 And so from a government perspective,
7 obviously a big benefit of the plea agreement is
8 certainty so that we don't have to unwind this
9 plea agreement and start all over. And so, you
10 know, from my perspective it's an undesirable
11 term of a plea agreement given those potential
12 deltas.

13 As far as the additional authorities
14 for military judges, I certainly would welcome
15 additional authorities for the judges in certain
16 areas. For instance, restitution.

17 I agree with Commander Davis, I
18 believe it was, who said we can do that in the
19 plea agreements and sometimes do. But it would
20 be, I think, a welcomed authority of the military
21 judge.

22 Sometimes enforcement can be an issue,

1 you know, if the member is separated shortly
2 after the guilty plea and sentencing hearing, but
3 that's certainly something I think that is a good
4 tool to have in our repertoire of options and
5 plea agreements.

6 I generally though about the criminal
7 justice system that sometimes is a very blunt
8 instrument for changing human behavior and for
9 solving very complex frequently human problems.
10 And the more tools we have available to us, the
11 more likely we're going to get, potentially at
12 least, to a good overall solution in terms of
13 society. Obvious the Military society being a
14 very specific subset to overall society.

15 So to that end, you know, often times
16 I think it's a shame. Understanding, I think,
17 some of the comments of my colleagues that the
18 likelihood of this person staying in the service
19 is low if history will continue to repeat itself.

20 But I often times think, think
21 sometimes we're throwing the baby out with the
22 bath water, to use a, perhaps an imprecise

1 metaphor here. And if we had more tools, like
2 diversionary programs. Probation being a really
3 important tool that our colleagues in the
4 civilian system use.

5 You know, virtually all of our
6 Military accused are first time offenders. Never
7 committed a crime. I've had cases with
8 Reservists who do have some criminal history, but
9 for the most part this is a one-on-one.

10 So crimes I think are more amenable to
11 rehabilitation and learning and growing.
12 Particularly with our younger population in the
13 Military service. And we probably have, among
14 defendants, our population is skewed heavily in
15 terms of young people.

16 I would certainly welcome the ability
17 for these people to potentially grow and
18 rehabilitate themselves in continuing service. I
19 just think we're at a point so far, in my
20 experience in the Military, that it's just
21 unlikely the services are going to hold onto
22 these people.

1 And decades past in the Vietnam era,
2 you know I wasn't around for that, but I hear
3 anecdotes that that was frequently the case. You
4 could be court-martialed and essentially your de
5 facto punishment was to go down range.

6 So perhaps with recruiting retention
7 issues in the Military maybe that will be a tool
8 that will be more effectively utilized, but I
9 certainly welcome the opportunity for judges to
10 have those tools if the situation is correct.

11 Thank you.

12 CHAIR HILLMAN: Thanks, Lieutenant
13 Commander DeRenzo. General Ewers.

14 MG EWERS: That might have been too
15 much for me to think about at the moment. I want
16 to go back to, I want to go back to what we were
17 talking about before in terms of sentencing.

18 And you guys have been talking a lot
19 about predictability. So you're predictable as
20 prosecutors. You know, that case was really good
21 when it left my office, but you just get these
22 military judges and these defense counsel to

1 leave it alone and get it to where it needs to
2 get everything is going to be just fine.

3 So I'm less concerned, I mean, clearly
4 there is an interest that we have in advocacy
5 skills and the opportunities for our advocates to
6 advocate, but I'm much more concerned about
7 transparency. We've been taken rounds for years
8 from both sides of the aisle about one, you know,
9 from victim advocates, from accused advocates
10 suggesting that all we do is cook this whole
11 thing, and we do it all behind closed doors and
12 nobody gets to see it and at the end of the day
13 we ask the public to accept the outcome.

14 So my concern about sentencing is
15 that, especially if you've got, what did you call
16 it, a specified sentence, I mean, what's the
17 incentive? You know, believe me, socialists
18 thought that good faith was going to cause people
19 to act in certain ways, but the truth is, is at
20 the end of the day if I've got no, if the judge
21 has no discretion to go one day up or one day
22 down and I'm hoping for a recommendation for

1 clemency, I'm not putting the work in. I'm going
2 to tell my client, hey partner, I already did my
3 deal. I just got you the best possible deal that
4 I could get, we're finished.

5 So what's the incentive? I'm just,
6 I'm concerned about that. I think that part of
7 the reason that we want to have sentencing cases,
8 especially in guilty pleas, is because that's the
9 only time that the facts are going to, I guess
10 you have a providence inquiry, but other facts
11 that will have some impact on the judge's
12 sentence, that's the only time the public is
13 going to get to hear about it. So your thoughts
14 on that please.

15 (Off microphone comment.)

16 MG EWERS: In whatever order you want.
17 You can mix it up if you want.

18 LTC OLSON: This is Lieutenant Colonel
19 Olson. I believe I'm up, so I'll field the
20 question unless I'm stopped.

21 So, sir, I certainly take your point.
22 I recognize your concern. I guess I would

1 address it in a couple of different ways.

2 In some ways I certainly share your
3 concerns with respect to, say transparency.
4 Often, I wouldn't quite say universally but
5 close, just, again, anecdotally my experience.

6 The experience that I've had, on both
7 sides of the aisle in court is, you know, okay,
8 well what did that sentence mean. I mean, even
9 after a robust sentencing case when I have spoken
10 with victims afterwards, when I used to speak
11 with my clients, well, okay, why did we get two
12 years instead of the 36 that the government asked
13 for or the 12 that the defense recommended or,
14 you know, whatever it may have been. There is
15 not a lot of transparency coming from the bench
16 in those situations.

17 There was a recent article written by
18 two individuals. One of one is the former Chief
19 Judge of the United States Army, Colonel Tim
20 Hayes, talking about the benefit of explanations
21 following the announcement of sentence.

22 Not deliberative process, but

1 actually, here is the facts. You know, really
2 going into the various sentencing principals that
3 we all use, that we all adhere to in our
4 arguments, in consideration, so on and so forth.
5 So it ended up being an awful lot of benefit with
6 that.

7 So as a prosecutor I can go back to a
8 victim and say, okay, look, here's what the judge
9 had to say, here is why this is probably going
10 the way it's going. And while there may be
11 disagreement there or angst or disappointment, at
12 least there is understanding. At least there is
13 transparency. So I would certainly advocate for
14 that and recommend more transparency, more of an
15 explanation coming from the bench after
16 sentencing.

17 Now, specific to the PTA question, I
18 think that's more difficult. So does the defense
19 counsel just, all right, I'm done, I'm good, I
20 did my job for you? I don't know. I mean, there
21 is an awful lot to be said for the efforts put in
22 by defense counsel in the negotiation itself.

1 You know, and I can only speak for
2 myself, but I was certainly always open to what
3 defense counsel would bring to my attention as we
4 would discuss sentencing, so on and so forth.
5 Now what does the public get to know about that,
6 I don't know.

7 And I think the stip of facts may be
8 a place where we can get after that. Certainly
9 when we're talking about guilty pleas it doesn't
10 necessarily only have to be about the crime
11 itself. We could expand that. We could open up
12 the aperture and the parameters there to discuss
13 things like mitigation and extenuation. Things
14 along those lines that make it more transparent
15 as that becomes part of the record.

16 So I guess the way I would sum it up
17 is, I'm certainly in favor of more transparency.
18 Exactly what that looks like, I think it can come
19 in a couple of different ways. But ultimately I
20 agree with you, sir.

21 CHAIR HILLMAN: Thanks, Colonel Olson.
22 Other comments? We'll go down the order.

1 Colonel Talcott.

2 COL TALCOTT: Yes. Yes, I don't
3 exactly share the same concerns. I know we get
4 criticism from both sides, and some of those
5 criticisms are fair and some are not. And to the
6 extent we're talking about a plea agreement where
7 the accused really wanted a specified sentence,
8 it's just not a fair attack to say that's not a
9 fair sentence.

10 I am nervous about trying to craft
11 (audio interference) rules that shield us from
12 unfair attacks. I think we should be, we're
13 making an effort to target our rules towards the
14 attacks that seem like they're fair. And it's
15 not to undercut your comments, but I generally
16 agree with transparency.

17 Uh-huh, my internet says I'm unstable
18 so I hope you guys can still hear me.

19 But I think to the extent to the
20 specified sentence empowers defense attorneys and
21 the accused to have more control over getting a
22 fair sentence, dis-empowering that, as I think

1 Colonel Gannon talked about, you know, when the
2 judges warner approving those specified
3 sentences, the defense joined them in going on
4 that extraordinary rank because the defense
5 wanted those.

6 My only, I guess caution, because when
7 I was thinking about your comments are, although
8 the rules anticipate this to some extent, I think
9 already and it seems like they're going to more
10 in the future, but victim's counsel or those
11 victim advocates could be cut out of the process.
12 The rules say that they're not. They definitely
13 need to be consulted and have their views made.

14 It seems like the current rules are
15 going to empower them more on their unsworns to
16 have more voice in this. And they have to
17 consult with the OSTC and the conveying
18 authorities as well. So that is all very
19 important.

20 And I think if there was any one
21 concern about it being cooked up and have fair
22 criticism, perhaps it would be victims. But

1 we've already changed several rules to undercut
2 those attacks as well. So I guess I don't share
3 the temperature of concern that you've raised.

4 CHAIR HILLMAN: Thank you, Colonel
5 Talcott. Before we get more comments I'm just
6 going to get Judge Redford in on this. Judge
7 Redford.

8 JUDGE REDFORD: Thank you, Dr.
9 Hillman. I just wonder, what is the percentage
10 of guilty plea cases, just ballpark, not at 17.2
11 percent but just ballpark, where there is an
12 agreement on confinement that it's either A, a
13 specific, this is what the confinement is going
14 to be, or B, the range is less than six months
15 between high and low. Is it 50 percent of the
16 cases, is it one percent of the cases? Just, I
17 have absolutely no idea. And if anybody has a
18 swag on it I'd be curious to know what it is.

19 CHAIR HILLMAN: Colonel Gannon?

20 COL GANNON: So, sir -- yes. Sir,
21 good morning, this is Colonel Gannon. I can
22 speak for the Marine Corps. An extraordinarily

1 rough, extraordinarily rough numbers. But a six
2 month delta in terms of the six months
3 discretionary period for a military judge is not
4 uncommon, is not uncommon. In other words, it's
5 a significant percentage of our cases.

6 Our trial counsel in negotiating that,
7 those types of, you know, a lot of times, I'm
8 sure I'm not telling anyone on the call something
9 they already don't know, the government typically
10 is a lot more concerned about the discharge. The
11 certainty of the discharge as opposed to the
12 confinement exposure.

13 But in the Marine Corps if you put a
14 gun to my head I would say, a significant
15 percentage of cases give the military judge five,
16 six months of discretion in terms of confinement
17 exposure. And when I say significant I'd say 40-
18 ish, 50-ish percent. They are not uncommon, no.

19 CHAIR HILLMAN: Thank you, Colonel
20 Gannon. Any other responses directly to Judge
21 Redford's query? Okay, we're getting ducks.

22 Other than that, then back to General

1 Ewers question. Commander Davis, Colonel Gannon,
2 Lieutenant Colonel DeRenzo, do you have things
3 you want to add? Colonel Davis. Sorry,
4 Commander Davis?

5 CDR DAVIS: Sure. So I think I just
6 echo my previous comments. You know, with
7 respect to transparency, my observations are that
8 these proceedings continue to be robust
9 proceedings with both senses and aggravation
10 being put on by the government, in cases in
11 mitigation extenuation put on by the defense.

12 So I think the information is still
13 being transmitted, much in the same way that it
14 was under our previous system. So from a
15 transparency perspective I think we're kind of
16 level set with the previous system. Thank you.

17 CHAIR HILLMAN: Colonel Gannon?
18 Thanks, Commander Davis.

19 COL GANNON: General Ewers, good
20 morning, sir. In response to your question, I
21 really firmly believe that predictability is
22 maybe not synonymous with transparency but it's

1 transparent adjacent. I mean, it fosters, the
2 predictability fosters an overall belief in the
3 system insofar as everybody is going in with eyes
4 wide open as to what the general outcome of the
5 case, the sentencing situation will be.

6 So if anything, sir, I really do
7 believe that the certainty issue enhances the
8 transparency and buttresses the public's faith in
9 the system. I think it's extraordinarily
10 helpful.

11 CHAIR HILLMAN: Thanks, Colonel
12 Gannon. Lieutenant Commander DeRenzo?

13 LCDR DERENZO: Yes, ma'am. I terms of
14 the transparency issue, you know, my belief is
15 that there is always going to be some opacity
16 when it comes to somebody else making the
17 decision. Whether it's the judge and members.
18 We don't know exactly why they make the decisions
19 they make them unless they articulate, unless the
20 judge articulates it on the record, which I've
21 seen sparingly.

22 The definite sentence is a tool. I've

1 seen it. I think it will be used at times, but
2 not always. I think there is certainly times
3 when a range will be more appropriate. And
4 frankly, we won't be able to get a deal done
5 unless there is a range in there. I think it's a
6 case-by-case determination. And having more
7 tools I would respectfully submit is always a
8 good thing.

9 I think there is some transparency,
10 well a lot of it, transparency in terms of how we
11 can province inquiries, which are extremely
12 robust, in my experience, in terms of comparison
13 to our civilian counterparts. And then of course
14 stipulations of fact provide a lot of
15 transparency in terms of what is the factual
16 basis, not only for the pleas but for the
17 sentence itself.

18 I guess I don't share the same
19 concerns that certainty incentives will somehow
20 render the defense counsel useless in the
21 process. Ultimately they have a client, they
22 have lawyers, they have ethical duties to their

1 clients to explain their options.

2 And in my experience, the defense
3 lawyer, your biggest weapon is the threat of a
4 trial. And so if that, you know, definite
5 sentence deal that's being offered by the
6 prosecutor is unsat to you or your client, you go
7 to trial and roll the dice if that's what you
8 think is in the best interest of your client.
9 And, you know, based on your experience and
10 knowledge of potential outcomes and the judge.

11 And I think the, potentially the
12 sentencing parameters and having judge alone
13 sentences is going to only improve the
14 information that defense counsel have to advise
15 their clients. Over.

16 MG EWERS: Thanks to all of you. You
17 haven't allayed my concerns but you dropped the
18 temperature of them in Colonel Talcott's words,
19 so thank you.

20 JUDGE REDFORD: Thank you for the
21 response to mine as well.

22 CHAIR HILLMAN: So we just have a few

1 more minutes here. We have a couple more topics
2 I wanted to hit on, but let me just canvas Our
3 Panel Members and see if there is anything that
4 the Panel Members wanted to follow-up on. We
5 have Captain Schroder.

6 CAPT SCHRODER: Yes, I don't know that
7 it's follow-up, Dr. Hillman, but I do have a
8 separate question. So at some point when that's
9 appropriate.

10 CHAIR HILLMAN: It's appropriate now.
11 We have not too much time left so let's take it,
12 Captain Schroder. Thank you.

13 CAPT SCHRODER: Okay. And I'll try to
14 make this quick, although it's hard for me to
15 make it quick.

16 I want to talk about Article 32s.
17 That's an issue that we, and it was a question
18 frankly I had hoped to ask STC representatives,
19 but that, with the exception of Commander DeRenzo
20 we really don't have that here, but I'm going to
21 ask it anyway.

22 It's a significant issue we've been

1 dealing with. We have not, we made kind of an
2 initial decision or finding, for lack of a better
3 word, that we find it, Article 32s aren't very
4 useful right now in their current form. When
5 they're done, especially done on paper.

6 The DAC-IPAD has made a recommendation
7 that they be binding. That the hearing officer's
8 decision in Article 32s be binding. We have not
9 taken that position, at least we have not taken
10 it yet. We're still considering that.

11 So my question to you all is, from the
12 trial counsel side do you recognize the issue and
13 what are you doing about it?

14 I mean, I did go through the special
15 trial counsel policies that we were provided. I
16 didn't have a lot of time with it. And I noticed
17 that, at least from the Navy's perspective
18 they're addressing that and making some
19 recommendations on how their counsel treat
20 Article 32s and what evidence is taken on. But I
21 didn't see it in the other services. So anyway,
22 I'm just interested, from the trial counsel

1 perspective, do you see the issue and what's
2 happening on your side of the courtroom?

3 CHAIR HILLMAN: Thank you, Captain
4 Schroder. So we have about five minutes or so
5 left so we'll give everybody a chance to respond,
6 but I'll ask you just to limit your time. So
7 let's start with Colonel Olson.

8 LTC OLSON: So, sir, I am a Special
9 Trial Counsel with the OSTC United States Army.
10 I would say my perspective is, you know, I'm
11 putting on, and am instructing my counsel to put
12 on a case that the rules require. So given that
13 it's a preliminary probable cause hearing, we're
14 putting on the evidence that we need to overcome
15 that hurdle. We're not ignoring the fact that
16 it's, well let me put it a different way.

17 We're not blowing it off simply
18 because we know it's not binding. It's, we do
19 take it seriously, we do want to put on a case.

20 On occasion we go a little bit more
21 robust if we want feedback from the preliminary
22 hearing officer. There are other circumstances

1 in which putting on a more robust case at the 32
2 makes sense.

3 However, generally speaking, what I'm
4 driven by and what I am driving my counsel by is
5 just simply what the rules are requiring. So I
6 hope that's responsive to you, sir, but that's my
7 perspective.

8 CHAIR HILLMAN: Thanks, Colonel Olson.
9 Colonel Talcott?

10 COL TALCOTT: Yes, I thought about the
11 32 issue many times before. I feel like I even,
12 I think I might have even testified about it
13 before, either at the DAC-IPAD or an earlier
14 iteration so I know it's been looked at a number
15 of times.

16 And I typically come back to some
17 version of, you know, there are no real
18 solutions, there's only trade offs. And so I
19 think it's really important to identify, if we're
20 going to change it, what are we getting after.
21 Because if you make it more robust then you run
22 and you create all these other problems. And if

1 you make it binding, that solves some problems
2 but creates other problems.

3 So I guess, I know that's not helpful
4 to you, I just, I'm aware of the struggle you're
5 going through trying to figure out how to make it
6 better.

7 I would challenge the presumption or
8 the assumption or the conclusion that they're not
9 valuable. At least in my experience in the Air
10 Force, the 32 reports are taken very seriously.
11 That is not to say that when they recommend not
12 going forward we always abide. But they are
13 carefully reviewed.

14 The PHOs often times do find,
15 especially if we have a military judge acting as
16 the PHO, make observations or legal
17 recommendations that are helpful in the
18 development of the case. Yes. I guess that's
19 what I have.

