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**MILITARY CRIMINAL INVESTIGATIVE
ORGANIZATION REFORM
RECOMMENDATIONS FROM
THE FORT HOOD INDEPENDENT
REVIEW COMMITTEE**

HEARING

BEFORE THE

SUBCOMMITTEE ON MILITARY PERSONNEL

OF THE

COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES

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REFORM RECOMMENDATIONS FROM THE FORT HOOD
INDEPENDENT REVIEW COMMITTEE**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE ON MILITARY PERSONNEL,
Washington, DC, Tuesday, March 16, 2021.

The subcommittee met, pursuant to call, at 3:01 p.m., in room 2118, Rayburn House Office Building, Hon. Jackie Speier (chairwoman of the subcommittee) presiding.

OPENING STATEMENT OF HON. JACKIE SPEIER, A REPRESENTATIVE FROM CALIFORNIA, CHAIRWOMAN, SUBCOMMITTEE ON MILITARY PERSONNEL

Ms. SPEIER. Good afternoon, everyone. Welcome to the Military Personnel Subcommittee.

Our hearing today is a hybrid one. We are going to be looking at the Military Criminal Investigative Organizations reform recommendations from the Fort Hood Independent Review Committee. We have two panels today. The first panel are members of the Fort Hood Independent Review Committee who have firsthand knowledge of the findings and recommendations made and given to the Army. The second panel are the heads of each of the services' investigative agencies who are here to tell us how their agencies work and could be improved.

The Fort Hood report is required reading and continues to reveal new challenges and problems, as well as demonstrate the devastating impacts of problems that have gone unaddressed, but also, and more importantly, new solutions. Ultimately, it is a guidebook for how to create a smarter, safer, and more ready force.

The Fort Hood Independent Review Committee's report is a stinging repudiation of the Army Criminal Investigation Division [CID]. The combination of woefully inadequate experience among the investigators—in fact, 92 percent were apprentice agents—coupled with understaffing created a doomed operation that resulted in unsolved murders until civil law enforcement stepped in; a disturbing sexual assault conviction rate of 22 percent; and an installation in which soldiers felt unsafe—a damning result.

What the Independent Review Committee found was startling. Quote, “The Fort Hood CID is a training ground. These young, inexperienced agents were checklist-driven, focused on developing a case file that simply checked the boxes rather than identifying and working leads and suspects that are most likely to resolve cases.” Unquote.

Fort Hood CID investigations were extremely long. Quote, “The yearly average days to complete an investigation between 2016 and 2020 ranged between a high of 214 days in 2016 to 115 days in 2020.” Sadly, quote, “Victims seldom saw the outcomes of their cases and there was minimal deterrent value derived.” Unquote. Perhaps most disconcerting is that, quote, “A large number of sexual assault cases were lost or dismissed at court martial, partially due to investigations that were rote and lacked essential evidence.” Unquote.

And finally, the Fort Hood detachment was underresourced and underexperienced. During 2018, 2019, and early 2021, typically, one-third of CID positions at Fort Hood were unfilled. There was a very limited in-house capability to conduct cell phone tracking and exploit mobile phones, laptops, and other electronic devices; an inability to maintain liaisons with local police; and a failure to provide the proper materials to support search warrants.

And none of this would have come to light without the tragic deaths of so many individuals. Among them are Specialist Vanessa Guillen, Private First Class Brandon Wedel-Morales, Private First Class Scott Rosecrans, Sergeant Elder Fernandes, and Specialist Freddy Beningo Delacruz, Jr.

For them, their families, friends, and soldiers in arms, we must demand greater professionalism and accountability. We must give the MCIOs [Military Criminal Investigation Organizations] the tools they need to make sure investigations are done right, the staffing to be able to complete cases in a timely manner, and rigorous evidence-gathering capabilities sufficient to hold criminals accountable at a court martial.