20 I don't have solutions on the 32
21 issues because every solution, I think, seems to
22 just create a different problem. And so I think

1 you have to tell me what problem you're getting
2 after then I'll give you a recommendation.

3 CHAIR HILLMAN: Thank you, Colonel
4 Talcott. Commander Davis?

5 CDR DAVIS: So, I mean, I think the
6 main question often times is, I mean, is this
7 just an empty ritual. Particularly with respect
8 to the non-binding aspects on the convening
9 authority.

10 I guess I would caution in terms of
11 making kind of, drawing grand conclusions on this
12 particular issue because I think it is a, it's a
13 relatively minor number of cases that this
14 actually affects. I mean, if the concern is the
15 preliminary hearing officer has found that there
16 is no probable cause but the convening authority,
17 nonetheless, has decided to move forward, my
18 experience that is one to five percent of the
19 cases. I think it's a very, very small number of
20 those cases.

21 So I don't want to necessarily make a
22 lot of changes. We had a lot of changes in our

1 military justice system. We continue to make
2 changes. So I don't necessarily want to fix a
3 problem that doesn't necessarily exist.

4 I would also say that with the standup
5 of the STC, I know particularly in the Navy, I
6 think where lack of probable cause has been found
7 by a preliminary hearing officer, I know there is
8 significant approval authority in order to move
9 forward on a case like that, all the way up to
10 the, I believe the O7 level. And I think it
11 would be very, even more rare, that STC or OSTC
12 would move forward on a case. Whether it's been
13 a no probable cause finding.

14 Beyond that, whether the finding
15 should still be binding, I think we just need to
16 take a look at who our preliminary hearing
17 officers are. You know, if those are highly
18 qualified individuals, potentially military
19 judges in some situations then I think that puts
20 me more at ease in terms of having their
21 decisions be binding. Over.

22 CHAIR HILLMAN: Thanks, Commander

1 Davis. Colonel Gannon?

2 COL GANNON: Yes. So I kind of see
3 this as, I'm trying to break this down into three
4 parts to try to be at least moderately responsive
5 to the question. So one is their utility, two,
6 should they be binding or not, and three, what
7 are we doing.

8 One, is their utility. In some cases
9 it is of limited utility, I'll be candid. You
10 know, if we're just favoring a 32, it's just not
11 a great, you know, it depends on the case. If
12 the case, if the evidence in the case is, you
13 know, a statement of a wrongdoing and the United
14 States puts that statement in, and that statement
15 is sufficient to get probable cause and we just
16 put the paper or the recorded statement in, you
17 know, the hearing has limited utility, by
18 definition, because we're not, the hearing is not
19 designed to test that statement necessarily. At
20 least that's not what I believe the hearing is
21 for, is to assess probable cause.

22 And so the trial on the merits will

1 assess that through the crucible of cross
2 examination and other evidence that comes in and
3 things like that. So in some cases it has
4 extraordinarily limited utility. In other cases
5 it has a lot of limited utility. In other cases
6 it has utility.

7 We just did one down at Cherry Point
8 where we put on probably 15 witnesses in a case.
9 And that, I believe that evolution was
10 extraordinarily helpful, both to, all of the
11 parties.

12 The PHO obviously took the evidence
13 and is going to give us a, gave us a robust, very
14 informed report. And was extraordinarily helpful
15 to the convening authority. So I'm sorry to give
16 you the lawyer answer on question number one, the
17 utility, it just depends.

18 Should they be binding or not,
19 absolutely not, in Nick Gannon's opinion. I
20 don't speak on anybody's behalf but myself.
21 Absolutely not.

22 We have to have a system that

1 anticipates the potential for a war of national
2 survival. We have to have a military justice
3 system where the commander can make very
4 difficult decisions and have a lot of discretion
5 in doing so.

6 In a situation maybe forward or in an
7 austere environments where perhaps it's not
8 possible to get the 32 perfected to, you know,
9 not perfect, but to go to the point where I would
10 be comfortable, again, in Nick Gannon's capacity,
11 where I would be comfortable with binding a
12 convening authority's discretion in a military
13 justice system where the convening authority has
14 the ultimate statutory requirement to maintain
15 good order and discipline in his or her unit. I
16 just feel pretty passionate about the, on the
17 binding issue, the answer, again, in Nick
18 Gannon's brain is no.

19 And then finally, what are we doing?
20 What is the Marine Corps doing? I think I
21 alluded to this in point number one on the
22 utility. It just depends on the case. And

1 sometimes we are doing a paper 32 and sometimes
2 we're not.

3 But we do try to not default to sort
4 of the path of least resistance. We are trying
5 not to do that. We are trying to get a hearing
6 together where we can based on the nature of the
7 evidence in the case, the nature of the offenses
8 associated with that particular case.

9 You know, are we going to put, I'll
10 just cut to the chase, are we going to put a
11 victim, an alleged victim of a 120 on, absolutely
12 not. We're just not doing that at a 32. At
13 least in 99.9 percent of the cases. I'm sure we
14 can construct a scenario where maybe we would,
15 but generally speaking, at least in the trial
16 services organization in the Marine Corps we're
17 not doing that.

18 Expert witnesses that may help inform
19 a decision, we would do that. We would put that
20 evidence on. Other types of victims of other
21 types of offenses, we would probably consider
22 doing that.

1 So it's really, it's a very, Captain
2 Schroder, sir, it's a very difficult question to
3 answer on what we're doing because it just
4 depends. Thank you.

5 CHAIR HILLMAN: Thank you, Colonel
6 Gannon. Last word, and relatively brief there,
7 Lieutenant Commander DeRenzo, please.

8 LCDR DERENZO: Yes, ma'am. In terms
9 of utility I agree with Colonel Gannon. It
10 really does depends on the case and its utility.
11 But I would respectfully suggest that, that's not
12 at all, it's not really a big difference between
13 our system and the civilian system. People waive
14 preliminary hearings on a very, very routine
15 basis. At least in my experience in both state
16 and federal court because the evidence is well
17 over the bar of probable cause.

18 In terms of its finding, maybe I'll be
19 the dissenting voice here. I would certainly
20 welcome, me personally, I'm not saying my views
21 for the U.S. Coast Guard, but me personally, I
22 would welcome a change where the probable cause

1 determination is binding.

2 Frankly if we're charging the case and
3 we can't get over the probable cause hump, I
4 would submit that we are doing our jobs very
5 poorly. And I certainly am encouraging my trial
6 counsel to, you know, to make prosecution
7 recommendations where the evidence is far over
8 the probable cause line.

9 In terms of how we're currently in
10 practice, I think like some of my counterparts,
11 where we've adopted practices that are in line
12 with the current rule. So we don't routinely
13 call witnesses, but that, the change in the 32 is
14 to align with the federal version of a
15 preliminary hearing where I have yet to see a
16 federal magistrate judge allow an AUSA to proceed
17 on a preliminary hearing with just an affidavit
18 from a criminal complaint they would have to at
19 least call a summary witness, a case agent and
20 the like.

21 We thought internally about doing that
22 more. Not necessarily because it will help us

1 get over the line in terms of probably cause, but
2 I think our agents frankly need a little more
3 time in the box and practice testifying. So I
4 certainly wouldn't be opposed to changes like
5 that. Thank you.

6 CHAIR HILLMAN: Thanks, Lieutenant
7 Commander DeRenzo. So we're over our time. I
8 want to thank each of you.

9 Yes, it's an extraordinary panel of
10 five advocates. The folks that you're training
11 out there and the quality of insight and breadth
12 and thoughtfulness you bring to this isn't lost
13 on this panel, and we really appreciate the work
14 you're doing every day and we want to make, we
15 want to help make the system better.

16 And for all of our service members,
17 I'm grateful they have folks like you who are
18 representing the United States and representing
19 the people who are accused at courts-martial, and
20 in other proceedings that your teams are working
21 in. So thank you. And you can all go now.

22 So we're going to move right into the

1 next panel. Unless you want to stay for the next
2 public session, which we'd be happy to have you.

3 So we're going to turn to the second
4 public session for today. This is the JSC
5 Briefing on the Executive Order Implementing the
6 Special Trial Counsels. So let me turn to our
7 lead attorneys who are going to manage this one
8 for us, Meghan Peters and Eleanor Vuono.

9 MS. PETERS: Good afternoon. Joining
10 us now are Captain Anita Scott and Lieutenant
11 Colonel Keaton Harrell from the Joint Service
12 Committee on Military Justice. Captain Scott is
13 the chair of the JSC. And Lieutenant Colonel
14 Harrell is the voting group member for the United
15 States marine Corps. And bear with us as the
16 staff is going to pull up a presentation they
17 have prepared for this session.

18 And I want to thank both Captain Scott
19 and Lieutenant Colonel Harrell for joining us.
20 Your professional biographies have been provided
21 to the members in advance of the session.

22 Panel Members, please reference to tab

1 two of your read ahead materials for this
2 session. That begins on Page 8 of the combined
3 materials.

4 This will provide you with a summary
5 of the 2023 executive order that gave rise to the
6 changes to the manual for courts-martial that
7 we're going to discuss today. Please also note
8 that this reference has been posted to the MJRP
9 website, the projects tab.

10 And there we will include the most up
11 to date link for the 2023 manual of courts-
12 martial that was just updated in September of
13 this year. Those updates don't affect any
14 changes to the rules we're doing to discuss today
15 is my understanding.

16 And we also thank Colonel Brunson for
17 putting out helpful references to the most recent
18 changes to the manual, and the cumulative
19 articles. I think that went out to you all
20 yesterday. So those are all the ways you can
21 reference the substantive material for
22 discussion.

1 I see the presentation up on the
2 screen. With that I'm going to turn it over to
3 our presenters. Thank you.

4 CAPT SCOTT: Good afternoon. Madam
5 Chair, esteemed Panel Members, I am Captain Anita
6 Scott, Chair of the Joint Service Committee. As
7 mentioned, with me here today is Lieutenant
8 Colonel Keaton Harrell of the United States
9 Marine Corps voting group member on the Joint
10 Service Committee.

11 Please pardon the uniform option as I
12 am currently on emergency leave on the West
13 Coast.

14 But turning to Slide 2 we can get
15 right into it. So while you are all certainly
16 familiar with the Joint Service Committee, by way
17 of a refresher we're going to cover just a little
18 bit on the Committee's job and role, which is to
19 aid the DoD Secretary in advising the President
20 as to appropriate updates to the UCMJ and the
21 procedural rules in the Manual for Courts-
22 martial. Our role fulfills the function required

1 by a 1984 executive order, and is governed by a
2 DoDI.

3 Next slide please. As just mentioned
4 (audio interference) --

5 We can actually jump to the next slide
6 since we just covered our function. Thank you.

7 This slide brings us to how we got to
8 the current executive order. Starting with a
9 NDAA study by the Internal Review Commission on
10 sexual assault in the Military that some perceive
11 the Internal Review Commission report as similar
12 to a legislative history for the FY22 NDAA
13 because of the role it played in informing
14 Congress.

15 A central theme was to enhance trust
16 and confidence in the Military's approach to
17 special victim's cases, especially those
18 involving sexual assault and harassment amidst
19 dispersions of systemic mishandling. In response
20 the FY22 NDAA instituted the requirement for
21 special trial counsel to have exclusive authority
22 over defined covered offenses.

1 The NDAA also mandated sentencing by
2 military judge for non-capital, general and
3 special courts-martial, we'll discuss a bit more
4 later.

5 The legislative journey found further
6 expression in NDAA (audio interference) for
7 FY2023 which notably introduced appellate reforms
8 and amplified the randomization authority for
9 court-martial panels.

10 Next slide please. So the EO itself is
11 broken down into the three annexes. The first
12 annex in the EO covers the amendments from 2019
13 to 2022, along with a small number of statutory
14 changes from the FY23 NDAA. Specifically changes
15 to eligibility for direct appeal for summary
16 court-martial. Annex 1 became effective on 28
17 July 2023 and will apply based on the content of
18 each specific rule it amends.

19 The second annex covers amendments
20 related to the Office of the Special Trial
21 Counsel, as well as most of the recent round of
22 amendments submitted to the President's Office in

1 January of 2023. Annex 2 becomes effective 27
2 December of this year and will apply to offenses
3 occurring on or after 28 December of this year.

4 The third annex covers amendments
5 related to court-martial sentencing. Annex 3
6 will be effective 27 December of this year and
7 will only apply to cases where all findings of
8 guilty are for offenses occurring on or after 28
9 December of this year as well.

10 The document, so there is effective
11 dates language for Annex 1. And a document
12 containing a summary of those changes to the
13 manual for court-martial contained in the EO
14 establishes a couple of key principals.

15 The Annex 1 changes do not make acts
16 or omissions punishable that were committed prior
17 to 28 July of 2023. First.

18 Second, they do not invalidate any NJP
19 proceeding, restraint, preliminary hearing,
20 referral of charges or trial in which arraignment
21 has started. Or other action occurring prior to
22 28 July of this year.

1 And third, they apply for any
2 subsequent NJP proceeding, restraint, preliminary
3 hearing, referral of charges or trial in which
4 arraignment has started. Or other action
5 occurring on or after the 28 July date of this
6 year.

7 So next slide please. At this point
8 I will turn it over to Colonel Harrell to talk
9 about the exclusive authority of STCs.

10 LTCOL HARRELL: Good afternoon, ladies
11 and gentlemen. I'm Lieutenant Colonel Keaton
12 Harrell. I'm the Military Justice Branch Head at
13 Marine Corps Judge Advocate Division, and the
14 Marine Corps Voting Group Member on the Joint
15 Service Committee.

16 So now we're going to get into some of
17 the substance of the Military Justice reform from
18 the FY22 NDAA. Which has been implemented by the
19 President Executive Order.

20 So the main thrust of the reform is
21 the creation of special trial counsel. So the
22 FY22 NDAA established a new UCMJ article.

1 Specifically Article 24a, which directs the
2 detailing of qualifying judge advocates to serve
3 as special trial counsel. And we're going to
4 talk about the authorities of special trial
5 counsel in the next few slides.

6 So importantly, the special trial
7 counsel have exclusive authority to determine if
8 a reported offense is a covered offense. And one
9 of the subsequent slides is going to discuss, or
10 layout what those covered offenses are.

11 So reports of covered, of offenses go
12 to special trial counsel. And the STC exercises
13 exclusive authority to determine if in fact it is
14 a covered offense. And if so, the STC shall, by
15 statute, exercise authority over that covered
16 offense.

17 Now, the next bullet talks about other
18 authority of the STC. Why STC must exercise
19 authority over covered offenses. If so, if an
20 STC exercises authority of a covered offense, the
21 STC may also exercise authority over known or
22 related offenses. And we'll talk more about that

1 later, what those offenses are.

2 So a key distinction, STC shall
3 exercise authority over covered offenses and may
4 exercise authority over known or related
5 offenses.

6 So when we're talking about exclusive
7 authority a reasonable question is, what does
8 that term mean? That's not a defined term in
9 Article 24a, but it's now defined in R.C.M. 103.
10 Specifically R.C.M. 103(12).

11 Which will define it as when an STC
12 acts on a covered, related or known offense in
13 furtherance of an STC statutory duties or
14 authorities under Article 24a(c).

15 So in my mind, an easy way to think
16 about that is an STC taking, well affirmatively,
17 assuming disposition authority over an alleged
18 offense. And importantly to the exclusion of
19 others.

20 So what that means is when an STC
21 exercises authority over an offense. Whether it
22 be a covered offense, a known offense or a

1 related offense, that precludes the commander
2 from acting upon it from disposing that offense.
3 At least unless or until the STC defers that.
4 And we'll talk about that later.

5 So Article 24a is further implemented
6 in the rules for courts-martial. Specifically
7 R.C.M. 301(a) which requires all reports of
8 covered offenses to be promptly forwarded to a
9 special trial counsel. And then the STC first of
10 all determines if there is a covered offense.

11 And upon making those determinations
12 that it is a covered offense, and exercising
13 authority over that covered offense, and deciding
14 if there are related or known offenses and the
15 STC is exercising authority over those offenses,
16 the rules further require the STC to promptly
17 notify the officer exercising special court-
18 martial conveying authority over that suspect.
19 And again, that notification requirement applies,
20 not only with the covered offenses but for known
21 and related offenses as well.

22 Next slide please. So again, if an

1 STC exercises authority over a covered offense,
2 the STC may also determine if there are other
3 offenses that the STC is going to exercise
4 discretion to exercise authority over as well.
5 And those two types of offenses with
6 discretionary authority is, those are related
7 offenses and known offenses.

8 So these are further explained in
9 R.C.M. 303(a). A related offense is any reported
10 offense or charge related to a covered offense,
11 whether alleged to have been committed by the
12 suspect of the covered offense, or by anyone
13 else, subject to the UCMJ. So importantly, it
14 need not be the same person that's accused of
15 committing the covered offense. An example there
16 is a person who stole a weapon later used in a
17 covered offense.

18 I think perhaps a more insightful
19 example of a related offense that an STC may
20 exercise authority over is victim collateral
21 misconduct. For example, underaged drinking
22 leading up to an alleged sexual assault or

1 fraternization with the alleged offender. So
2 those offenses themselves aren't covered
3 offenses, but within the STC's discretion, the
4 STC may determine that those are related to the
5 covered offense over which the STC is exercising
6 authority, so the STC may also exercise authority
7 over those related offenses.

8 And the other category of offenses are
9 referred to as known offenses. Now the
10 distinction here is that these other offenses are
11 other offenses committed by the same person
12 accused of the covered offense.

13 So an example here would be somebody
14 suspected of sexual assault, weeks earlier tested
15 positive on a urinalysis. Now that positive
16 urinalysis may be unrelated to the alleged sexual
17 assault, but nevertheless the STC may, within his
18 or her discretion, exercise authority over that
19 other known offense.

20 And the practical implication with
21 that being is, upon exercising authority the
22 commander or convening authority, is then

1 precluded from taken action upon that alleged
2 offense. Unless and until the STC defers that
3 offense.

4 Next slide please. So now we're
5 laying out exactly what an STC may do. Now first
6 of all, and the STC may prefer charges. Now that
7 first point being, the STC may prefer charges
8 without being disqualified.

9 Now this is implemented in a couple of
10 rules in the MCM, but the key takeaway is that an
11 STC may prefer charges without being disqualified
12 from, number one, being the referral authority.
13 So subsequently referring charges to a court-
14 martial. And two, from actually serving as trial
15 counsel at the court-martial.

16 And once an STC exercises authority
17 over an offense, the STC then has exclusive
18 authority with respect to a number of matters,
19 which are laid out there withdrawing or
20 dismissing those charges. Referring those
21 charges to a special or general court-martial
22 entering into a plea agreement with the accused

1 with respect to those offenses. Following
2 appellate review if a re-hearing is authorized.
3 The STC has the exclusive authority to determine
4 if a re-hearing is impractical.