The military often says that it has zero tolerance for sexual assault, but when criminal investigations are haphazardly done, consisting of box-checking, it undermines any hope of accountability and does a disservice to brave service members who make an unrestricted report. And that in no way is zero tolerance.

It is the job of this committee to ensure that the military completes a fulsome, thorough, and competent criminal investigation for every reported crime. While the Fort Hood report focused on CID, I believe that all of the MCIOs—CID, NCIS [Naval Criminal Investigative Service], and OSI [Office of Special Investigations]—will benefit by doing an internal review of their respective departments with an eye on the Fort Hood Committee’s findings and recommendations. I have said it before; I will say it again and again—I am heartened that Fort Hood leaders have already taken some action within their authority to improve. But, until all the findings and recommendations have been put in place and Fort Hood is well on its way to being, quote, “the great place,” unquote, it professes to be, we won’t look away. We won’t turn our backs on our service members. I will ensure we keep our foot firmly on the pedal until the Army turns itself around and our service members and their families are safe.

I now would like to invite Ranking Member Banks to make an opening statement.

[The prepared statement of Ms. Speier can be found in the Appendix on page 45.]

STATEMENT OF HON. JIM BANKS, A REPRESENTATIVE FROM INDIANA, RANKING MEMBER, SUBCOMMITTEE ON MILITARY PERSONNEL

Mr. BANKS. Thank you, Madam Chair.

I share your concern about the conditions at Fort Hood and look forward to hearing from our panelists today. The Fort Hood Commission's deep dive into the Army's Criminal Investigative Division on post highlighted very concerning issues. Rookie agents were sent out on their own, leaders struggled to keep their heads above water, and support functions were nonexistent.

Just 12 of 76 uniformed agents at Fort Hood had more than 1 year of experience. These apprentice agents should, by definition, have been mentored and supervised by experienced agents to learn the ropes and keep investigations on track. Instead, the lack of experienced agents and adequate resources resulted in long case lead times and poor investigations. Individual missteps added up to chronically lackluster investigative work on suicides, homicides, and sex crimes on and off post. Only 1 of 53 suicides in CID's jurisdiction received a completed postmortem behavioral assessment. Sex crime cases progressed slower than nearly all other comparable posts and undermined a soldier's belief that allegations of criminal wrongdoing would be taken seriously. For many victims of crime at Fort Hood, justice delayed felt like justice denied.

The Fort Hood leadership also failed to use a variety of tools to connect with local law enforcement and disrupt hot spots of known criminal activity. These tools are available to every post commander, and they have been used successfully elsewhere in the past. I am interested to know exactly why that wasn't the case at Fort Hood. This is no way to handle serious crimes.

I look forward to hearing today from the seasoned investigators on the Review Commission about their impressions of the situation at Fort Hood and what they believe could be done to produce better investigations in the future. I am especially interested in their findings about how the Army could better resource CID offices with admin and support personnel to keep agents in the field doing investigations rather than behind a desk.

Our second panel includes representatives from each service's criminal investigation division. Each service has a different model for tracking this problem and it is designed to fit their mission and deployment needs. Hopefully, we can learn more about what builds strong military investigators and how the Army plans to move forward in improving CID.

With that, thank you, Madam Chair. I yield back.

Ms. SPEIER. I would like to ask unanimous consent that non-subcommittee members be allowed to participate and ask questions after all the subcommittee members have had the opportunity to ask their questions. Without objection, so ordered.

Each witness will provide a brief introduction and their focus on the committee. Then, Mr. Swecker will present a joint statement on behalf of the Fort Hood Independent Review Committee, and each member will have an opportunity to question the witnesses for 5 minutes. We respectfully ask the witnesses to summarize their testimony in 5 minutes. Your written comments and statements will be made part of the hearing record.

So, it is an opportunity now for me to welcome back both Mr. Swecker and Ms. Ricci. For those of us that were able to participate in the last hearing, you certainly wowed us with your presentations, gave us lots of food for thought. And your report has become a bible of sorts that I carry with me on my plane rides, and find that every time I read it, I learn something new and, unfortunately, something that dismays me even more.