5 And also, it's important to note in
6 that last bullet that after an STC exercises
7 authority, that does not necessarily mean that
8 the STC will ultimately refer charges to a court-
9 martial. The STC may later defer that offense.
10 And that's laid out there, the STC may defer the
11 offense to the commander or conveying authority
12 by electing not to prefer or refer charges.

13 Next slide please. Now here's the
14 list of covered offenses. So again, these are
15 the offenses over which the STC must exercise
16 authority if the STC in fact determines that a
17 reported offense is a covered offense.

18 Now as you can see, reading those
19 articles these are essentially the victim-centric
20 offenses in the UCMJ. And the majority of these
21 came from the FY22 NDAA, however, the FY23 NDAA
22 added three additional covered offenses. Article

1 119a, death or injury of an unborn child.

2 Article 120a, depositing obscene materials in the
3 mail.

4 And also, one worth discussing a bit
5 more in-depth, Article 134, sexual harassment.

6 Now, Article 134, sexual harassment, is unique as
7 a covered offense in a few respects. First of
8 all, it has a different effective date than the
9 other covered offenses. All of the covered
10 offenses but sexual harassment become effective
11 27 December of this year, but sexual harassment,
12 under Article 134, doesn't become a covered
13 offense until 1 January 2025.

14 And it's also unique among the other
15 covered offenses in another respect. The statute
16 says it's only formal complaints that are
17 substantiated. Only in instances in which a
18 formal complaint is made and is substantiated in
19 accordance with regulations prescribed by the
20 secretary of concern.

21 So unlike other covered offenses, like
22 we talked about earlier in your report of a

1 covered offense, promptly is forwarded to the
2 STC. So it's not all of the reports of Article
3 134, sexual harassment, that go to the STC to
4 exercise authority over, it's only those in which
5 there is a formal complaint, and that formal
6 complaint is substantiated. So this requires
7 further implementation by the Departmental
8 Secretaries.

9 Next slide please. Now another
10 provision from the FY22 NDAA was establishing 10
11 U.S.C. 1044f, policies with respect to special
12 trial counsel. Now this provision directs the,
13 well, directed the Secretary of Defense to
14 establish policies with respect to the procedures
15 that the secretaries of the military departments
16 must establish relating to the activities of
17 special trial counsel. And there are certain
18 provisions that must be included.

19 The special trial counsel and the
20 offices, within which they operate, the offices
21 of special trial counsel, and they must be
22 independent, they must be free from unlawful or

1 authorized influence or coercion, and they're
2 comprised of STCs that are well trained,
3 experienced, highly skilled and competent in the
4 handling of covered offenses pursuant to criteria
5 established by the cognizant Judge Advocate
6 General or the Staff Judge Advocate to the
7 Commandant of the Marine Corps.

8 And organizationally, the OSTCs, as
9 you all know, are led by O7s who report directly
10 to the Secretary concerned without intervening
11 authority. Now again, this provision directed
12 the Secretary of Defense to establish these
13 policies, and the Secretary of Defense did so in
14 11 March of last year. And the Department has
15 followed suit.

16 Quick note on the Coast Guard, the
17 Coast Guard opted to create the Office of the
18 Chief Prosecutor, also led by an O7 but comprised
19 not only with special trial counsel, but with
20 regular trial counsel as well.

21 Next slide please.

22 CHAIR HILLMAN: Sorry, Lieutenant

1 Colonel Harrell, this is the Chair. I just, I
2 want to thank you for the presentation. And,
3 Captain Scott, I especially want to thank you for
4 joining us. To continue to advise us on this,
5 especially when you're attending to other matters
6 at the same time you're taking care of us and
7 your other duties here. How many more slides do
8 you have, Colonel Harrell?

9 CAPT SCOTT: There is four substantive
10 slides additional.

11 CHAIR HILLMAN: I'm going to ask,
12 actually, if you could pause on this. Let me
13 just see if we, I know there is more to tell,
14 we'll share all these slides with our Panel
15 Members. We started a little bit late, and my
16 apologies for that. I want to make sure the
17 Panel Members have a chance to ask you any
18 questions they may have.

19 So could you take another minute and
20 just flip through the rest of those slides?
21 Anything you want to make sure that we know. And
22 then I want to give the Panel Members a chance to

1 ask questions while we have you with us.

2 CAPT SCOTT: Absolutely. So I think
3 the Commander and SJA rules are laid out pretty
4 well in the slides. If there is questions I'm
5 happy to answer them.

6 And the pre-referral authority --

7 CHAIR HILLMAN: And, Captain Scott,
8 could you just flip through the slides so that we
9 could see them? I have faith in our Panelists
10 being able to read quickly through the slides.
11 Can we just click through them so we can see them
12 now? And then we'll look at them later too.

13 CAPT SCOTT: Yes, ma'am. I believe
14 your Staff has control of my slides.

15 CHAIR HILLMAN: Okay. Okay, Meghan,
16 whoever is advancing them, next.

17 MS. PETERS: Please, thank you. If
18 that's Stayce or Dale.

19 CHAIR HILLMAN: Got it. Go team.
20 This is perfect, thank you.

21 (Pause.)

22 CHAIR HILLMAN: Okay. And then if you

1 could, Dale and company, put us all back up on
2 the screen there, and get Captain Scott and
3 Lieutenant Colonel Harrell before us? Thank you
4 so much.

5 I'm sorry to interrupt your
6 presentation. I just wanted to give us a couple
7 of minutes for questions here in case there are
8 questions from our crew around this massive
9 change. Massive set of changes that you're
10 communicating the upshot up to us. Any questions
11 from the Panel for Captain Scott and Lieutenant
12 Colonel Harrell?

13 COL MORRIS: This is Larry Morris.
14 Question on that last slide that just flipped
15 past. What is the discussion about counsel at
16 summary courts?

17 CAPT SCOTT: So there, thank you for
18 the question. There are proposed amendments
19 posted currently in the federal register which
20 are certainly available to you. And will be,
21 there is a public comment notice.

22 But in sum and substance, there was a

1 right to, it proposes a right to counsel at a
2 summary court-martial. And I would draw your
3 attention specifically to the, and it is publicly
4 available, the internal review team on racial
5 disparities in investigative and military justice
6 systems. And the report you'll find online
7 should inform the, your questions I'm sure you
8 may have surrounding that issue.

9 CHAIR HILLMAN: Thank you, Captain
10 Scott. Other questions?

11 CAPT BARNEY: Would you entertain a
12 question from a motorist on the New Jersey
13 Turnpike?

14 CHAIR HILLMAN: Go ahead, Captain
15 Barney.

16 CAPT BARNEY: Thank you, Dr. Hillman.
17 My question has to do with the deferment decision
18 by the special trial counsel. What is the
19 evidentiary impact of the, if a charge is for a
20 known offense and the example was give of a
21 unrelated drug offense that is unrelated to the
22 priority offense, if that goes back to the

1 original commander for disposition, could that,
2 the fact of that disposition be used as a matter
3 in aggravation against the accused at trial?

4 Thank you.

5 CAPT SCOTT: So I guess you're asking,
6 I'm not sure. I want to make sure I understand
7 the question before I attempt to answer it.
8 You're just asking then, if something is deferred
9 back to a traditional convening authority and
10 it's a known, but not related offense, can, what
11 exactly would be used as a matter in aggravation?

12 CHAIR HILLMAN: Captain Barney, did
13 that capture your question?

14 CAPT BARNEY: I believe so. Yes.

15 CAPT SCOTT: Well I'm not sure I,
16 Keaton, are you understanding the, where I'm lost
17 is, where exactly the, is the charge then is
18 opened to being referred by the traditional
19 conveying authority, but I'm not connecting it to
20 a matter in aggravation. What specifically would
21 be the matter in aggravation that you're
22 concerned about?

1 CAPT BARNEY: So for example, if the
2 charge is referred back to the original convening
3 authority, he takes action on it, for example,
4 refers it and disposes of it with a guilty
5 finding as non-judicial punishment, could the
6 fact of that non-judicial punishment then be used
7 a matter in aggravation? Because it seems to me
8 it gives the government two bites of the apple.

9 CAPT SCOTT: So, okay, now I think I'm
10 tracking. You're suggesting that an STC has gone
11 forward with some form of a covered offense,
12 notwithstanding deferred the non-covered back,
13 and that got disposed of by a traditional
14 convening authority and then could that be a
15 matter in aggravation at the later time for the
16 covered offense? Is that the hypo you're
17 proposing?

18 CAPT BARNEY: Yes it is. And I
19 apologize because I have to drive and I'm trying
20 to avoid running into other motor vehicles.

21 CAPT SCOTT: Yes, I'm sure they'd
22 appreciate that. Yes, it could potentially be

1 if, you know, I think as a practical matter
2 though, deferring back, a non-covered offense
3 that was known, while certainly possible, if it
4 was a court-martialable offense to begin with and
5 worthy of pushing forward I would, you know, from
6 a judicial efficiency standpoint, see it being
7 part of the larger case put forward by the United
8 States. Obviously it doesn't have to be, but
9 that would be how I would anticipate it moving.
10 If it heads back for NJP, then yes. Keaton, do
11 you want to add anything?

12 LTCOL HARRELL: I agree with that,
13 ma'am. I'm so certain that in that situation
14 that you laid out the STC presumably going
15 forward on a covered offense but defers a related
16 offense, such as a unrelated positive urinalysis.

17 Depending on the timing in which those
18 two events occur, I'm assuming the commander
19 disposes of that, of that 112a offense before the
20 court-martial for the article, well, whatever the
21 covered offense is, we would just default back to
22 R.C.M. 1001. And pursuant to regulations

1 prescribed by the Secretary of concern, there is
2 regulations for the using Article 15 records.

3 But to your point, sir, there is
4 nothing that precludes, in that situation as you
5 rephrased it, two bites at the apple. Obviously
6 it's going to depend on the timing in which the
7 two events occurred, so we would just default
8 back to the standard rules under R.C.M. 1001 and
9 the government being able to offer records from
10 Article 15 in aggravation.

11 CAPT BARNEY: Thanks for your
12 response. It seems that this is perhaps a
13 constant lens of having a bifurcated disposition
14 authority for offenses. And it seems to result
15 in a different outcome than when under the prior,
16 or maybe the existing situation, you had the
17 ability to dispose of the government was obliged
18 to dispose of all known offenses at the same
19 time. So thank you very much.

20 CHAIR HILLMAN: Thanks. Thanks,
21 Captain Barney. Barring any last questions? Any
22 questions?

1 Thank you so much, Captain Scott,
2 Lieutenant Colonel Harrell, for joining us. We
3 appreciate the expertise you bring to this and
4 the ongoing process of helping us understand and
5 interpret with what's happening with respect to
6 these big changes.

7 So with that we're going to close the
8 public session. I'll defer to our Director about
9 when we're coming back here. Over to you, Pete.

10 MR. YOB: Thank you, Dr. Hillman.
11 We're scheduled to come back together, take a
12 break, come back together at 1:30.

13 We will have Ms. Ruth Vetter, DoD
14 Deputy General Counsel, speak with us in the
15 executive session. We'll have several other
16 matters to cover in the executive session. Most
17 likely the Article 32 continued discussion,
18 additional discussion on the RFI that we had
19 yesterday, and then other matters that the Panel
20 Members want to take up.

21 I believe that that will take some
22 considerable time. I would suggest that if we

1 start at 1:30 we reconvene with the Staff at
2 2:45. And then we'll use that 2:45 to 3 o'clock
3 to conclude the session. And then we'll move
4 over to the separate working group sessions, if
5 that makes sense.

6 The bottom line is, we can break now
7 and reconvene at 1:30 in the executive session
8 with Ms. Vetter to start off.

9 MG EWERS: Pete, may I ask a quick
10 question please?

11 MR. YOB: Yes, sir.

12 MG EWERS: This is just for future.
13 So one of the first panelists talked about 513
14 CAAF decision.

15 MR. YOB: Yes, sir.

16 MG EWERS: Can you just get us, I
17 asked the staff attorney that had that crowd to
18 get that cite. I'm interested in reading that.

19 MR. YOB: We will. That's U.S. v.
20 Mellette. I'm very -- and there is also, right
21 now there is a case involving the Mellette
22 decision, 513, that's been certified by the Navy

1 JAG that's going up to CAAF. We'll keep you
2 posted on that as well. But we can certainly
3 share the Mellette decision. It's a very
4 interesting decision to read on 513, on
5 psychotherapist patient privilege matters.

6 MG EWERS: Okay.

7 MR. YOB: We'll share that
8 immediately. Yes.

9 CHAIR HILLMAN: Okay. Just one slight
10 amendment, let's take an actual 30 minute break
11 for lunch. So you have 30 minutes. We'll come
12 back at 1335. So thank you everybody, we'll see
13 you then.

14 (Whereupon, the above-entitled matter
15 went off the record at 1:05 p.m.)
16
17
18
19
20
21
22

A

a.m. 1:9 3:2
abide 89:12
ability 11:4 14:12 16:7
 18:11 27:21 28:16
 29:2 33:14,15 36:15
 37:22 45:21 70:16
 123:17
able 16:16 24:4 42:19
 54:16 55:11,12 60:8
 61:13,14 62:6 83:4
 117:10 123:9
above-entitled 126:14
absence 31:7
absolutely 31:18 65:19
 67:7 79:17 93:19,21
 95:11 117:2
academic 62:10
accept 72:13
access 5:6
accused 24:13 29:18
 32:5,19 35:2 36:13
 40:3,17 45:12 48:7
 59:13 64:7 70:6 72:9
 77:7,21 98:19 109:14
 110:12 111:22 120:3
acquitted 41:11
act 72:19
acting 89:15 108:2
action 56:16 62:1 63:11
 104:21 105:4 111:1
 121:3
actions 14:14
activities 114:16
actor 66:5 67:8
acts 56:21 104:15
 107:12
actual 48:13 52:1
 126:10
actuality 66:10
add 52:14 58:9 81:3
 122:11
added 59:16 112:22
addition 16:7 18:3
additional 22:22 23:10
 23:10 43:10 45:20
 47:6 60:20 62:6 63:6
 65:13 68:13,15
 112:22 116:10 124:18
additions 55:19
address 31:19 74:1
addressed 15:6
addressing 86:18
adhere 75:3
adjacent 82:1
admin 3:4,8,14
administrative 5:6 16:1
 56:16 61:5,8 62:16,19

63:11 67:6
administratively 63:20
adopted 97:11
advance 44:18 99:21
advancing 117:16
advantage 31:4
advise 84:14 116:4
advising 18:10 101:19
advocacy 31:9,13 35:4
 37:3,4,6,19 38:7,10
 39:6,11,13 40:8,10
 41:8,9,11 44:9,12,14
 47:19 48:19,20,21
 49:18,20 50:2,13
 53:15 72:4
advocate 19:3 72:6
 75:13 105:13 115:5,6
advocates 72:5,9,9
 78:11 98:10 106:2
advocating 44:21 47:11
affair 54:22
affect 100:13
affidavit 97:17
affirmatively 21:17
 107:16
afraid 40:7
afternoon 17:5 99:9
 101:4 105:10
agent 97:19
agents 98:2
aggravation 52:22 81:9
 120:3,11,20,21 121:7
 121:15 123:10
ago 51:7
agree 32:16 38:19 39:5
 49:16 59:13,21 67:7
 68:17 76:20 77:16
 96:9 122:12
agreed-upon 36:17
agreement 43:5,9,9
 44:15 51:19 59:12
 60:3,7,16,17 61:1
 63:10 64:6,22 66:11
 68:7,9,11 77:6 79:12
 111:22
agreements 13:14
 16:13 29:7,14 30:14
 30:20 39:2 41:19 42:3
 48:16 68:4,19 69:5
ahead 8:10,16 9:15,16
 10:5 11:21 12:20
 25:22 100:1 119:14
aid 101:19
Air 2:11 7:1 14:2 15:3
 17:6,11 49:15 58:12
 58:15 89:9
aisle 72:8 74:7
Alabama 15:20

Alameda 27:10
Aldana 1:12 11:15
align 97:14
allayed 84:17
allegations 13:16
alleged 95:11 107:17
 109:11,22 110:1,16
 111:1
allow 44:2 97:16
allowed 16:12 43:8
alluded 49:16 94:21
Amanda 2:4
amenable 70:10
amendment 126:10
amendments 103:12,19
 103:22 104:4 118:18
amends 103:18
amidst 102:18
amount 28:4,6,13 32:2
 43:10,21
amplified 103:8
Analyst 2:6
anchored 57:15
anecdotal 34:17
anecdotally 74:5
anecdotes 71:3
angst 32:2 75:11
Anita 2:14 99:10 101:5
annex 103:12,16,19
 104:1,4,5,11,15
annexes 103:11
announcement 74:21
anomalous 42:10,21
 60:12,18
answer 5:8 17:18 20:8
 25:6 28:9 67:18 93:16
 94:17 96:3 117:5
 120:7
answering 30:6
anticipate 78:8 122:9
anticipates 94:1
anybody 28:17 79:17
anybody's 8:12 50:12
 93:20
anymore 50:9
anyway 85:21 86:21
aperture 76:12
apologies 116:16
apologize 20:10 25:8
 121:19
appeal 103:15
appeals 51:13
appear 45:21
appears 11:22
appellate 17:7,12 52:2
 103:7 112:2
appetite 58:21
apple 121:8 123:5

applicability 20:18
application 20:15 56:4
applies 108:19
apply 103:17 104:2,7
 105:1
appreciate 5:22 7:18
 8:5,10,18 9:4 11:13
 31:20 98:13 121:22
 124:3
approach 53:21,22 54:6
 102:16
approached 9:1
approaches 25:5
appropriate 14:13 41:7
 83:3 85:9,10 101:20
appropriateness 59:8
approval 91:8
approved 63:14
approving 78:2
area 27:12
areas 37:9 68:16
arguably 67:14
arguments 75:4
Army 2:10 13:19 15:2
 15:14 16:3 26:1 37:10
 74:19 87:9
arraignment 22:4
 104:20 105:4
article 56:15 74:17
 85:16 86:3,8,20
 105:22 106:1 107:9
 107:14 108:5 112:22
 113:2,5,6,12 114:2
 122:20 123:2,10
 124:17
articles 100:19 112:19
articulate 82:19
articulates 82:20
Asia 18:2
asked 8:13 31:6 35:11
 37:2 74:12 125:17
asking 14:18 120:5,8
aspect 43:18 60:21
aspects 90:8
assault 102:10,18
 109:22 110:14,17
assess 92:21 93:1
assignment 14:8 19:9
assist 14:13
Assistant 29:9,10
associated 14:20 95:8
assume 29:22
assuming 107:17
 122:18
assumption 89:8
atrophy 38:9
attack 77:8
attacks 77:12,14 79:2

attempt 21:17 120:7
attendance 14:20
attending 116:5
attention 8:10 45:15
 76:3 119:3
attorney 2:3,4,5,5,7,8,8
 2:9 13:4 18:10 24:8,9
 29:11 125:17
attorneys 17:9 40:10
 77:20 99:7
audio 16:22 40:15
 77:11 102:4 103:6
AUSA 97:16
austere 94:7
authorities 18:4 55:13
 59:22 65:13 68:13,15
 78:18 106:4 107:14
authority 32:16 39:22
 42:8 56:11 58:3 60:10
 61:14 62:7,18 64:7,8
 64:12,17,21 66:3,18
 67:1,5,15 68:20 90:9
 90:16 91:8 93:15
 94:13 102:21 103:8
 105:9 106:7,13,15,18
 106:19,20,21 107:3,4
 107:7,17,21 108:13
 108:15,18 109:1,4,6
 109:20 110:6,6,18,21
 110:22 111:12,16,18
 112:3,7,11,16 114:4
 115:11 117:6 120:9
 120:19 121:3,14
 123:14
authority's 94:12
authorized 11:2 112:2
 115:1
available 9:13 63:21
 69:10 118:20 119:4
avenue 51:16
avoid 25:4 62:21
 121:20
aware 20:16 89:4
awful 75:5,21