So, with that, let's welcome our first panel which includes Mr. Chris Swecker, the chair of the Fort Hood Independent Review Committee; Ms. Carrie Ricci, a member of the Fort Hood Independent Review Committee; Mr. Andy Bland, consultant, Fort Hood Independent Review Committee; Ms. Mary Counts, consultant to the Fort Hood Independent Review Committee.

Thank you all for being here today.

STATEMENT OF CHRISTOPHER SWECKER, CHAIRMAN, FORT HOOD INDEPENDENT REVIEW COMMITTEE, ACCOMPANIED BY CARRIE RICCI, MEMBER, FORT HOOD INDEPENDENT REVIEW COMMITTEE; ANDREW R. BLAND III, CONSULTANT, FORT HOOD INDEPENDENT REVIEW COMMITTEE, AND MARY COUNTS, CONSULTANT, FORT HOOD INDEPENDENT REVIEW COMMITTEE

Mr. SWECKER. Good afternoon, Chairwoman Speier and Ranking Member Banks, and distinguished members of the subcommittee.

We appreciate the opportunity to appear before you today to discuss our findings, the findings of the Fort Hood Independent Review Committee. In the interest of time, we are doing a consolidated opening statement. I will try to summarize it and get through it in the next 5 to 6 minutes, if possible, but, as you have noted, the rest will be entered into the record.

As you know, the former Secretary of the Army appointed five executive members of the Fort Hood Independent Review Committee, but also we were supplemented by five subject matter experts who assisted in various tasks associated with the independent review. And I would just like to briefly introduce the four members that are appearing here today.

Carrie Ricci is a retired Army JAG [judge advocate general] officer who served 3 years at Fort Hood, including as trial counsel; is now a senior executive serving as Associate General Counsel for the Department of Agriculture.

Mary Counts served over 25 years as an FBI [Federal Bureau of Investigation] special agent and supervisory special agent in offices such as Honolulu; Washington, DC; El Paso; and FBI headquarters. She has worked and supervised investigations of drug cartels, gangs, crimes against children, and kidnappings. In her role with the FHIRC [Fort Hood Independent Review Committee], she conducted 157 face-to-face interviews with female service members at Fort Hood, the majority of whom were assigned to the 1st Cavalry Division and 3rd Cavalry Regiment. She also summarized over 80 group interviews that we did that encompassed over 1,800 service members of all ranks. She also reviewed CID investigative files of sexual assaults and death cases.

Andy Bland is a 23-year veteran of the FBI. His final assignment was special agent in charge in Houston, but he also served as the

FBI legal attaché in Baghdad. He was Deputy Assistant Director of the Inspections Division of the FBI and also served as the head of the FBI Training Academy at Quantico.

As chair of the FHIRC, I am a former State prosecutor in North Carolina. I spent 24 years with the FBI and retired as the Acting Executive Assistant Director over eight FBI divisions, including their CID, Cyber Division, International Operations, and five other divisions. I currently practice law in Charlotte, North Carolina.

It is absolutely critical to understand the basic mission of CID in assessing its effectiveness. The fundamental objectives of CID are set forth in Army Regulation 195-2, Section 1-6, entitled, "Objectives." The relevant portions are in the opening statement, but I want to mention two of them as areas where we had particular focus. And that is in the area of serious felony investigations. That is one of their mandates. The other is maintaining a proactive criminal intelligence collection, analysis, and reporting cycle to alert commanders to threats and criminal elements. Commanders who are provided with validated criminal intelligence can initiate appropriate force protection measures.

Members of this committee interviewed various members of the 11th MP [Military Police] Battalion; relevant CID commanders at Fort Hood; CID agents; dozens of CID stakeholders on and off the base, including police chiefs, sheriffs, district attorneys, JAG officers, Federal prosecutors, community leaders; the Texas Department of Public Safety; the Texas Rangers; and the FBI and other Federal agencies.

We reviewed all death and suicide cases and a broad sampling of sexual assault files. Dozens of data research and analysis products were conducted which provided highly relevant insights into the CID operations and effectiveness.

As you know, our finding, one of nine findings in the report, stated that the Fort Hood CID had various inefficiencies that adversely impacted accomplishments of its mission. We determined that the criminal detachments were understaffed, underexperienced, over-assigned, and poorly supported, leading to inefficiencies that had an adverse impact on investigations, especially the complex cases involving sex crimes and soldier deaths.

We determined that these inefficiencies were the result of staffing protocols and other policies and procedures that transcend Fort Hood. But it is very important to note at the outset that this finding does not challenge the competence, motivation, work ethic, or onsite leadership at the Fort Hood CID. The issue is one of inexperience, resources, staffing methods, and the overall CID business model.

A significant portion of the report addressed the role of CID in conducting prompt, thorough investigations of death, felony, and sex crime cases. An important objective that we looked at was the scope and role of CID in providing that criminal intelligence, as I mentioned, to Fort Hood commanders to enable them to adopt mitigations.

In essence, we found, as you mentioned, Chairwoman, that it was a training ground. There were simply too few journeyman-level agents to work the complex sex crime cases, death cases, while still mentoring the large number of inexperienced and uncredentialed

special agents who were constantly transferring in and out. There was minimal continuity in institutional knowledge within CID. It also impacted law enforcement relationships, as discussed in the report.

The inexperience of the CID special agents was evident in our onsite file reviews that our members conducted of the death, suicide, and sexual assault files from fiscal years 2018 to 2020. These reviews revealed some areas of concern as to investigative attention to detail, completeness, and file documentation, which increased with the complexity of the investigation.

State and Federal prosecuting attorneys and local law enforcement advised there was minimal interaction between their offices and CID. Unlike other Army posts, there are no CID agents embedded at any of the local police departments, and they could not remember a true joint investigation.

We determined that serious crime issues on and off Fort Hood were neither identified nor addressed proactively. There was a conspicuous absence of an effective risk management approach to crime incident reduction and soldier victimization.

In short, the staffing model, as it relates to Fort Hood, did not effectively work to support their mission. There were not enough experienced agents to provide continuity and institutional experience to work complex cases or be proactive in crime prevention.

The CID needs to have a balanced mix of apprentice, experienced, and journeyman-level agents to provide stability and ongoing expertise. There should always be a cadre of experienced and highly experienced investigators to handle the over 340 sex crime cases and 20 to 30 death cases per year at Fort Hood. These are complex matters that involve forensic evidence, evidentiary warrants, evidence analysis, and informed judgment about investigative strategy. CID must be provided the capability to work joint investigations with their State, local, and Federal counterparts and not wait for a crisis investigation, such as Vanessa Guillen, to do so.

Among the 11 recommendations we made were that the CID command should evaluate its staffing model and personnel movement protocols for high-tempo, high-turnover offices like the Fort Hood CID to ensure they are staffed at a level where they are capable of working complex cases on and off the installation; engage in proactive crime suppression in conjunction with department of emergency services and commanders, especially drug suppression, as well as competently handling the death and sex crime cases.

And just to wrap it up here, we asked the CID and the Army Department of Administrative Services to evaluate whether this requires a greater number of CID civilian special agents of the 1811 category for purposes of continuity and effectiveness in handling these cases.

This concludes the opening statement. As chair of the FHIRC, we welcome the opportunity to field any questions, and with your concurrence, I will direct them to the appropriate team member that is present.

[The joint prepared statement of Mr. Swecker, Ms. Ricci, Mr. Bland, and Ms. Counts can be found in the Appendix on page 47.]

Ms. SPEIER. Thank you, Mr. Swecker. Does that complete, then, the presentation of your panel?

Mr. SWECKER. It does.

Ms. SPEIER. All right. So, we will move on to questions.