B

B 79:14
baby 69:21
back 8:17 15:7 20:4
 32:10 34:8,9 42:13
 44:10 51:8 59:5 68:2
 71:16,16 75:7 80:22
 88:16 118:1 119:22
 120:9 121:2,12 122:2
 122:10,21 123:8
 124:9,11,12 126:12
bad 38:8
badly 18:5

bag 59:12
ballpark 79:10,11
bar 22:7 96:17
Barney 1:12 119:11,15
 119:16 120:12,14
 121:1,18 123:11,21
Barring 123:21
based 84:9 95:6 103:17
baseline 32:4
basically 26:21 27:13
 29:11
basics 49:8
basis 47:14 83:16 96:15
bath 69:22
bear 99:15
beat-the-deal 29:16
 31:8
beating 50:7
began 29:8
beginning 49:4
begins 100:2
behalf 93:20
behavior 69:8
beholden 51:9
belief 82:2,14
believe 28:12 34:13
 60:1,22 61:6 66:17
 67:1 68:18 72:17
 73:19 81:21 82:7
 91:10 92:20 93:9
 117:13 120:14 124:21
believed 32:9 33:3
believes 46:10
bench 74:15 75:15
beneficial 62:6 65:19
benefit 32:6 68:7 74:20
 75:5
benefits 36:4,5
Benes 1:12
best 11:20 41:2 47:11
 47:18 56:14 73:3 84:8
better 16:12 39:2 40:2
 59:1 62:14 86:2 89:6
 98:15
beyond 46:4 61:2 91:14
bifurcated 123:13
big 4:14 48:2 62:7 68:7
 96:12 124:6
biggest 20:12 84:3
billet 25:19
billets 20:2,3
bind 61:13,14 62:7
 64:19 66:5 67:5,8
binding 66:2 86:7,8
 87:18 89:1 91:15,21
 92:6 93:18 94:11,17
 97:1
binds 66:17

biographies 99:20
biography 13:18
bit 10:8,11 26:1 29:8
 32:10 33:19 35:8 36:8
 36:9 37:5,15 55:5
 62:10 87:20 101:18
 103:3 113:4 116:15
bites 121:8 123:5
blocking 49:7
blowing 87:17
blunt 69:7
blush 59:7
Boggess 2:3
bottom 36:19
bottom 48:4 125:6
bound 51:17 63:10
box 98:3
brain 94:18
Branch 105:12
breadth 98:11
break 4:19,21 6:3 92:3
 124:12 125:6 126:10
breakout 5:2
breathing 10:11
brief 14:10 15:10 96:6
Briefing 99:5
brilliance 49:8
bring 49:19 76:3 98:12
 124:3
brings 102:7
broken 103:11
Brunson 1:13 12:3,7,18
 55:6 100:16
Bryan 1:16 2:11 13:22
 18:22
building 49:3
bullet 106:17 112:6
burden 21:20 24:19
butt 33:6
buttresses 82:8

C

CAAF 125:14 126:1
CAAF's 20:22
calculate 10:3
calendar 5:21
California 19:17 27:11
call 6:9,22 53:8 65:15
 72:15 80:8 97:13,19
called 18:4
calling 15:15 45:2
camera 24:1 25:3 28:5
Camp 15:19 51:7
Campbell 15:17
candid 92:9
canvas 85:2
capabilities 49:18
 50:21
capacity 52:6 56:21
 94:10
caps 16:9
CAPT 85:6,13 101:4
 116:9 117:2,13
 118:17 119:11,16
 120:5,14,15 121:1,9
 121:18,21 123:11
Capt(R) 1:12,16
captain 2:14 11:15 33:4
 49:5 85:5,12 87:3
 96:1 99:10,12,18
 101:5 116:3 117:7
 118:2,11 119:9,14
 120:12 123:21 124:1
capture 16:16 18:11
 120:13
captured 34:7
care 116:6
career 20:3 29:8
carefully 89:13
carrying 19:21
carve 8:20
case 10:1 18:13 21:7,10
 21:14 27:14 28:12,22
 31:9 32:8 33:3,10,17
 34:6 35:4 39:15,19
 40:1,13,21 46:3 47:12
 47:18 49:14 50:17
 51:19 54:21 59:9 61:9
 65:22 66:1 71:3,20
 74:9 82:5 87:12,19
 88:1 89:18 91:9,12
 92:11,12,12 93:8
 94:22 95:7,8 96:10
 97:2,19 118:7 122:7
 125:21
case-by-case 83:6
cases 16:14 17:9,10
 18:12 24:12 28:7
 29:12 44:1,4,7,19
 45:22 52:1 61:7,11
 62:8,21 70:7 73:7
 79:10,16,16 80:5,15
 81:10 90:13,19,20
 92:8 93:3,4,5 95:13
 102:17 104:7
categories 30:10
category 110:8
cause 72:18 87:13
 90:16 91:6,13 92:15
 92:21 96:17,22 97:3,8
 98:1
caution 78:6 90:10
CDR 18:20 41:17 59:20
 63:22 65:5 81:5 90:5
ceiling 32:14 43:8,11
central 102:15

- certain** 26:2,2 32:2 36:9
52:20 59:14 62:8
68:15 72:19 114:17
122:13
- certainly** 9:12 38:10
41:17 42:6 44:3 47:10
47:15 52:4,5,17 53:13
53:16,21 56:2,21 60:4
66:4 68:14 69:3 70:16
71:9 73:21 74:2 75:13
76:2,8,17 83:2 96:19
97:5 98:4 101:15
118:20 122:3 126:2
- certainty** 29:20 30:2
36:14 42:19 52:16
53:13 68:8 80:11 82:7
83:19
- certified** 125:22
- chain** 24:4
- chair** 1:9,11 3:18,20 6:7
6:13,19 7:16 10:16
11:8 12:2,17 17:1
25:10 26:6 30:7 31:16
38:14 41:14 47:21
52:8 55:2 58:7 59:17
63:2 65:6 67:16 71:12
76:21 79:4,19 80:19
81:17 82:11 84:22
85:10 87:3 88:8 90:3
91:22 96:5 98:6 99:13
101:5,6 115:22 116:1
116:11 117:7,15,19
117:22 119:9,14
120:12 123:20 126:9
- challenge** 89:7
- challenges** 12:20,22
14:20 21:5
- chance** 5:5 7:22 9:8,9
87:5 116:17,22
- change** 11:4 14:11 16:5
17:19 28:21 29:20
31:14 41:18 54:10,15
62:12 88:20 96:22
97:13 118:9
- changed** 33:11 79:1
- changes** 4:14 20:10,14
29:6 52:13 90:22,22
91:2 98:4 100:6,14,18
103:14,14 104:12,15
118:9 124:6
- changing** 69:8
- characterization** 61:17
- characterizations** 68:1
- charge** 28:10,10 109:10
119:19 120:17 121:2
- charges** 32:20 104:20
105:3 111:6,7,11,13
111:20,21 112:8,12
- charging** 28:1 97:2
- chase** 95:10
- Cherry** 93:7
- Chief** 2:2 15:14,22 17:7
25:16 26:13,15 61:15
74:18 115:18
- child** 113:1
- choice** 26:22
- chooses** 53:5
- Chuck** 2:5
- circle** 15:7
- Circuit** 15:14,15
- circumstance** 32:11
59:10
- circumstances** 9:21
59:14 87:22
- cite** 125:18
- civilian** 22:15 23:3 29:7
53:18 54:20 57:20
70:4 83:13 96:13
- clarify** 9:14
- clarity** 62:20
- clear** 38:19 43:20
- clearly** 72:3
- clemency** 47:9,13,17
73:1
- click** 117:11
- client** 35:10,15 36:4
46:5,7,8 73:2 83:21
84:6,8
- clients** 61:19,20 74:11
84:1,15
- close** 26:2 74:5 124:7
- closed** 72:11
- CNP** 63:14
- Coast** 2:12,14 14:6 15:3
26:14,19,20 27:5,9,11
29:11 54:21 96:21
101:13 115:16,17
- coercion** 115:1
- cognizant** 115:5
- Col** 7:1,3,8 12:7 17:4
25:13 38:18 40:16
48:2 58:9 65:11 77:2
79:20 81:19 88:10
92:2 118:13
- Col(R)** 1:13,14,15,15
- collateral** 109:20
- colleague** 26:1 49:16
- colleagues** 27:20 41:18
52:14 69:17 70:3
- Colonel** 2:10,11,12,14
7:16 12:3,17 13:20
14:1,4 15:10,13 17:1
17:3,6,18 25:12,15
26:6 31:16 38:14,16
38:19 39:10 41:14
48:1 49:15 52:8 55:6
- 55:10,21 58:7,8,19
59:17 63:4 65:8 67:16
73:18 74:19 76:21
77:1 78:1 79:4,19,21
80:19 81:1,2,3,17
82:11 84:18 87:7 88:8
88:9 90:3 92:1 96:5,9
99:11,13,19 100:16
101:8 105:8,11 116:1
116:8 118:3,12 124:2
- combined** 100:2
- come** 3:10 32:13 36:16
40:20 66:19 76:18
88:16 124:11,12
126:11
- comes** 16:13 37:4,6
41:21 42:13 45:6,7
50:20 67:10 82:16
93:2
- comfortable** 94:10,11
- coming** 4:8 8:14 11:3
74:15 75:15 124:9
- command** 14:13 16:3
29:19 34:8 48:8 49:12
56:8,11 57:11,15 58:3
59:5,13 64:9 68:3
- Commandant** 115:7
- commander** 2:11,12
7:5,6 13:22 14:5
18:19,22 25:10 26:3,8
26:12 30:8,16 41:16
47:21 52:10 55:3,9
59:19 63:2,8 64:10
65:6 66:6 67:17 68:17
71:13 81:1,4,18 82:12
85:19 90:4 91:22 94:3
96:7 98:7 108:1
110:22 112:11 117:3
120:1 122:18
- commanders** 42:15
59:1
- comment** 3:4,4,9 11:7
30:21 73:15 118:21
- comments** 18:18 38:20
41:13 52:13 69:17
76:22 77:15 78:7 79:5
81:6
- Commission** 102:9,11
- Commissions** 20:6
- committed** 46:9 70:7
104:16 109:11 110:11
- Committee** 99:12 101:6
101:10,16 105:15
- Committee's** 101:18
- committing** 109:15
- common** 54:19
- communicate** 46:8
64:20
- communicating** 118:10
- communication** 18:4
18:16
- communications** 27:22
28:5
- company** 118:1
- comparing** 53:18
- comparison** 83:12
- compensation** 55:16
60:6
- competent** 115:3
- complaint** 97:18 113:18
114:5,6
- complaints** 113:16
- complex** 69:9
- comprehensive** 9:15
- comprised** 115:2,18
- concept** 29:17
- conceptually** 65:2
- concern** 49:2 60:12
72:14 73:22 78:21
79:3 90:14 113:20
123:1
- concerned** 72:3,6 73:6
80:10 115:10 120:22
- concerns** 41:5,8 74:3
77:3 83:19 84:17
- conclude** 125:3
- conclusion** 89:8
- conclusions** 8:9 90:11
- concur** 17:19 41:18
52:17
- conducting** 24:1
- confidence** 42:15
102:16
- confinement** 79:12,13
80:12,16
- Congress** 102:14
- connecting** 120:19
- consequences** 61:5
- consider** 10:15 12:8
37:11 53:4 95:21
- considerable** 124:22
- consideration** 75:4
- considering** 31:21
37:18,20 86:10
- consistently** 11:11
- constant** 61:12 123:13
- constitutional** 20:18
- construct** 95:14
- consult** 78:17
- consulted** 63:13 78:13
- consulting** 35:9
- contained** 104:13
- containing** 104:12
- contemplated** 60:17
- content** 103:17
- contest** 45:21

continuance 22:17,18
continue 58:21 69:19
 81:8 91:1 116:4
continued 47:19 124:17
continuing 40:16 70:18
control 61:8 62:18
 77:21 117:14
convenience 8:18
convening 32:16 39:22
 42:7 64:6,8,20 66:2
 90:8,16 93:15 94:12
 94:13 110:22 120:9
 121:2,14
conversation 62:10
conveying 78:17
 108:18 112:11 120:19
convicted 58:14
convictions 61:5
convince 40:13
convincing 39:14
cook 72:10
cooked 78:21
coordination 11:19
copy 13:17
Corps 2:12,15 7:9 14:3
 15:3 16:1 19:5 25:16
 25:19 79:22 80:13
 94:20 95:16 99:15
 101:9 105:13,14
 115:7
correct 71:10
corroboration 28:13
counsel 4:7,13 5:12
 6:10 13:8,12 17:12
 18:7,10 19:7,13 20:13
 21:11,16 22:1 23:21
 25:18 26:16,19 27:10
 27:12 31:5,5 32:2
 33:15 35:6,7,11 36:3
 39:18 40:10 44:1,11
 44:21 45:1,14,17
 46:12,16 47:2,10
 48:10 49:3,19 50:20
 54:4 62:12 66:16 67:1
 71:22 75:19,22 76:3
 78:10 80:6 83:20
 84:14 86:12,15,19,22
 87:9,11 88:4 97:6
 102:21 103:21 105:21
 106:3,5,7,12 108:9
 111:15 114:12,17,19
 114:21 115:19,20
 118:15 119:1,18
 124:14
counseling 35:10
Counsels 99:6
counterparts 57:21
 83:13 97:10

country 37:9
couple 5:11 20:14
 31:19 34:3 37:8 45:6
 74:1 76:19 85:1
 104:14 111:9 118:6
course 22:5 83:13
court 14:17 51:12 52:2
 74:7 96:16
court- 108:17 111:13
 112:8
court-martial 58:14
 61:22 103:9,16 104:5
 104:13 111:15,21
 119:2 122:20
court-martialable 122:4
court-martialed 71:4
courtroom 46:20 87:2
courts 23:6 54:22
 118:16
courts- 100:11 101:21
courts-martial 13:13
 26:20 27:6 98:19
 100:6 103:3 108:6
cover 15:17 101:17
 124:16
covered 13:11 21:4
 24:19 102:6,22 106:8
 106:10,11,14,15,19
 106:20 107:3,12,22
 108:8,10,12,13,20
 109:1,10,12,15,17
 110:2,5,12 112:14,17
 112:22 113:7,9,12
 113:15,21 114:1
 115:4 121:11,16
 122:15,21
covers 103:12,19 104:4
CR 10:1
craft 77:10
create 28:20 88:22
 89:22 115:17
created 21:5 29:17
creates 22:22 89:2
creation 105:21
crew 118:8
crime 42:20 45:13
 46:18 48:9 70:7 76:10
crimes 70:10
criminal 14:14 19:2,4
 34:6 69:6 70:8 97:18
criteria 115:4
critical 18:12
criticism 77:4 78:22
criticisms 77:5
cross 93:1
cross- 49:10
crowd 125:17
crucial 28:15

crucible 93:1
cultural 35:2 64:2
cumulative 100:18
curious 79:18
current 14:8 25:19
 26:13 48:3,8 52:6
 78:14 86:4 97:12
 102:8
currently 19:1 97:9
 101:12 118:19
cut 38:7 78:11 95:10

D

DAC-IPAD 86:6 88:13
Dale 2:2 6:6,7,14
 117:18 118:1
darn 7:17
date 100:11 105:5
 113:8
dates 8:13 104:11
dating 20:3
Davis 2:11 7:5,6 13:22
 18:19,20,22 25:11
 41:16,17 47:22 55:9
 59:19,20 63:3,8,22
 65:5,7 68:17 81:1,3,4
 81:5,18 90:4,5 92:1
day 3:15,16,21 4:17,20
 4:22 5:3 11:4,10
 26:13,18 34:22 40:22
 46:21 54:19,22 72:12
 72:20,21,21 98:14
day-to-day 19:21
days 12:9
de 50:5,13 71:4
deal 10:12 36:5,6 50:7
 73:3,3 83:4 84:5
dealing 86:1
dealt 51:22
death 113:1
debate 53:8
decades 71:1
December 11:3 104:2,3
 104:6,9 113:11
decided 90:17
decider's 54:8
deciding 28:9 54:2
 108:13
decision 20:22 27:3
 28:1 36:17 53:6 82:17
 86:2,8 95:19 119:17
 125:14,22 126:3,4
decisions 29:3 52:18
 53:14 58:22 82:18
 91:21 94:4
decrease 39:6
dedicate 24:8
default 95:3 122:21