Let me start off by talking about drugs. In the report, you indicated that the highest drug test failure rate per test taken was at Fort Hood. You also said that the drug crime rates for fiscal years 2015 to 2020 were almost 31 percent higher than FORSCOM [United States Army Forces Command].

And it appears that in one case, in April of 2020, a soldier overdosed on methamphetamine and fentanyl. There were no interviews, no crime scene investigation, no apparent attempt to determine who supplied the drugs. There was no attempt to investigate the soldier's history of drug use or identify the identity of associates. Can you speak to why that is so wrong?

Mr. SWECKER. Yes, ma'am. I mean, all we had to work with was what was contained in the investigative file, in the four corners of the file. We felt like, consistent with the CID mission of gathering proactive intelligence, criminal intelligence harvested from the cases that were worked, that meaningful information could be provided to the commanders to actually engage in mitigation and prevention. We just didn't see that happening, and I think, by their own admission, CID said they just didn't have the experience and the resources to do proactive criminal intelligence.

We felt like death cases, particularly the one you are talking about where there was a drug-related overdose, ought to be fully investigated to determine if there were lifestyle issues—where did the drugs come from; who supplied the drugs; how did they get on the base—in order to try to engage in proactive measures to prevent that from happening, if possible. I mean, it certainly would have helped the commanders to be armed with that kind of information. It is their responsibility to conduct mitigation and look out for the health and safety of their charges.

Ms. Ricci, do you have anything you want to add to that?

Ms. RICCI. No, that was basically what we found. I agree completely.

Ms. SPEIER. So, for instance, in another setting, deficiencies in failing to pursue all logical investigative leads were also noted by the committee in another high-profile case, a soldier who went missing and, ultimately, committed suicide. "Conspicuously absent in the CID file was any documentation of a search for the soldier, nor was there any indication that a key witness was contacted or interviewed. The totality of the facts contained in the file led the FHIRC to conclude that the initial underpinnings of what might be a motive on the part of another to engineer the soldier's disappearance existed"—which is a pretty profound statement. I'm assuming this is the Hernandez case, is it not?

Mr. SWECKER. I am going to try to be careful about specific cases because some of them are ongoing, and I have been told there are some issues associated with disclosing information in a pending file.

But let me just say, generically, across all of the death cases that we looked at, the more complex the case was, the more striking it was the leads that weren't followed in many cases and the incom-

pleteness of the file. We are not saying these investigative steps weren't taken. They just weren't in the file. So, we couldn't see it.

Andy Bland conducted a couple of the relevant file reviews that you are talking about, as well as myself and Mary Counts. And I would like Andy to address the specific case that you are mentioning.

Andy, I think you are on mute.

Mr. BLAND. Okay. Can you hear me now?

Ms. SPEIER. Yes, we can.

Mr. BLAND. Okay. Thank you for allowing me some time this morning. It is a pleasure to be here.

And specifically as it relates to the inquiry, yes, I had the opportunity to review what, essentially, was probably the top five most complex cases that CID has undertaken here of late. And this particular case really represents a microcosm of all those things, all of those observations that Chris enumerated at the strategic level. And what it really underscores, as I looked at the file, is not being prescriptive or critical of the investigation and how it ensued, but what it really underscores and really illustrates is that those of us who have spent decades involved with and leading and supervising investigations can look at a file retrospectively, and we are able to ascertain quite quickly the steps that could have been taken to run some of these leads to ground.

And so, for that to really be something that a person like myself, or Mary, or others, can extrapolate just by reviewing a black-and-white file months after the fact really goes to the heart of what Chris described as there has to be, clearly, a mix in terms of the experience level of agents. Because the ability to provide insight and optics, and to conduct an investigation of this complexity or of this ilk, it doesn't happen by way of osmosis. It doesn't happen overnight. Those instincts, that sort of visceral, experiential review, the ability to know which way to go, that happens over time and it happens with mentoring, and it happens with making mistakes. And at the end of the day, it also happens by way of having supervisors who have been there and done that, who have the credibility necessary to understand what needs to be done when they review the files of what their investigators have done.