123:7
defendants 70:14
Defender 29:9
defense 13:11 20:4
 21:20,22 22:6,19
 24:20,22 31:5,5 32:2
 35:7,11 40:9 44:19
 45:1 46:5 47:10 48:7
 51:11 64:7 67:4 71:22
 74:13 75:18,22 76:3
 77:20 78:3,4 81:11
 83:20 84:2,14 114:13
 115:12,13
defer 112:9,10 124:8
deferment 119:17
deferred 120:8 121:12
deferring 122:2
defers 108:3 111:2
 122:15
define 107:11
defined 102:22 107:8,9
definite 82:22 84:4
definitely 43:22 78:12
definition 92:18
degradation 50:2,4
delay 22:16,22 23:10
 24:12
delayed 10:2
delays 28:20
deleted 5:21
deleterious 50:19
deliberations 5:2 8:2
deliberative 74:22
delta 80:2
deltas 68:12
demonstrate 24:20
department 27:2
 115:14
Departmental 114:7
departments 114:15
depend 123:6
depending 32:11
 122:17
depends 92:11 93:17
 94:22 96:4,10
depositing 113:2
Deputy 19:1 124:14
DeRenzo 2:12 14:6
 26:8,10,13 30:8,17
 52:10,11 55:3 67:17
 67:18 71:13 81:2
 82:12,13 85:19 96:7,8
 98:7
described 31:7
designed 92:19
desire 68:4
despite 23:15
detailing 106:2

determination 64:14
 83:6 97:1
determinations 108:11
determine 106:7,13
 109:2 110:4 112:3
determines 108:10
 112:16
development 26:4
 89:18
diagnoses 21:3,10
dice 61:21 84:7
dictate 64:12
Diego 44:12
difference 54:8 96:12
different 4:3 8:7 11:16
 17:16 38:21 43:3
 48:21 49:9,20 58:13
 74:1 76:19 87:16
 89:22 113:8 123:15
difficult 9:21 21:12 36:3
 56:3 63:16,18 66:19
 75:18 94:4 96:2
difficulty 65:3
digital 18:14
diminished 44:13 47:15
direct 103:15
directed 114:13 115:11
direction 20:11 37:17
directly 62:13 80:20
 115:9
director 2:1 8:3 10:18
 19:1 124:8
directs 106:1 114:12
dis-empowering 77:22
disagreement 75:11
disappointment 75:11
disapprove 32:16
discharge 61:17 80:10
 80:11
discharges 51:9
disciplinary 14:14
discipline 37:22 43:15
 57:11,13 58:4 94:15
discovery 21:9
discretion 31:2 34:14
 34:15 36:10 39:7 41:6
 43:21 44:3,4,8 47:4,8
 47:16 51:3,21 52:4
 53:9 57:10 65:14
 72:21 80:16 94:4,12
 109:4 110:3,18
discretionary 80:3
 109:6
discuss 76:4,12 100:7
 100:14 103:3 106:9
discussed 67:21
discussing 113:4
discussion 100:22

118:15 124:17,18
dismissing 111:20
disparities 119:5
dispersions 102:19
dispose 123:17,18
disposed 27:15 121:13
disposes 121:4 122:19
disposing 108:2
disposition 27:3 107:17
 120:1,2 123:13
dispositions 57:20
disqualified 23:22
 111:8,11
dissenting 96:19
distinction 107:2
 110:10
distinguished 7:21
District 29:12
diversionary 55:17
 70:2
division 19:2 26:14
 27:1 105:13
document 104:10,11
documents 28:19
DoD 101:19 124:13
DoDI 102:2
doing 11:13 15:21 27:4
 32:7 45:8,18 56:9
 59:15 86:13 92:7 94:5
 94:19,20 95:1,12,17
 95:22 96:3 97:4,21
 98:14 100:14
domestic 13:15
doors 72:11
doubt 52:3
downside 48:12
Dr 1:9,11 3:17 5:15 6:5
 9:17 13:6 63:7 79:8
 85:7 119:16 124:10
drag-out 38:4
draw 119:2
drawing 90:11
drawn 23:16
drinking 109:21
drive 121:19
driven 88:4
driving 57:13 88:4
drop 9:12
drop- 46:13
dropped 84:17
drug 29:12 119:21
du 16:11
ducks 80:21
due 61:7
duties 19:21 27:1 83:22
 107:13 116:7

E

earlier 65:20 88:13
 110:14 113:22
early 7:18
ease 91:20
easier 10:8 12:11 41:4
Eastern 51:8
easy 107:15
echo 27:19 81:6
EDT 1:9
effective 16:5 45:3 49:4
 49:21 103:16 104:1,6
 104:10 113:8,10
effectively 60:9 71:8
efficacy 50:19
efficiencies 67:11
efficiency 52:15 122:6
efficient 30:3
efficiently 54:17
effort 29:4 40:11 77:13
efforts 27:18 75:21
eight 51:6
either 5:17 21:17 40:13
 40:18 79:12 88:13
Eleanor 2:9 99:8
electing 112:12
electronic 27:22
element 64:10
eligibility 103:15
Elizabeth 1:9,11
email 5:18 9:12
emergency 101:12
empower 60:14 78:15
empowered 16:6
empowering 60:9
empowers 77:20
empty 51:20 90:7
encounter 10:9
encouraged 54:5
encouraging 47:12
 97:5
ended 75:5
enforce 68:5
enforcement 68:22
engaged 53:7
enhance 46:7 102:15
enhances 82:7
enhancing 65:14
enormous 28:4 29:4
 59:6
entering 64:5 111:22
entertain 119:11
entire 23:18 53:1 54:22
environments 94:7
EO 103:10,12 104:13
equitable 34:11
era 71:1
erode 42:15
eroded 60:13

erosion 42:22
especially 22:13 36:10
 57:10 72:15 73:8 86:5
 89:15 102:17 116:3,5
essentially 15:21 19:4
 19:14,17 21:1 22:2
 24:11 26:18 27:9
 33:16 35:3 61:21
 62:16 64:11 71:4
 112:19
establish 21:21 114:14
 114:16 115:12
established 105:22
 115:5
establishes 104:14
establishing 114:10
esteemed 101:5
ethical 83:22
events 122:18 123:7
everybody 7:19 11:13
 11:14 13:1,7 17:5
 29:18 30:1 48:5 50:9
 54:18 82:3 87:5
 126:12
everybody's 8:19 12:1
 48:16
evidence 18:11,14
 27:22 40:22 49:13
 52:22 54:14 86:20
 87:14 92:12 93:2,12
 95:7,20 96:16 97:7
evidentiary 28:22
 119:19
evolution 93:9
evolved 33:11
Ewers 1:13 71:13,14
 73:16 81:1,19 84:16
 125:9,12,16 126:6
exactly 32:18 40:11
 54:12 76:18 77:3
 82:18 111:5 120:11
 120:17
examination 49:11 93:2
example 61:15 64:12
 109:15,19,21 110:13
 119:20 121:1,3
examples 60:5
exception 20:19 85:19
exclusion 107:18
exclusive 102:21 105:9
 106:7,13 107:6
 111:17 112:3
exclusively 20:2
excuse 35:10
executive 4:12,12 5:1
 99:5 100:5 102:1,8
 105:19 124:15,16
 125:7

exercise 60:10 62:6
106:15,18,21 107:3,4
109:3,4,20 110:6,18
112:15 114:4
exercises 106:12,20
107:21 109:1 111:16
112:6
exercising 108:12,15
108:17 110:5,21
exist 28:20 91:3
existing 123:16
expand 29:21 76:11
experience 25:5 27:17
34:18 35:6 70:20 74:5
74:6 83:12 84:2,9
89:9 90:18 96:15
experienced 46:21
115:3
expert 22:21 95:18
expertise 124:3
experts 6:10
explain 84:1
explained 109:8
explanation 75:15
explanations 74:20
exploring 51:16
exposure 80:12,17
expression 103:6
extended 58:17
extent 40:4 46:16 57:12
58:20 59:2 77:6,19
78:8
extenuation 76:13
81:11
extraordinarily 26:3
79:22 80:1 82:9 93:4
93:10,14
extraordinary 51:5 78:4
98:9
extremely 67:20 83:11
eyes 82:3

F

face 12:22
facilities 22:15,16
23:17
fact 41:6 57:1 66:10
83:14 87:15 106:13
112:16 120:2 121:6
facto 50:5,13 71:5
facts 39:15 73:9,10
75:1 76:7
factual 21:13 83:15
fair 50:16 77:5,8,9,14
77:22 78:21
fairly 22:7 42:12,14
44:2 47:14
fairness 48:13,15

faith 42:2,3,22 46:7
60:13 72:18 82:8
117:9
fall 32:20,21 34:3
familiar 101:16
fan 48:2
far 25:21 34:11 38:8
41:18 68:13 70:19
97:7
fashion 45:5
favor 52:13 53:21 76:17
favoring 92:10
federal 29:12 37:13
63:9 96:16 97:14,16
118:19
feedback 87:21
feel 46:22 88:11 94:16
feeling 42:6
field 14:16 73:19
fight 38:4
figure 89:5
filtered 41:1
finally 37:2 51:3 94:19
find 16:16 86:3 89:14
119:6
finding 66:10 86:2
91:13,14 96:18 121:5
findings 38:5,10 39:14
41:11 49:21 104:7
fine 57:7 72:2
finished 73:4
finite 53:11
firmly 81:21
first 3:4,11 4:6 5:13,19
31:21 32:4 51:12
55:21 59:7 65:11 70:6
103:11 104:17 108:9
111:5,7 113:7 125:13
fiscal 10:12
five 80:15 87:4 90:18
98:10
fix 91:2
flag 64:15
fleeted 27:8
flip 116:20 117:8
flipped 118:14
floor 25:9 42:7,13
Florida 29:9,13
focus 42:1 50:2 54:13
focused 20:9 49:6
50:22
folks 5:11 98:10,17
follow-up 85:4,7
followed 14:9 22:20
115:15
following 14:15 74:21
112:1
footing 16:13

force 2:11 7:1 14:2 15:3
17:7,11 49:15 57:13
58:12,15 89:10
form 18:14 51:6 86:4
121:11
formal 113:16,18 114:5
114:5
former 74:18
Fort 15:17,18,18,18,20
forth 34:4 36:6 56:17
58:5 75:4 76:4
forward 3:15 30:5 36:20
36:21 89:12 90:17
91:9,12 94:6 121:11
122:5,7,15
forwarded 108:8 114:1
fosters 82:1,2
found 16:5 28:8 31:6
32:12 62:1 65:18
90:15 91:6 103:5
foundations 49:9
four 7:12 116:9
fraction 47:8
frankly 83:4 85:18 97:2
98:2
fraternization 110:1
freak 35:15
free 114:22
frequently 21:12 46:19
54:21 61:11 69:9 71:3
front 16:19
fulfills 101:22
fully 25:17
function 101:22 102:6
funding 9:1,22 10:1,5
funds 11:2
further 23:11 56:8
103:5 108:5,16 109:8
114:7
furtherance 107:13
future 78:10 125:12
FY 10:22
FY2023 103:7
FY22 102:12,20 105:18
105:22 112:21 114:10
FY23 103:14 112:21

G

G 62:8
gained 31:11
Gallagher 2:3 6:10
11:22 13:5,6 17:3
18:19 26:8
Gannon 2:12 7:8 14:4
25:12,13,15 26:7 48:1
48:2 52:9 55:10 63:4
65:9,11 67:17 78:1
79:19,20,21 80:20

81:1,17,19 82:12 92:1
92:2 96:6,9
Gannon's 93:19 94:10
94:18
garden 33:18
general 14:21 19:4 68:5
71:13 80:22 81:19
82:4 103:2 111:21
115:6 124:14
generally 69:6 77:15
88:3 95:15
gentlemen 25:14
105:11
Germany 15:18
Germany 16:3
getting 9:22 28:12 33:6
36:13 77:21 80:21
88:20 90:1
give 5:4 7:14 10:11
80:15 87:5 90:2 93:13
93:15 116:22 118:6
119:20
given 14:7,19,22 67:20
68:11 87:12
gives 35:21 121:8
go 21:17 22:8 25:22
28:19 33:6,21 37:17
50:9 55:20 61:3 63:4
65:8 66:22 71:5,16,16
72:21 75:7 76:22 84:6
86:14 87:20 94:9
98:21 106:11 114:3
117:19 119:14
goes 6:2 16:19 119:22
going 3:8,17 4:5,10,21
8:2 9:18 11:14 12:19
13:3 19:16 22:12
25:22 29:21 30:9,9
32:19 33:21 34:16
35:12,17,19,22 39:1
40:12,20 42:7 48:16
48:17 49:17 50:10,11
50:11 51:1,4 54:8
58:18 62:21 63:5 65:8
66:9 67:4 69:11 70:21
72:2,18 73:1,9,13
75:2,9,10 78:3,9,15
79:6,13 82:3,15 84:13
85:20 88:20 89:5,12
93:13 95:9,10 98:22
99:3,7,16 100:7 101:2
101:17 105:16 106:3
106:9 109:3 116:11
122:14 123:6 124:7
126:1
good 6:16 8:15 13:7
15:12 17:4,19 18:20
24:13,13 25:13 26:10

37:21 43:15 44:12
 46:3 48:4,6,7,8,9
 49:12 52:2 54:18
 57:10,12 58:3 69:3,12
 71:20 72:18 75:19
 79:21 81:19 83:8
 94:15 99:9 101:4
 105:10
gosh 11:1
gotten 34:11 68:2
governed 102:1
government 16:12,17
 17:12 21:20 22:8 32:8
 33:3,15,16 34:5 36:16
 40:19 44:17 45:4
 46:15,16 48:10 53:8
 62:7,8 63:10 64:18,18
 66:5 67:8 68:6 74:12
 80:9 81:10 121:8
 123:9,17
grade 61:18 62:4 64:14
grand 90:11
grateful 98:17
gravamen 16:17
great 3:15,16 4:1 6:13
 11:14 92:11
greater 62:19
group 14:21 99:14
 101:9 105:14 125:4
groups 5:3
grow 70:17
growing 45:16 70:11
guarantee 61:16,17
 62:15
Guard 2:13,14 14:6
 15:3 26:20 29:11
 54:21 96:21 115:16
 115:17
Guard's 26:14,19 27:5
 27:9,12
guess 17:20,20 24:15
 34:14 39:9 47:6 56:4
 65:16 73:9,22 76:16
 78:6 79:2 83:18 89:3
 89:18 90:10 120:5
guests 7:21
guidelines 37:14
guideposts 41:3
guilty 16:14 32:6 45:18
 45:19 62:1 69:2 73:8
 76:9 79:10 104:8
 121:4
gun 80:14
Gunn 1:14
Gupta 2:4
guys 71:18 77:18

H

haggle 34:1
Hagy 2:4
handling 115:4
hangup 20:13
happen 35:22
happening 40:17 45:11
 87:2 124:5
happy 25:6 99:2 117:5
harassment 13:16
 102:18 113:5,6,10,11
 114:3
hard 8:6 24:17 63:19
 85:14
Harrell 2:14 99:11,14
 99:19 101:8 105:8,10
 105:12 116:1,8 118:3
 118:12 122:12 124:2
Hayes 74:20
head 27:2 80:14 105:12
heads 122:10
health 21:14
hear 4:10 49:7 71:2
 73:13 77:18
heard 31:5 53:12
hearing 31:4 33:1,18
 37:7 38:5 40:8 48:22
 50:12 52:19 53:20
 69:2 86:7 87:13,22
 90:15 91:7,16 92:17
 92:18,20 95:5 97:15
 97:17 104:19 105:3
hearings 18:9 30:3 31:9
 33:7 54:19 96:14
heavily 70:14
heck 33:5
height 38:11
held 21:2
help 3:12 9:14 14:17
 95:18 97:22 98:15
helped 8:6
helpful 18:6 26:3 55:14
 82:10 89:3,17 93:10
 93:14 100:17
helping 124:4
helps 53:14
hesitancy 68:5
hey 6:5,7 73:2
Hi 17:4
high 79:15
high- 39:20
high-level 47:19
higher 25:1 67:5
highlight 17:20
highly 41:1 91:17 115:3
Hillman 1:9,11 3:18,20
 5:15 6:5,7,13,19 7:16
 9:17 10:16 11:8 12:2
 12:17 13:6 17:1 25:10

26:6 30:7 31:16 38:14
 41:14 47:21 52:8 55:2
 58:7 59:17 63:2,7
 65:6 67:16 71:12
 76:21 79:4,9,19 80:19
 81:17 82:11 84:22
 85:7,10 87:3 88:8
 90:3 91:22 96:5 98:6
 115:22 116:11 117:7
 117:15,19,22 119:9
 119:14,16 120:12
 123:20 124:10 126:9
history 69:19 70:8
 102:12
hit 30:10 54:4 65:11
 85:2
hitch 10:10
hold 21:20 70:21
honestly 12:21
hope 8:17 9:11 77:18
 88:6
hoped 85:18
hoping 72:22
hour 4:18
human 39:18 69:8,9
hump 97:3
hurdle 87:15
hurt 46:22
hypo 121:16

I

idea 41:22 43:5 56:2,14
 79:17
identify 3:10,13 88:19
ignoring 87:15
Ill 16:1
immediately 126:8
impact 11:4 27:17
 31:13 37:21,21 53:5
 53:16,17 73:11
 119:19
impacted 14:12
impacts 44:9
impediment 61:6
impediments 61:3
implementation 114:7
implemented 105:18
 108:5 111:9
Implementing 99:5
implements 4:13
implication 110:20
important 13:2 41:9
 45:11 46:17 48:14
 70:3 78:19 88:19
 112:5
importantly 11:2 106:6
 107:18 109:13
impractical 112:4

imprecise 69:22
improve 84:13
in- 9:8
in-depth 113:5
inability 61:7
incentive 72:17 73:5
incentives 83:19
include 23:16 100:10
included 114:18
includes 23:19
including 13:12 20:5
 24:18 30:15 60:21
increase 24:19 44:17
increases 42:3
increasing 42:1
incredibly 28:8
independent 114:22
individual 14:15 23:18
 43:8 64:11 66:1
individuals 74:18 91:18
inflection 54:7
influence 115:1
inform 95:18 119:7
information 21:18,21
 22:20 23:17,19,22
 28:4 81:12 84:14
informed 93:14
informing 102:13
initial 86:2
initiate 3:18
injury 113:1
input 42:18
inquiries 83:11
inquiry 73:10
insight 98:11
insightful 109:18
insofar 82:3
installations 37:11
instance 55:15 68:16
instances 113:17
instituted 102:20
instructing 87:11
instructor 18:1
instrument 69:8
interest 72:4 84:8
interested 62:11 86:22
 125:18
interesting 55:22 126:4
interference 16:22
 40:15 77:11 102:4
 103:6
internal 102:9,11 119:4
internal/external 46:2
internally 97:21
internet 77:17
interpret 124:5
interrupt 118:5
intervening 115:10

introduced 103:7
introductory 18:18
invalidate 104:18
investigation 53:2
investigations 27:3
investigative 119:5
invited 13:8
involved 24:14 29:18
 30:2 65:21
involvement 19:8
involving 102:18
 125:21
ish 80:18
issue 20:19 21:15 22:5
 64:2 68:22 82:7,14
 85:17,22 86:12 87:1
 88:11 90:12 94:17
 119:8
issues 5:20 8:9 9:1,14
 20:22 23:20 54:5 71:7
 89:21
iteration 88:14