So, hopefully, that answers the question.

Ms. SPEIER. Thank you.

Let me just ask one final question, Mr. Swecker. If you had the Vanessa Guillen case file, and you were reviewing that as a 24-year veteran of the FBI, what would you do to the individual who provided you that particular file? You referenced a number of times during the investigation where it was perfunctory or box-checking.

Mr. SWECKER. I will maintain it is not the fault of the inexperienced agents. They have 2 and 3 years of experience, are assigned a very complex investigation. So, that is a difficult question to answer in terms if you are asking is anybody accountable or should be held accountable for some of the shortcomings in the investigation. It was just a grossly—I shouldn't say "grossly"—but vastly inexperienced staff there. You could tell from the interviews. They were two- or three-question interviews. They were mostly done by phone, particularly some of the key interviews. Some of the key fol-

lowup questions either weren't asked or they just weren't documented in the files. And the dots just weren't connected.

There was an absence of what I would call a master case agent coordinating everything, looking at forensics, looking at prioritization of leads, looking at allocation of resources in the hot-spot areas, instead of sort of running that checklist-driven investigation.

So, I wouldn't lay the blame on the individual special agents. I think it is more the system. They, themselves, are victims of a system that—again, I mentioned it being analogous to an FBI busy field office like the New York office being staffed almost 80 percent of new agents right out of the FBI Academy. You don't even hit your stride as an investigator, I don't think, until about 6–7 years into it.

And unfortunately, I don't think that CID has a cadre of 5- to 10- to 15-year agents. Many of them leave, I am told, by the time they get some level of experience.

Ms. SPEIER. All right. Thank you.

Ranking Member Banks.

Mr. BANKS. Thank you, Madam Chair.

My first question is, what stood out to all of you most about Fort Hood's CID's overuse of novice agents?

Mr. SWECKER. So, I will take a stab at that, and then pass it on to the other three members.

Ninety-three apprentice special agents in 2019 among the enlisted ranks; 63 percent apprentice as special agents in the warrant officer ranks, and the supervisors that were on the scene were occupied with administrative duties and things that took up a lot of their time; that takes away from mentoring.

So, it just jumped out at me. It is just I don't think any investigative agency that I know of would staff their offices that way when they have complex cases on the table, death cases; suicide cases; the Guillen case, a very complicated case involving all kinds of electronic evidence and forensic evidence, and begging for coordination from some centralized case agent. Having to get warrants, warrants are complicated. Writing and articulating affidavits to communicate the probable cause to obtain a warrant is difficult. I just don't know of any other model out there that staffs offices that are that busy with such inexperienced agents.

And let me pitch it to Carrie.

Ms. RICCI. Yes, I will just add that the judge advocate general is in the middle of a military justice redesign that focuses greater expertise and experience where it is needed. And so, what struck me, as the JAG offices are in the middle of this redesign, was that the investigators are not, and that that type of redesign is needed as well among the investigative force.

Mr. BANKS. Anybody else?

Mr. SWECKER. Andy.

Mr. BLAND. I think it is probably appropriate to defer to Mary at this point, Chris.

Mr. SWECKER. Okay. Mary. You may be on mute. You are muted. Yes, Mary, I think you are still muted.

Mr. BANKS. Let me move on.

Mr. SWECKER. Yes.

Mr. BANKS. I don't have a lot of time.

Mr. SWECKER. All right.

Mr. BANKS. So, for both of you who are here, tell us, what are the most effective ways for us to blend and integrate junior and senior investigators?

Mr. SWECKER. I think, first and foremost, it is a staffing issue. It is a resource allocation issue that comes from higher up. There have to be incentives for agents to stay and some areas where they can actually promote up and develop their careers as investigators. We don't see that. I mean, this is anecdotal, but what we hear is, when agents get to a certain level of experience, they go somewhere else. They go to an IG [inspector general] office. They go to one of the Federal investigative agencies.

But I would go back to this issue of staffing and resource allocation. That is a fundamental duty of those higher up the food chain, and it is a business—I talked about a business model. I don't think there is any business out there where you would staff a critical business function with primarily an overwhelming number of inexperienced agents or agents that are either not credentialed or just haven't hit that experience level where they can be competent to act alone.

Mr. BANKS. Any other thoughts on how we integrate junior or more seasoned investigators?

Ms. RICCI. I would just say that training and mentorship is critical in any profession. And so, it is no different here. Having that mentorship and that ability to bring along the junior agents is critical.

Mr. BANKS. Okay. My last question, throughout your review, what were the key skills that appeared to be lacking among the CID agents?

Mr. SWECKER. Primarily, investigative acumen, the kind of knowledge and skill that comes from having at least 5 years of experience; knowing what leads to prioritize; knowing how to get your hands—what evidence is most relevant; where the hot spots are in a special investigation; where you devote more resources, for example, if you have a particular suspect, devoting and allocating your most experienced agents to that particular suspect and that line of inquiry, if you will. Obtaining warrants for forensic, for electronic evidence, which is ever-present in every investigation these days—cell phones, cell phone tracking, pinging cell phones. Collection of forensic evidence takes a certain skill, and then, interpreting the forensic evidence, knowing where to go and what to look for.

Mr. BANKS. Okay. Thank you. My time has expired.

Ms. SPEIER. The gentlewoman from Texas, Ms. Escobar, is recognized for 5 minutes.

Ms. ESCOBAR. Thank you, Madam Chair.

And thanks again to our experts who have devoted so much time and their expertise in helping us in this moment.

This issue, obviously, stretches far beyond Vanessa Guillen and Fort Hood. I can tell you that in my district, Fort Bliss, we have seen some really alarming stories, heartbreaking stories, and not just those that have made the headlines and made the news, but individuals who have reached out to me to share their own personal experiences. And the knowledge that this is just the tip of the

iceberg, these are just folks who are willing to tell their stories who have reached out to me personally, is really deeply alarming. Thankfully, at Fort Bliss, General Sean Bernabe has really—he is fairly new to the installation and has made some great changes, but we have so much work to do.

And just a couple of the cases that have really shined a light for me on other issues that we have to address: Private Asia Graham, she is a young woman who was found deceased. She had accused someone of sexual assault, and later, two other women came forward and alleged that this perpetrator had also assaulted them. So, there was a pattern there that leaders missed. There were things that were happening there repeatedly that leadership did not see.

Another one of our military personnel at Fort Bliss, Private Richard Halliday, disappeared. He was regarded as AWOL [absent without official leave] until, finally, others were sounding the alarm about him having gone missing for so long.

So, there is a number of different things that we have got to change. Some things, obviously, are more challenging than others. But, as we think about a transition that CID needs to make, and everything that you all have brought to light about CID, all of the deficiencies, the lack of experience, the lack of resources, if we are to transition to something that is a better functioning investigative arm, how do we make that transition? If we, for example, are able to civilianize more of those positions, or maybe civilianize the whole thing, how would you recommend we begin to make that transition? How quickly can we do it? What are some initial steps that you might recommend? I am trying to think about what should be done internally; what needs to be done legislatively. I just would love your insights on how do we get where we need to be as quickly as possible? What does that transition look like from today into the future?

Mr. SWECKER. Yes, thank you for that question.

Just to follow up on your early theme there about serial offenders, one of the most disturbing things that we came across during the interviews was, within 2 days, interviewers like Mary and Andy and Carrie had already identified two or three serial offenders, which goes to one of the main CID missions was to convey/harvest that intelligence out of those files and those investigations, and get that to the command, so that they could act on it. And that, again, they didn't have enough experienced agents onboard to actually connect the dots and do the things that needed to be done to address that intelligence function.