J

JAG 19:5 126:1
James 1:16
January 104:1 113:13
Jeri 1:17
Jersey 119:12
job 26:13,18 27:7 45:8
 75:20 101:18
jobs 97:4
John 1:13 2:10 13:20
 15:10,13
Johnson 15:19
join 5:11 7:21
joined 51:11 78:3
joining 4:4,8 13:19 99:9
 99:19 116:4 124:2
Joint 99:11 101:6,9,16
 105:14
jour 16:11
journey 103:5
Jr 15:13
JSC 4:11 99:4,13
judge 1:12,16,17 5:14
 5:15 6:4,18 8:13
 10:17,18 16:20 17:22
 18:9 19:3 29:15,22
 33:1,9 34:16 35:20,21
 39:21 40:6,13,20 41:4
 42:13 43:7 44:5 47:5
 47:12 53:4 54:2 55:14
 59:3,4,8,15 60:1 63:5
 63:7 64:15 66:9 68:21
 72:20 74:19 75:8 79:6
 79:6,8 80:3,15,20
 82:17,20 84:10,12,20

89:15 97:16 103:2
 105:13 106:2 115:5,6
judge's 41:6 73:11
judge-alone 13:13
judges 18:7 23:22 25:4
 47:7,14 51:7,15 55:12
 59:2 60:10,14,20
 65:14 68:14,15 71:9
 71:22 78:2 91:19
judicial 31:2 34:14
 36:10 39:7 43:21 44:2
 52:4 122:6
judiciary 56:9,12 57:9
July 103:17 104:17,22
 105:5
jump 30:13 102:5
June 25:20
junior 45:17
jurisdictions 37:8
justice 1:1,8 3:22 4:12
 4:15 14:11 18:1 31:14
 42:16 69:7 91:1 94:2
 94:13 99:12 105:12
 105:17 119:5

K

K 1:17
Kasold 6:18
Kate 2:8
Keaton 2:14 99:11
 101:8 105:11 120:16
 122:10
keep 12:19 58:2 126:1
keeping 43:16
Kenny 1:14
Kentucky 15:17,18
key 65:21 104:14 107:2
 111:10
kick 5:1
kicked 33:6
kind 24:11 29:13 40:21
 42:15 46:1,13 48:20
 49:16 50:8 56:3 58:22
 61:8 81:15 86:1 90:11
 92:2
Kirsten 1:13 12:5
knew 45:17
knock-down 38:4
know 5:16,20 6:15 9:5
 9:11,13 11:10 12:10
 16:10,21 20:8,21 21:2
 21:7 22:3,5,7,10 23:2
 23:4,15,21 24:11 28:3
 28:10 29:8 30:3,11,12
 30:16 32:7,10,13 33:1
 33:4,5,13,17,18,19,20
 34:1,2,19,20,21 35:1
 35:6,9,10,11,12,14,15

35:21,22 36:4,10,13
 36:15,20 37:9,9,11,12
 37:13,18,21 38:1,3,9
 38:11 39:4,14,19,21
 39:22 40:6,22 42:1,5
 42:6,7,8,18,20 45:8
 45:14 46:9,17,18,20
 47:3,7 48:5,21 49:2,5
 49:7,9,13 50:1,3,7,9
 51:1 53:5 54:4,5,16
 54:18 55:9,17 56:10
 56:14,16,18,20 57:10
 57:13 58:2,11 59:6,9
 59:10 60:11 61:10,12
 61:13,22 62:2,16
 63:14,18 64:6,10
 65:12 66:21 67:10
 68:10 69:1,15 70:5
 71:2,20 72:8,17 74:7
 74:14 75:1,20 76:1,5
 76:6 77:3 78:1 79:18
 80:7,9 81:6 82:14,18
 84:4,9 85:6 87:10,18
 88:14,17 89:3 91:5,7
 91:17 92:10,11,13,17
 94:8 95:9 97:6 115:9
 116:13,21 122:1,5

knowing 7:17
knowledge 48:17 84:10
known 106:21 107:4,12
 107:22 108:14,20
 109:7 110:9,19
 119:20 120:10 122:3
 123:18
knows 28:14,18
Knox 15:18
Kudos 7:16

L

lack 68:3 86:2 91:6
ladies 25:13 105:10
laid 111:19 112:10
 117:3 122:14
language 104:11
large 44:2 48:10
larger 24:5 34:14 39:4
 122:7
Larry 118:13
lastly 29:6
late 116:15
law 16:1 19:2,4 23:4
 28:18 51:19
Lawrence 1:15
lawyer 84:3 93:16
lawyers 83:22
layer 51:12
layering 25:3
laying 49:9 111:5

layout 106:10
LCDR 26:10 52:11
 67:18 82:13 96:8
lead 13:4,5 99:7
leading 22:17 109:22
leads 57:2
learning 70:11
leave 72:1 101:12
led 24:6 115:9,18
left 51:16 71:21 85:11
 87:5
legal 19:13 89:16
legally 67:19
legislative 102:12
 103:5
Lejeune 51:7
lengths 11:15
lens 123:13
let's 11:18 12:14 33:20
 85:11 87:7 126:10
level 39:21 42:19 49:5,6
 81:16 91:10
liability 34:6,6
Libretto 2:5
licensing 23:4
Lieutenant 2:10,12,14
 13:20 14:5 15:10,13
 26:12 30:7,16 31:16
 52:10 55:2 67:17
 71:12 73:18 81:2
 82:12 96:7 98:6 99:10
 99:13,19 101:7
 105:11 115:22 118:3
 118:11 124:2
life 45:12
lightening 50:6
likelihood 43:17 69:18
limit 87:6
limited 41:7,8 51:20
 92:9,17 93:4,5
limits 51:17
line 22:11 48:4 97:8,11
 98:1 125:6
lines 9:18 24:16 39:10
 42:17 58:19 76:14
link 100:11
list 112:14
litigation 20:2,3 22:21
 23:1,10 26:14 27:4
 28:2
little 4:20 10:8,11 16:12
 20:11 26:1 29:8 33:19
 35:8 36:8,9 38:2 55:5
 62:10 65:2 87:20 98:2
 101:17 116:15
load 50:6
locations 37:10
long 14:9 20:20 22:13

24:16 63:20
look 7:22 8:3,16 9:15
 11:8,21 24:16,17 30:5
 35:5 43:2 75:8 91:16
 117:12
looked 37:8,13 88:14
looking 3:15 35:12
 36:20,21 39:17 64:4
looks 76:18
lose 57:16
lost 98:12 120:16
lot 8:7 12:15 29:17
 48:11 53:3 68:2 71:18
 74:15 75:5,21 80:7,10
 83:10,14 86:16 90:22
 90:22 93:5 94:4
Louisiana 15:19
low 22:7 42:14 69:19
 79:15
LSB 17:17
LTC 7:4 15:12 31:18
 55:22 73:18 87:8
LTCOL 105:10 122:12
lunch 126:11

M

M.R.E 20:15,17 21:4
ma'am 6:16 52:11 67:18
 82:13 96:8 117:13
 122:13
Madam 101:4
Magers 2:9
magistrate 97:16
mail 113:3
main 61:2 90:6 105:20
maintain 47:8 94:14
maintaining 43:15
majority 112:20
making 4:3 36:8 50:10
 77:13 82:16 86:18
 90:11 108:11
manage 99:7
management 2:6 22:12
mandamus 51:6
mandated 103:1
manner 56:18
manual 100:6,11,18
 101:21 104:13
map 36:2
March 115:14
marginal 43:14
Marguerite 2:6
marine 2:12,14 7:8 14:3
 15:3 25:16,19 79:22
 80:13 94:20 95:16
 99:15 101:9 105:13
 105:14 115:7
Marines 52:1

marial 100:12 101:22
 108:18 111:14 112:9
Mason 2:5
massive 118:8,9
material 100:21
materials 7:22 100:1,3
 113:2
math 34:21
Matt 2:11 14:1 17:6
matter 33:21 120:2,11
 120:20,21 121:7,15
 122:1 126:14
matters 111:18 116:5
 124:16,19 126:5
maxes 39:5
maximum 32:14,15
 33:14 34:2,21 35:14
McKinney 2:6
MCM 111:10
mean 28:5 35:8 40:9
 42:4 46:4 51:3 57:16
 61:10 72:3,16 74:8,8
 75:20 82:1 86:14 90:5
 90:6,14 107:8 112:7
meaningful 35:3
meaningfulness 36:12
means 107:20
mechanics 56:4
media 28:4
medical 21:2
meeting 3:19,21 4:2 9:1
 9:9,19,20 10:20,21
 66:11,13,20 67:9
meetings 5:19 8:8,13
 8:19 9:10 10:7 11:19
Meghan 2:7 99:8
 117:15
Mellette 21:1 125:20,21
 126:3
member 6:17 58:16,21
 69:1 99:14 101:9
 105:14
members 3:5 5:5 6:14
 7:20 8:5 9:7 11:11
 30:11 82:17 85:3,4
 98:16 99:21,22 101:5
 116:15,17,22 124:20
mental 21:14
mention 47:7
mentioned 55:9 101:7
 102:3
merits 37:4 49:1,19
 50:21 51:2 92:22
met 1:8
metaphor 70:1
MG 71:14 73:16 84:16
 125:9,12,16 126:6
MG(R) 1:13,14

Michael 2:5
microphone 73:15
microscope 40:22
middle 4:20,22
military 1:1,8 3:22 4:12
 4:14 14:11 16:20
 17:22 18:1 20:6 22:14
 23:6 25:4 29:12,22
 31:14 32:22 34:16
 42:13,16 43:7 44:5
 47:4 49:13 51:7 53:19
 55:14 59:2 60:1,9,14
 60:20 65:13 66:9
 68:14,20 69:13 70:6
 70:13,20 71:7,22 80:3
 80:15 89:15 91:1,18
 94:2,12 99:12 102:10
 103:2 105:12,17
 114:15 119:5
Military's 102:16
mind 54:9 107:15
minds 66:11,14,20 67:9
mindset 46:13
mine 84:21
minimum 16:8 33:14
 34:20
minor 90:13
mins 39:5
minute 116:19 126:10
minutes 4:19,22 5:11
 7:15 85:1 87:4 118:7
 126:11
misconduct 42:12 46:9
 109:21
mishandling 102:19
missing 6:17 7:11 8:12
 8:14
Mississippi 15:16,19
mitigation 76:13 81:11
mix 73:17
mixed 48:19
MJRP 1:1 2:1 100:8
moderately 92:4
moment 71:15
month 22:3,11 80:2
months 12:10 31:14
 33:21 34:21,22 51:7
 79:14 80:2,16
Moore 15:18
morning 4:16,18 5:13
 13:7 15:12 18:20
 25:13 26:10 79:21
 81:20
Morris 1:15 118:13,13
motions 22:2 23:8
motivates 47:2
motivation 46:2
motivator 47:18

motor 121:20
motorist 119:12
move 8:8 9:15 15:5
 29:3 39:3 90:17 91:8
 91:12 98:22 125:3
moved 8:21
moving 122:9
multiple 5:17 54:19
muted 12:6

N

Nalini 2:4
name 3:11 14:18 15:12
 18:22 26:12 28:6
national 94:1
nature 44:14 95:6,7
Naval 61:16
navigating 12:21
Navy 2:11 13:21 15:3
 19:3,5 21:6 26:17
 61:15 62:13,14,17
 63:13 64:13 66:15
 91:5 125:22
Navy's 86:17
NDAA 102:9,12,20
 103:1,6,14 105:18,22
 112:21,21 114:10
near 35:18
nearly 43:12
nebulous 48:20
necessarily 23:5 38:7
 50:19 76:10 90:21
 91:2,3 92:19 97:22
 112:7
necessary 59:22
necessity 24:20
need 5:10 8:20,20 9:3,5
 11:4 25:2 39:6 52:19
 52:22 53:1 59:22
 78:13 87:14 91:15
 98:2 109:14
needed 18:5
needs 72:1
negative 20:11 43:4,18
negatively 14:12
negotiate 32:14 36:15
 66:16 67:3
negotiated 40:17 50:15
 51:10 60:2,6 61:1
negotiating 26:2 67:13
 80:6
negotiation 75:22
negotiations 32:17
 33:12
nervous 77:10
Never 70:6
nevertheless 110:17
new 30:19 39:2 41:19

42:2 43:5,20 105:22
119:12
nexus 21:13
Nicholas 2:12,12 14:4,5
Nick 25:15 26:12 93:19
94:10,17
night 8:1,4
NJP 104:18 105:2
122:10
NMCCA 51:13
nodding 55:10
non-binding 90:8
non-capital 103:2
non-covered 17:10
121:12 122:2
non-judicial 56:15,22
121:5,6
non-parties 65:21
non-privileged 23:16
normal 9:21
normally 9:8 11:1
notably 103:7
note 3:8 4:17 7:19
100:7 112:5 115:16
noted 6:15 10:16
notice 118:21
noticed 86:16
notification 108:19
notify 108:17
notion 50:7
notwithstanding
121:12
November 10:10,20
Novosel 15:20
nowadays 18:13
nuance 39:16
number 15:4 88:14
90:13,19 93:16 94:21
103:13 111:12,18
numbers 80:1

O

o'clock 125:2
O-2/O-3 49:5
O-3 49:5
O7 91:10 115:18
O7s 115:9
obliged 123:17
obscene 113:2
observation 50:16
53:17
observations 44:11
81:7 89:16
obtained 23:12
obvious 21:13 69:13
obviously 7:15 32:10
44:7 50:22 51:4 53:10
57:2 68:7 93:12 122:8

123:5
occasion 47:3 87:20
occur 122:18
occurred 33:8 123:7
occurring 10:13 104:3
104:8,21 105:5
October 1:5 9:20 10:7
odds 21:19
offender 110:1
offenders 70:6
offense 16:18 21:8,8
27:14 106:8,8,14,16
106:20 107:12,18,21
107:22,22 108:1,2,10
108:12,13 109:1,9,10
109:10,12,15,17,19
110:5,12,19 111:2,3
111:17 112:9,11,17
112:17 113:7,13
114:1 119:20,21,22
120:10 121:11,16
122:2,4,15,16,19,21
offenses 17:10 95:7,21
102:22 104:2,8
106:10,11,19,22
107:1,3,5 108:8,14,15
108:20,21 109:3,5,7,7
110:2,3,7,8,9,10,11
112:1,14,15,20,22
113:9,10,15,21 115:4
123:14,18
offer 123:9
offered 84:5
office 19:3,13 20:6 24:5
24:10 25:17 26:14,16
71:21 103:20,22
115:17
officer 55:16 61:11,19
61:20 64:16 87:22
90:15 91:7 108:17
officer's 86:7
officers 91:17
offices 24:3,7 114:20
114:20
offs 88:18
oftentimes 53:7 57:3
oh 11:1
okay 3:3 6:19 7:11
12:19 13:3 17:4 32:18
55:8 74:7,11 75:8
80:21 85:13 117:15
117:15,22 121:9
126:6,9
Oklahoma 19:18
old 29:13 30:20 39:2
42:5 43:7
Olson 2:10 7:3,4,16
13:20 15:10,12,13

17:1,18 31:17,18 33:4
38:15 39:10 55:21,22
58:7,20 73:18,19
76:21 87:7,8 88:8
Olson's 38:20
omissions 104:16
once 111:16
one's 45:8
one-and-a-half 12:9
one-on-one 70:9
ongoing 8:1 20:17
124:4
online 6:11 119:6
opacity 82:15
open 1:3 76:2,11 82:4
opened 120:18
opening 4:9 52:13
operate 114:20
operating 45:4
Operations 17:7
opinion 34:10 36:7,11
37:5 56:13,20 57:6,9
93:19
opinions 13:10
opportunities 72:5
opportunity 14:8 15:1
26:11 37:3 71:9
opposed 10:20,22
53:22 54:20 56:2
65:16 80:11 98:4
opted 115:17
option 101:11
options 69:4 84:1
order 4:12,12,17 15:1,2
24:4 37:21 43:15
55:20 57:10,12 58:4
73:16 76:22 91:8
94:15 99:5 100:5
102:1,8 105:19
ordering 22:8
organization 95:16
organizationally 115:8
original 120:1 121:2
Osborn 1:15
OSTC 17:10,17 64:16
78:17 87:9 91:11
OSTCs 115:8
outcome 65:22 67:6
72:13 82:4 123:15
outcomes 30:2 62:8,16
62:19 84:10
outer 51:17
outlets 57:19
outset 24:21
outside 24:9 60:15
over-advocacy 53:20
overall 19:14 28:11
41:5,19 50:19 65:12

69:12,14 82:2
overblown 35:8
overcome 87:14
overcoming 12:20
overseeing 19:20
overstated 35:8 41:10

P

P-R-O-C-E-E-D-I-N-G-S
3:1
p.m 126:15
Pacific 27:12
Page 100:2
panel 1:1,8 3:5,22 6:10
7:20 9:7 11:12,20
13:8 19:8 30:11 36:1
85:3,4 98:9,13 99:1
99:22 101:5 116:14
116:17,22 118:11
124:19
panelists 20:9,16 117:9
125:13
panels 103:9
paper 86:5 92:16 95:1
paragraph 63:12
Paralegal 2:3,4,7
parameters 36:22
49:10 76:12 84:12
pardon 101:11
parrot 25:22
part 29:16 40:5 60:2
61:1 70:9 73:6 76:15
122:7
particular 21:14 24:10
27:21 30:12 36:18
38:13 45:9 57:6 61:9
61:9,16,18 64:9,10
90:12 95:8
particularized 25:2
particularly 23:2,14
24:7 42:9 54:1,3
61:11,19 67:5 70:12
90:7 91:5
parties 65:20 66:12,20
93:11
partner 73:2
parts 3:12 29:15 53:2
92:4
passionate 94:16
path 43:16 95:4
patient 126:5
pause 5:10 116:12
117:21
pay 62:3
paying 45:15
pejorative 40:9 63:18
people 3:13 8:7 39:22
43:16 63:19 70:15,17

70:22 72:18 96:13
98:19
perceive 102:10
perceived 48:14,15
perceives 16:17
percent 79:11,15,16
80:18 90:18 95:13
percentage 79:9 80:5
80:15
perfect 94:9 117:20
perfected 94:8
performed 45:19
period 43:11 80:3
permit 66:15
permitting 15:7
person 8:17 9:4,9 12:12
69:18 109:14,16
110:11
person's 45:12
personal 34:17 37:5
56:13
personally 35:5 36:19
96:20,21
personnel 61:16 68:3
perspective 29:1 38:6
40:2 42:8 46:5 64:5
67:2,12 68:6,10 81:15
86:17 87:1,10 88:7
perspectives 13:10
Pete 2:1 3:20 11:18
124:9 125:9
Peters 2:7 99:8,9
117:17
phase 49:1,19,21 50:17
50:21 51:2
phenomenon 31:8
PHO 89:16 93:12
phone 5:20 9:12
PHOs 89:14
phrase 49:7,7
pick 9:11
piece 36:18 47:7 53:15
54:14 57:11
pieces 5:6
pivoting 12:19
place 22:4 48:18 76:8
places 4:3
planning 49:14
played 102:13
plays 9:3
plea 13:14 16:13 29:6
29:14 30:14,19 33:12
39:2 41:19 43:5,8
59:12 60:3,7,16,17
61:1 63:10 64:21 68:4
68:7,9,11,19 69:2,5
77:6 79:10 111:22
plead 32:19

pleading 32:6
pleas 16:15 45:18,19
60:8 73:8 76:9 83:16
please 3:8,9 14:17 26:9
73:14 96:7 99:22
100:7 101:11 102:3
103:10 105:7 108:22
111:4 112:13 114:9
115:21 117:17 125:10
plenty 37:3 44:3
point 9:17 12:4 40:5
44:10 70:19 73:21
85:8 93:7 94:9,21
105:7 111:7 123:3
points 39:11 54:7
policies 86:15 114:11
114:14 115:13
policy 19:4
poorly 97:5
population 70:12,14
portion 41:12
portions 55:11
posed 14:21
position 17:8,13,14,21
19:8,10,19 21:12,16
27:8 44:18,18 59:1
62:15 65:12 86:9
positions 44:22
positive 20:10 26:4
27:17 30:1 37:16
41:19 52:18 110:15
110:15 122:16
positively 14:12
possible 57:19 67:20
73:3 94:8 122:3
posted 100:8 118:19
126:2
posture 28:2,22
potential 38:1,1 44:17
68:11 84:10 94:1
potentially 28:21 69:11
70:17 84:11 91:18
121:22
power 56:11
powers 60:20
practical 58:18 110:20
122:1
practice 21:9 50:8
53:18,19 54:20 97:10
98:3
practiced 28:18 29:7
practices 97:11
pre 18:3
pre- 28:16 49:21
pre-change 31:22
pre-litigation 27:2
pre-referral 13:12 18:4
117:6

pre-sentencing 37:12
48:22 50:17
pre-trial 43:9
precluded 111:1
precludes 108:1 123:4
precursor 57:3 60:7
predetermined 15:1
predictability 36:8,14
41:22 48:4,5,6,12
62:20 65:18,19,21
67:11 71:19 81:21
82:2
predictable 71:19
prefer 111:6,7,11
112:12
preliminary 87:13,21
90:15 91:7,16 96:14
97:15,17 104:19
105:2
preparation 21:22 22:6
24:22 37:7
prepared 14:16 45:2
99:17
prescribed 113:19
123:1
prescriptions 21:2,11
presence 14:19
present 1:11 46:2,19
presentation 16:14
99:16 101:1 116:2
118:6
presented 32:22
presenters 2:10 14:22
101:3
President 101:19
105:19
President's 103:22
presiding 1:9
press 55:4
pressing 20:22
presumably 122:14
presume 58:16
presumption 89:7
pretty 19:17 22:7 28:3
34:18 38:20 94:16
117:3
previous 27:8 32:13
60:11 81:6,14,16
pride 45:7
primarily 20:1
princ 39:20
principals 75:2 104:14
prior 14:18 15:22 17:21
20:1 104:16,21
123:15
priority 119:22
privilege 23:6 126:5
privileged 23:19,21

probable 87:13 91:6,13
92:15,21 96:17,22
97:3,8
probably 20:12 25:7
52:12 70:13 75:9
90:16 93:8 95:21 98:1
probation 56:19 70:2
problem 10:9 24:6
32:12 89:22 90:1 91:3
problematic 23:14 52:6
problems 69:9 88:22
89:1,2
procedural 101:21
procedures 13:14
114:14
proceed 97:16
proceeding 45:9,11
104:19 105:2
proceedings 13:13
54:17 81:8,9 98:20
process 13:15 22:13,17
23:13 31:22 42:2,3,16
42:22 45:16,17 46:17
46:22 55:19 57:6
62:21 74:22 78:11
83:21 124:4
product 9:19
professional 99:20
Program 2:6 4:14
programs 55:18 70:2
projects 100:9
promptly 108:8,16
114:1
proposed 118:18
proposes 119:1
proposing 121:17
prosecute 17:9
prosecuting 29:11
prosecution 19:21 20:5
20:7 26:20 27:18 29:3
97:6
prosecutions 19:15
25:18
prosecutor 16:2,7 18:2
25:16 26:15 32:1 75:7
84:6 115:18
prosecutors 17:16
19:20 71:20
prove 39:15
provide 13:9 23:18
42:20 53:10 83:14
100:4
provided 13:17 44:20
86:15 99:20
providence 73:10
providers 23:3
province 83:11
provision 51:10 60:7

64:21 66:16 114:10
114:12 115:11
provisions 60:2 67:13
114:18
psychotherapist 126:5
PTA 75:17
PTAs 30:20 31:22 39:3
public 3:7 4:6,6 29:9
72:13 73:12 76:5 99:2
99:4 118:21 124:8
public's 82:8
publicly 119:3
pull 99:16
pulling 4:1
punishable 104:16
punishment 54:14
56:15,22 60:16 71:5
121:5,6
punitively 59:3
purpose 58:4,5
pursuant 115:4 122:22
push 10:10 44:10 68:2
pushing 51:8 122:5
put 10:15 21:16 34:4,5
52:22 53:1 75:21
80:13 81:10,11 87:11
87:16,19 92:16 93:8
95:9,10,19 118:1
122:7
puts 21:11,18 91:19
92:14
putting 45:2 47:11,18
73:1 87:11,14 88:1
100:17

Q

qualified 91:18
qualifying 106:2
quality 98:11
quash 23:8
query 80:21
question 3:9 14:18 20:8
25:22 31:20 34:13
38:13 39:4 55:7 56:1
56:7 61:4 63:6 65:9
65:15 67:19 73:20
75:17 81:1,20 85:8,17
86:11 90:6 92:5 93:16
96:2 107:7 118:14,18
119:12,17 120:7,13
125:10
questions 5:5 6:9 14:16
14:21 15:6,8 20:17
25:6 30:6,12 31:6
116:18 117:1,4 118:7
118:8,10 119:7,10
123:21,22
queue 8:6

quick 3:3 6:9,22 85:14
85:15 115:16 125:9
quickly 117:10
quite 37:15 74:4
quorum 6:15

R

R.C.M 107:9,10 108:7
109:9 122:22 123:8
racial 119:4
raise 8:15
raised 79:3
ramifications 61:8
randomization 103:8
range 34:15 36:11
43:22 44:2,6,8,20
52:20 71:5 79:14 83:3
83:5
rank 78:4
rare 18:13 91:11
re-hearing 112:2,4
reach 9:6
reaching 8:9 61:6
read 100:1 117:10
126:4
reading 112:18 125:18
ready 12:1
real 39:15,16 88:17
really 16:6 20:2 22:16
25:2 33:9 36:12,19,19
36:21 39:12,19 42:1
45:3,15 46:2,20 47:2
50:8 54:6 57:14,21
70:2 71:20 75:1 77:7
81:21 82:6 85:20
88:19 96:1,10,12
98:13
reason 73:7
reasonable 107:7
reasons 37:1 67:21
receives 22:19
recidivism 38:1 43:17
recognize 73:22 86:12
recognizes 46:17
recommend 60:19
75:14 89:11
recommendation 47:9
47:13,17 58:2 72:22
86:6 90:2
recommendations
13:10 86:19 89:17
97:7
recommended 74:13
reconvene 125:1,7
record 23:18 45:21
50:10 76:15 82:20
126:15
recorded 92:16

records 21:3 22:9,12
23:12,13 24:2,5,18,21
25:2 123:2,9
recruiting 71:6
Redford 1:16 5:14,15
6:4 8:13 10:17,18
63:5,7 64:15 79:6,7,8
84:20
Redford's 80:21
reduce 62:2
reduced 31:8 36:12
43:21 52:4,20
reduces 65:17
reducing 37:15 43:16
55:16
reduction 51:5
refer 112:8,12
reference 99:22 100:8
100:21
references 100:17
referral 28:17,19
104:20 105:3 111:12
referred 110:9 120:18
121:2
referring 111:13,20
refers 121:4
reflect 68:4
reform 105:17,20
reforms 103:7
refrain 61:12
refresher 101:17
regard 64:14
regarding 14:10
regardless 21:7 44:14
44:16 45:8 47:1,3
region 19:13,16,22 51:8
64:9
register 118:19
regular 47:14 115:20
regularly 22:7 23:17
regulations 113:19
122:22 123:2
regulatory 35:1
rehabilitate 70:18
rehabilitation 70:11
rehabilitative 55:17
related 103:20 104:5
106:22 107:4,12
108:1,14,21 109:6,9
109:10,19 110:4,7
120:10 122:15
relating 114:16
relatively 48:17 49:12
90:13 96:6
release 10:3
released 9:22 10:1
relevance 22:6 24:22
relevant 21:22

remarks 4:9
remedies 60:15
remind 30:11
reminder 3:5
remove 39:7
render 83:20
rendered 51:19
repeat 69:19
repertoire 69:4
rephrased 123:5
report 9:16 11:3 27:13
53:1 93:14 102:11
113:22 115:9 119:6
reported 106:8 109:9
112:17
reporter 14:17
reporting 62:13
reports 37:12 89:10
106:11 108:7 114:2
representation 21:19
representative 64:19
representatives 4:7,11
85:18
represented 14:3
representing 14:1
98:18,18
requests 21:9 22:21
require 87:12 108:16
required 15:5 101:22
requirement 94:14
102:20 108:19
requirements 23:5
requires 54:11 108:7
114:6
requiring 88:5
Reservists 70:8
resistance 95:4
resolutions 61:7
resolve 22:4
respect 17:16 42:18
66:2 74:3 81:7 90:7
111:18 112:1 113:15
114:11,14 124:5
respectfully 10:19 83:7
96:11
respects 113:7
respond 15:1 63:9 87:5
response 7:2,7,10 15:2
25:21 65:4 81:20
84:21 102:19 123:12
responses 80:20
responsibilities 45:20
responsibility 19:15
27:13
responsive 88:6 92:4
rest 116:20
restitution 55:16 60:5
68:16

restraint 104:19 105:2
result 42:10 123:14
resulting 42:21
results 42:21 60:12,13
 60:18
retaliation 13:15
retention 71:6
rethinking 57:6
reticent 34:19
retirement 61:18 62:3
 64:14
retraining 57:5 58:4
review 1:1,8 3:22 23:21
 24:1,4 25:3 40:21
 102:9,11 112:2 119:4
reviewed 89:13
reviewing 23:13
RFI 124:18
right 6:18,21 7:12,20
 8:15 27:13 28:9 32:9
 33:17 35:3 41:4 43:16
 51:17 53:12 56:18
 59:9,10 65:1,10 75:19
 86:4 98:22 101:15
 119:1,1 125:20
ring 28:5
rise 47:2 100:5
risk 38:1 51:5
ritual 90:7
rob 36:9
Robert 1:14
robust 74:9 81:8 83:12
 87:21 88:1,21 93:13
role 16:6 101:18,22
 102:13
roll 6:9,22 61:21 84:7
room 10:11
rough 80:1,1
round 103:21
rounds 72:7
route 22:1
routine 96:14
routinely 97:12
Rozell 2:7
rudder 51:13 52:2
rule 97:12 103:18
rules 41:2 49:13 77:11
 77:13 78:8,12,14 79:1
 87:12 88:5 100:14
 101:21 108:6,16
 111:10 117:3 123:8
run 23:20 88:21
running 121:20
Ruth 124:13

S

San 44:11
Saunders 2:8

saw 43:22 44:3,21 45:1
 45:2,4 47:10
saying 3:13 8:8 39:10
 39:18 50:12 58:20
 63:17 66:6 96:20
says 63:12 64:22 77:17
 113:16
scenario 95:14
schedule 8:21 11:9
 13:1 22:12
scheduled 5:19 7:14
 124:11
Schroder 1:16 85:5,6
 85:12,13 87:4 96:2
scientific 38:3
Scott 2:14 99:10,12,18
 101:4,6 116:3,9 117:2
 117:7,13 118:2,11,17
 119:10 120:5,15
 121:9,21 124:1
screen 3:10 101:2
 118:2
sea 4:14
search 28:11
second 29:15 34:13
 40:5 50:3 99:3 103:19
 104:18
secretaries 114:8,15
secretary 61:15 62:13
 62:17 63:13 64:13,19
 66:14,15,17 101:19
 113:20 114:13 115:10
 115:12,13 123:1
sector 29:8
see 7:3 9:3 21:9 23:5
 29:13,15 30:19 33:10
 37:16,17 43:12 44:13
 45:16 46:13,14 47:13
 48:11 50:18 52:5 59:9
 61:20 72:12 85:3
 86:21 87:1 92:2 97:15
 101:1 112:18 116:13
 117:9,11 122:6
 126:12
seeing 24:3 56:3
seek 18:10 21:18 22:8
 22:12 24:8
seen 50:1,3 60:4 82:21
 83:1
semi-certain 50:14
send 5:18 11:18
senior 2:3,4,7 13:8,11
 17:8,15 18:1 19:12
 27:10 43:22 44:11
 54:3
sense 11:6 30:19 35:1
 67:13 88:2 125:5
senses 81:9

sent 5:16 8:1,3
sentence 32:15 35:20
 42:14 43:6 47:1 48:6
 50:14 52:20,21 53:11
 55:11 60:21,22 72:16
 73:12 74:8,21 77:7,9
 77:20,22 82:22 83:17
 84:5
sentenced 43:7
sentences 16:8 26:2
 34:19 35:21 36:21
 43:14 56:19 78:3
 84:13
sentencing 13:14 16:8
 16:14 29:22 30:3 31:2
 33:1,7 34:12 35:4
 37:6,14,15 38:4 39:12
 39:17 40:8 41:2 47:11
 48:3 49:22 51:1 52:5
 52:19 53:20 54:1,6,11
 54:19 55:4,8,15,19
 62:21 69:2 71:17
 72:14 73:7 74:9 75:2
 75:16 76:4 82:5 84:12
 103:1 104:5
sentiments 27:19
separate 61:3,13 85:8
 125:4
separated 59:3 69:1
separation 57:3,4
September 10:21 11:5
 100:12
seriously 10:21 87:19
 89:10
serve 19:1 58:21 106:2
served 17:22 19:12
 20:1
service 4:7 5:12 19:13
 58:17 68:2 69:18
 70:13,18 98:16 99:11
 101:6,10,16 105:15
services 5:12 13:9
 58:13 70:21 86:21
 95:16
serving 111:14
session 1:3 3:7 4:6 5:2
 5:12 6:12 7:13 13:4
 22:3 99:2,4,17,21
 100:2 124:8,15,16
 125:3,7
sessions 3:7 4:6,18
 12:10 125:4
set 33:16 44:15 48:21
 49:9 81:16 118:9
setup 48:3
sexual 13:16 21:8
 102:10,18 109:22
 110:14,16 113:5,6,10

113:11 114:3
shame 69:16
share 5:18 74:2 77:3
 79:2 83:18 116:14
 126:3,7
she'll 3:18
Shelby 15:19
shield 77:11
shift 11:12 56:8
short 58:15
shortchanging 50:12
shorter 4:20
shortly 69:1
shoutgun 53:22
showing 25:1
side 20:5,7 40:18 46:15
 48:19 52:1 86:12 87:2
sides 37:18 72:8 74:7
 77:4
sign 62:17
significant 24:9,12
 28:12 42:12 80:5,14
 80:17 85:22 91:8
significantly 22:17 62:2
similar 42:17 60:11
 102:11
similarly 37:10 43:2
simple 33:21 34:20
simplified 53:9
simplify 39:8
simply 87:17 88:5
single 21:10 40:22
 54:13,14
sir 6:1 7:4 63:22 65:5
 73:21 76:20 79:20,20
 81:20 82:6 87:8 88:6
 96:2 123:3 125:11,15
sit 65:16
sitting 46:6
situated 37:10
situation 71:10 82:5
 94:6 122:13 123:4,16
situations 67:22 74:16
 91:19
six 51:6 79:14 80:1,2,16
SJA 40:7 117:3
skewed 70:14
skilled 115:3
skills 31:13 38:9 72:5
slant 43:3
slide 101:14 102:3,5,7
 103:10 105:7 108:22
 111:4 112:13 114:9
 115:21 118:14
slides 106:5,9 116:7,10
 116:14,20 117:4,8,10
 117:14
slight 126:9

slightly 30:3 38:21
small 47:8 90:19 103:13
smaller 24:7 36:11
sniper 53:21
social 28:4
socialists 72:17
society 69:13,13,14
solid 28:12 48:17
solution 69:12 89:21
solutions 88:18 89:20
solves 89:1
solving 69:9
somebody 46:10 82:16
 110:13
Somers 1:17
somewhat 60:12
sorry 12:7 81:3 93:15
 115:22 118:5
sort 3:18 16:18 26:22
 29:16 31:21,22 32:5
 32:14 33:8 36:2 38:2
 38:3 40:11,12 49:6
 53:6 56:20 57:5 59:4
 95:3
sound 19:7
sounds 6:13
Southwest 19:14,15,22
sparingly 82:21
speak 16:11 26:11
 34:22 74:10 76:1
 79:22 93:20 124:14
speaking 20:21 30:5
 46:20 56:18 88:3
 95:15
special 4:13 13:13 16:2
 25:17 26:16 29:10
 62:12 86:14 87:8 99:6
 102:17,21 103:3,20
 105:21 106:3,4,6,12
 108:9,17 111:21
 114:11,17,19,21
 115:19 119:18
specific 23:15 69:14
 75:17 79:13 103:18
specifically 52:21
 103:14 106:1 107:10
 108:6 119:3 120:20
specifications 32:21
 34:3
specified 34:19 36:21
 72:16 77:7,20 78:2
spend 11:2
spent 29:10
split 27:1
spoke 30:15 35:4
spoken 74:9
Stacy 2:3
staff 2:1,2,3,4,5,5,7,8,8

2:9 4:1 8:5 9:6 12:21
 99:16 115:6 117:14
 125:1,17
stakes 45:9
stand 25:17
standalone 53:6
standard 21:9 33:17
 123:8
standards 24:17
standing 25:1 64:17
standpoint 122:6
standup 91:4
start 4:5,9 5:9 6:12 12:1
 30:9,14 32:4 45:18
 58:11 65:1 67:9,13
 68:9 87:7 125:1,8
started 13:5 104:21
 105:4 116:15
Starting 102:8
state 14:8 23:4 96:15
statement 14:10,15
 15:11 53:5,10 92:13
 92:14,14,16,19
statements 45:3
States 15:14 19:2,16
 21:1 26:17,21 29:11
 66:6 74:19 87:9 92:14
 98:18 99:15 101:8
 122:8
stating 14:17
statute 106:15 113:15
statutorily 67:14
statutory 67:2 94:14
 103:13 107:13
stay 99:1
Stayce 2:7 117:18
staying 69:18
STC 15:14 85:18 91:5
 91:11 106:12,14,18
 106:18,20,21 107:2
 107:11,13,16,20
 108:3,9,15,16 109:1,2
 109:3,19 110:4,5,6,17
 111:2,5,6,7,11,16,17
 112:3,6,8,9,10,15,16
 114:2,3 121:10
 122:14
STC's 110:3
STCs 17:17 105:9 115:2
stems 19:8
step 23:11 67:4
sterile 33:2
sterilized 16:19
Steven 1:12
stip 76:7
stipulations 83:14
stole 109:16
stopped 73:20

stored 27:22 28:5
streamline 54:6
streamlined 53:14
streamlines 52:18
struggle 89:4
study 102:9
stuff's 5:21
subject 109:13
subjects 52:15
submit 83:7 97:4
submitted 103:22
subpoena 23:15
subpoenas 23:9 28:17
subsequent 63:11
 105:2 106:9
subsequently 111:13
subset 69:14
substance 105:17
 118:22
substantiated 113:17
 113:18 114:6
substantive 100:21
 116:9
successful 51:2
sufficient 92:15
suggest 10:19 11:5
 96:11 124:22
suggesting 72:10
 121:10
suggestion 10:14 24:15
suit 115:15
sum 76:16 118:22
summarize 8:7
summary 97:19 100:4
 103:15 104:12 118:16
 119:2
summer 15:22 17:14
 19:10 27:8
supervise 17:8,11
 25:18
supervised 17:15 27:11
supervising 20:13
 26:18 27:5
supervisors 45:15
sure 6:2,11 20:16 29:4
 30:18 50:13 59:15
 80:8 81:5 95:13
 116:16,21 119:7
 120:6,6,15 121:21
surprising 28:6 29:13
surrounding 23:2 119:8
survival 94:2
suspect 39:1 108:18
 109:12
suspected 110:14
suspend 55:11
suspended 43:6,11,14
 56:19 60:21,22

swag 79:18
synonymous 81:22
system 14:11 32:1,13
 36:8 42:5 43:5,7,20
 48:13,15 60:14 65:18
 66:1 67:11 69:7 70:4
 81:14,16 82:3,9 91:1
 93:22 94:3,13 96:13
 96:13 98:15
systemic 102:19
systems 119:6

T

tab 99:22 100:9
tackle 49:8
tactical 26:22
tactically 54:12
Tagert 2:8
take 4:19,21 8:3 11:8
 20:10 22:1 24:16 34:7
 34:8 37:19 48:18 53:3
 65:9 67:4 73:21 85:11
 87:19 91:16 116:19
 124:11,20,21 126:10
takeaway 111:10
taken 22:4 72:7 86:9,9
 86:20 89:10 111:1
takes 63:20 121:3
Talcott 2:11 7:1 14:1
 17:3,4,6 38:16,18
 40:16 41:15 58:8,9
 59:18 77:1,2 79:5
 88:9,10 90:4
Talcott's 84:18
talk 9:6,6 25:7 29:4
 85:16 105:8 106:4,22
 108:4
talked 31:4 78:1 113:22
 125:13
talking 22:14 23:3 54:1
 61:4 68:1 71:17,18
 74:20 76:9 77:6 107:6
talks 106:17
Tara 1:15
target 77:13
taught 57:1
team 8:15 17:8 117:19
 119:4
teams 24:4 98:20
tech 5:7
technology 8:20
tell 52:12 73:2 90:1
 116:13
telling 80:8
temperature 79:3 84:18
ten 51:7
tend 56:6 59:21
term 48:20 51:18 68:11

107:8,8
terms 4:17 5:7 27:16
 30:2 43:15 44:9 47:9
 47:16 48:6,12 49:2
 50:6 52:5,15 53:11,15
 54:7 62:3,3 68:3
 69:12 70:15 71:17
 80:2,16 82:13 83:10
 83:12,15 90:10 91:20
 96:8,18 97:9 98:1
Terri 2:8
Terry 2:3 6:9 7:13 12:2
 13:4 17:2
test 92:19
tested 110:14
testified 88:12
testifying 98:3
testimony 28:14
thank 3:20 4:1,2 5:15
 6:4,19 11:7 12:2,17
 13:6 25:10 26:5,6
 30:6,7 38:13,14 41:14
 47:20,21 52:7,8 55:1
 58:6 59:17,20 63:1,7
 65:4 67:16 71:11 79:4
 79:8 80:19 81:16
 84:19,20 85:12 87:3
 90:3 96:4,5 98:5,8,21
 99:18 100:16 101:3
 102:6 116:2,3 117:17
 117:20 118:3,17
 119:9,16 120:4
 123:19 124:1,10
 126:12
Thanks 10:18 17:1
 26:11 55:2 58:7 63:2
 65:6 71:12 76:21
 81:18 82:11 84:16
 88:8 91:22 98:6
 123:11,20,20
theme 102:15
theoretically 66:5 67:8
theory 54:13
they'd 121:21
thing 32:9 38:8 46:15
 56:20 72:11 83:8
things 9:19 10:12,12
 12:11 23:9 27:16
 30:22 31:19 38:2
 39:21 45:7 54:2 56:17
 60:5 64:3 68:5 76:13
 76:13 81:2 93:3
think 5:4 6:17 7:13 10:6
 10:6,14,21 11:9 12:5
 18:6,7,13,17 20:12,22
 21:6 25:7 28:20 29:17
 29:21 30:1 31:1,3,12
 35:7 37:3,5 38:8,16

38:18,21 39:8 40:18
 41:9,9,21,22 42:2,4
 42:14,17,19 43:4,13
 43:20 45:6,7,14 46:6
 46:12,13 47:2,17 48:3
 49:15,15 50:5,16
 51:15,18 52:17 53:9
 53:13,16 54:3,10,11
 54:16 55:13,18 56:1,6
 56:7 57:18,21 58:12
 58:17,22 60:8,14 61:2
 61:20 62:5 64:1,1,4
 65:15 66:21 67:19
 68:20 69:3,16,16,20
 69:20 70:10,19 71:15
 73:6 75:18 76:7,18
 77:12,19,22 78:8,20
 81:5,12,15 82:9 83:1
 83:2,5,9 84:8,11
 88:12,19 89:21,22
 90:5,12,19 91:6,10,15
 91:19 94:20 97:10
 98:2 100:19 107:15
 109:18 117:2 121:9
 122:1
thinking 38:22 78:7
third 104:4 105:1
thought 12:13,16 18:5
 39:13 66:4 72:18
 88:10 97:21
thoughtfulness 98:12
thoughts 14:10 38:12
 73:13
threat 84:3
three 5:19 7:12 12:9
 16:2 19:20 92:3,6
 103:11 112:22
throw 3:17
throwing 69:21
thrust 105:20
till 7:14
Tim 74:19
time 4:3 7:17 8:15,21
 10:4,5 11:16 12:13,14
 15:6 20:20 25:8 28:18
 30:13 33:6 43:11 53:3
 56:3 58:15,17 70:6
 73:9,12 85:11 86:16
 87:6 98:3,7 116:6
 121:15 123:19 124:22
times 5:17 11:19 35:9
 69:15,20 80:7 83:1,2
 88:11,15 89:14 90:6
timing 122:17 123:6
today 3:16 4:5 8:2 99:4
 100:7,14 101:7
tongue-in-cheek 33:19
tool 40:12 57:2 69:4

70:3 71:7 82:22
tools 59:12 69:10 70:1
 71:10 83:7
top 9:22
topic 15:5 16:11
topics 13:11 15:4 85:1
torturous 22:13
tour 20:5
tracking 121:10
trade 88:18
traditional 120:9,18
 121:13
trained 57:1 115:2
training 16:3 27:5 45:16
 49:3 57:1 98:10
transcribing 3:11
transcription 3:12
transfer 57:8
transferred 19:10
transferring 56:10
transmitted 81:13
transparency 72:7 74:3
 74:15 75:13,14 76:17
 77:16 81:7,15,22 82:8
 82:14 83:9,10,15
transparent 76:14 82:1
travel 8:22 12:13 17:9
traveled 18:2
Traveling 17:15
treat 86:19
treatment 21:3,10
 22:15,15 23:17
tremendous 11:6
Trexler 2:2 6:5,8,16,21
 7:3,5,8,11
trial 4:7,13 5:12 6:10
 13:8 17:7 19:7,7,13
 22:11 25:17 26:16,19
 27:10,12 28:21 35:6
 39:17 40:2,6,10 41:12
 44:1,11 48:9 49:1,3
 49:19 50:20 62:12,22
 66:16 67:1 80:6 84:4
 84:7 86:12,15,22 87:9
 92:22 95:15 97:5 99:6
 102:21 103:20 104:20
 105:3,21 106:3,4,6,12
 108:9 111:14 114:12
 114:17,19,21 115:19
 115:20 119:18 120:3
tricks 65:17
troubles 5:7
true 48:13
truly 33:3
trust 102:15
truth 28:11 72:19
try 41:2 85:13 92:4 95:3
trying 38:18 56:1 77:10

89:5 92:3 95:4,5
 121:19
turn 13:3 15:9 32:18
 99:3,6 101:2 105:8
turning 101:14
Turnpike 119:13
two 3:7 4:5 5:19 9:19
 12:9 22:3,11 29:10,14
 30:22 39:11 74:11,18
 92:5 100:1 109:5
 111:14 121:8 122:18
 123:5,7
type 21:8 24:18 49:20
types 80:7 95:20,21
 109:5
typically 24:1 35:21
 43:9 80:9 88:16

U

U.S. 2:10,11,11,12,12,14
 2:14 96:21 125:19
U.S.C. 114:11
UCMJ 101:20 105:22
 109:13 112:20
Uh-huh 77:17
ultimate 94:14
ultimately 16:19 22:20
 23:12 32:22 64:13
 66:3 76:19 83:21
 112:8
unborn 113:1
uncertainty 8:22 29:17
uncommon 80:4,4,18
underaged 109:21
undercut 77:15 79:1
understand 45:10
 64:15,18 66:4 120:6
 124:4
understanding 22:5
 33:10 49:10 61:22
 65:3 69:16 75:12
 100:15 120:16
understood 64:4
undertaking 24:10
underused 18:6
undesirable 68:10
unexpected 60:13
unfair 77:12
uniform 101:11
uniformly 38:20
unique 113:6,14
unit 94:15
United 15:14 19:2,16
 21:1 26:17,21 29:10
 66:6 74:19 87:9 92:13
 98:18 99:14 101:8
 122:7
universally 74:4

unlawful 63:15 114:22
unrelated 110:16
 119:21,21 122:16
unsat 84:6
unstable 77:17
unsworn 45:3
unsworns 78:15
unwind 68:8
up- 24:3
updated 100:12
updates 100:13 101:20
upshot 118:10
urinalysis 110:15,16
 122:16
use 12:14 16:8 18:15
 40:12 69:22 70:4 75:3
 125:2
useful 28:8 86:4
useless 83:20
usual 55:20
usually 64:8
utility 59:7 92:5,8,9,17
 93:4,5,6,17 94:22
 96:9,10
utilized 71:8

V

v 125:19
Valley 15:16
valuable 39:12,13
 58:10 59:11 89:9
value 9:4 32:8 33:16,20
 34:4 39:16 41:10
 43:14 59:16
variety 33:18
various 37:18 75:2
vehicles 121:20
version 16:19 26:15
 27:10 33:2 88:17
 97:14
versus 30:20 49:21
 56:9
vessel 51:20
vested 59:22
vesting 60:19 65:13
Vetter 124:13 125:8
victim 16:2 29:19 34:9
 37:21 42:18 45:13
 46:18 48:8 53:4 60:6
 72:9 75:8 78:11 95:11
 95:11 109:20
victim's 21:19 78:10
 102:17
victim-centric 112:19
victims 21:3 42:20,22
 46:19 48:9 74:10
 78:22 95:20
Videoconference 1:9

videos 28:5
Vietnam 71:1
view 34:5 43:4 53:17,20
 54:16
viewed 42:9,11
views 78:13 96:20
vigorous 31:9
vigorously 44:21 47:10
violated 64:22
violence 13:15
virtual 8:18,21 9:18
 12:10 14:19
virtually 21:6 70:5
voice 78:16 96:19
vote 57:16
voting 99:14 101:9
 105:14
vs 21:1
Vuono 2:9 99:8

W

wait 7:20 28:18
waiting 22:2
waive 96:13
want 3:22 5:4 10:6
 30:18 39:7 46:6,8
 54:4,12 71:15,16 73:7
 73:16,17 81:3 85:16
 87:19,21 90:21 91:2
 98:8,14,15 99:1,18
 116:2,3,16,21,22
 120:6 122:11 124:20
wanted 77:7 78:5 85:2
 85:4 118:6
wants 63:9
war 94:1
warner 78:2
warrants 18:5,16
wasn't 7:13 31:10,10
 59:2 71:2
water 69:22
watered-down 33:2
way 19:16 23:6 29:14
 38:5,19,21 40:4 52:18
 63:18 64:2,3 75:10
 76:16 81:13 87:16
 91:9 101:16 107:15
ways 40:6 57:20,22
 72:19 74:1,2 76:19
 100:20
we'll 4:8,19 5:1 6:2 8:17
 9:3 10:15 11:19 12:22
 15:7 29:4 30:14 55:20
 76:22 87:5 103:3
 106:22 108:4 116:14
 117:12 124:15 125:2
 125:3 126:1,7,11,12
we're 3:11 4:5,10,21

5:13 6:16 7:11 8:2
 11:3 12:12,12,14,19
 15:15 16:16 22:14
 23:3 28:2 30:9 37:18
 37:20 39:1 42:19 49:6
 51:1,2 53:7 54:16
 56:22 57:1,9 58:12
 60:8 61:14 63:5 65:8
 67:4 68:1 69:11,21
 70:19 73:4 76:9 77:6
 77:12 80:21 81:15
 86:10 87:13,15,17
 88:19 92:10,18 95:2
 95:12,16 96:3 97:2,9
 98:7,22 99:3 100:7,14
 101:17 105:16 106:3
 107:6 111:4 124:7,9
 124:11
we've 11:1 34:11,18
 51:22 64:3,4 72:7
 79:1 85:22 97:11
weapon 84:3 109:16
website 100:9
WEDNESDAY 1:5
weed 28:11
week 11:10
weeks 110:14
welcome 3:21 53:17
 54:15 55:19 68:14
 70:16 71:9 96:20,22
welcomed 68:20
went 51:12 100:19
 126:15
West 101:12
whatsoever 44:4,20
 46:14
wide 82:4
William 1:14
willing 51:9 61:21
window 34:15
wing 19:4
watered-down 65:1
withdrawing 111:19
witness 28:14 29:19
 97:19
witnesses 21:4,11
 24:14 45:2 93:8 95:18
 97:13
wonder 33:5 62:9 79:9
wondered 31:12
wondering 19:6
word 40:12 86:3 96:6
words 56:10 80:4 84:18
work 9:16 11:20,20
 12:15,22 13:2 73:1
 98:13
working 8:19 11:11
 18:7 63:19 98:20

125:4
works 13:1 37:14 57:7
 57:18,21
world 4:4 28:3
worry 35:17
worth 39:18,19 40:13
 113:4
worthy 122:5
wouldn't 74:4 98:4
writ 51:6
written 74:17
wrongdoing 14:14
 92:13

X

Y

yeah 3:19 38:18 39:8
 43:22 51:3,4 52:3
 58:9 59:4,21
year 10:7,20 19:11 40:1
 100:13 104:2,3,6,9,22
 105:6 113:11 115:14
years 16:3,4 19:20
 20:14 27:18 29:10
 31:15 35:15 72:7
 74:12
yesterday 3:6,15 4:2
 13:12 31:6 100:20
 124:19
yesterday's 4:21
yield 25:9
Yob 2:1 3:3 6:1 9:17
 10:18 11:6 12:5
 124:10 125:11,15,19
 126:7
young 33:4 70:15
younger 70:12

Z

Z 1:12
zone 11:16

0

1

1 103:16 104:11,15
 113:13
1:05 126:15
1:30 124:12 125:1,7
10 114:10
1001 122:22 123:8
103 107:9
103(12) 107:10
1044f 114:11
11 115:14
11:00 1:9
11:01 3:2

11:15 7:14
112a 122:19
119a 113:1
12 19:20 34:21,21 74:13
120 33:18 95:11
120a 113:2
1335 126:12
134 113:5,6,12 114:3
15 19:20 56:15 93:8
 123:2,10
17.2 79:10
1984 102:1

2

2 3:21 101:14 104:1
2:45 125:2,2
2007 20:4
2019 103:12
2021 25:20
2022 103:13
2023 1:5 100:5,11
 103:17 104:1,17
2024 5:19
2025 113:13
24 33:20
24a 106:1 107:9 108:5
24a(c) 107:14
25 1:5
27 104:1,6 113:11
28 103:16 104:3,8,17,22
 105:5

3

3 104:5 125:2
30 4:19,21 126:10,11
301(a) 108:7
303(a) 109:9
31 11:3
32 88:1,11 89:10,20
 92:10 94:8 95:1,12
 97:13 124:17
32s 85:16 86:3,8,20
35 35:14
36 74:12
3rd 15:15

4

40- 80:17

5

50 79:15
50-ish 80:18
513 20:15,17 21:4 24:18
 125:13,22 126:4

6

7

7th 3:21 16:3

8

8 100:2

9

99.9 95:13

C E R T I F I C A T E

This is to certify that the foregoing transcript

In the matter of: Military Justice Review Panel
Open Session

Before: US DOC DAC IPAD

Date: 10-25-23

Place: teleconference

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



Court Reporter

NEAL R. GROSS

COURT REPORTERS AND TRANSCRIBERS

1716 14TH ST., N.W., STE. 200

WASHINGTON, D.C. 20009-7831