We said in the report that we would like to see more—we think that there ought to be more 1811 investigators. There are several advantages to that. One, they don't transfer around as much. Two, they have powers off the base, fewer issues with posse comitatus, and being able to work joint investigations and actually have authority outside the military installation, especially work joint investigations.

So much happens off the base that involves soldiers. And what we saw was a big gap there in terms of working true joint investigations, where they could actually elbow-to-elbow work cases together and share information real time.

And nothing drew that out more than the interviews that were conducted. I don't know if Mary is off mute. But, Mary, during the course of the interviews, you made some observations that I thought were fairly poignant as far as gathering intelligence and getting that information to the command.

Ms. COUNTS. That is true.

I hope everyone can hear me now.

Ms. SPEIER. Yes, we can.

Mr. SWECKER. Yes.

Ms. COUNTS. Thank you.

During the course of the interviews with the victims, as well as interviews with witnesses and with other people who had extensive knowledge of these incidents, we heard textbook grooming, serial offender, repeat offender, predator over and over again. So, as Mr. Swecker said, we were able to put together a list and almost know, when that person came into the interview, what case they were talking about.

And I think, whatever model CID goes to, there needs to be an emphasis on focus and they need to be able to prioritize their investigations. And it can't be one-size-fits-all. A gang rape and a physical assault cannot be investigated as opposed to another case. You have to be able to go after those people that are not only victimizing soldiers, but could possibly victimize others in the future. And I think they have to be able to transition to those cases pretty rapidly.

Mr. SWECKER. Thank you.

Ms. SPEIER. All right. The gentlelady's time has expired.

The gentleman from Alabama, Mr. Carl, is recognized for 5 minutes. Mr. Carl, are you available? You need to unmute yourself. Mr. Carl. Mr. Carl, you are recognized. And you are muted. All right. Let's see if we can unmute you.

We will move on, then, to the gentlewoman from California, Ms. Jacobs. You are recognized for 5 minutes.

Ms. JACOBS. Thank you, Madam Chair.

And thank you to all of our witnesses for being here.

Finding No. 9 in the report was that the command climate at Fort Hood has been permissive of sexual harassment and sexual assault. And I was wondering if you could talk a bit about how Fort Hood is different from other bases, since we know this is a problem elsewhere. What was unique about Fort Hood, in particular, and how worried are you that there are similar cultures of impunity at other bases?

Mr. SWECKER. It is hard to talk about other bases because our focus was on Fort Hood, although we heard anecdotally in the interviews. I think Carrie, Mary, and Andy, and others that did the interviews, heard about places, other bases, where accountability was more strict and there was quicker action when an incident took place and a report was received. And more aggressive steps were taken to protect the victim, pending the case as it wound through the criminal justice or the military justice system.

What we saw at Fort Hood—we don't think it was an aberration—was a flawed SHARP [Sexual Harassment/Assault Response and Prevention] structure itself, which we addressed in the report. But we also saw priority placed on brigade readiness for deploy-

ment as opposed to the health and welfare of the soldiers, which we discussed at length in the first hearing.

So, we don't know if that is an outlier, but I think, anecdotally, we got stories during our 700 interviews and the group interviews that encompassed 1,800 soldiers from soldiers who had been stationed at other bases that in many cases Fort Hood was an outlier.

We commissioned 49 research projects by a research group at West Point. Their comment to us was they had never seen a situation where one base stood out as an outlier in terms of AWOL, in terms of deserters, in terms of drug usage and drug arrests and positive drug tests, felony cases. I mean, of the 49, it was striking, they said, to see that one base was such an outlier in terms of all the 49 different areas that we had them look at.

Ms. RICCI. Sorry, I don't have anything to add.

Mr. SWECKER. Mary, Andy, anything you want to add to that from the interviews?

Mr. BLAND. I would, Chris. I think it needs to be said that, in many respects, we attributed it to a lack of leadership, a lack of emphasis. As we have talked about, what is important to the leaders is going to be important to their subordinate leaders and the troops themselves.

And so, when you look at what they called special emphasis programs, like SHARP and EEO [Equal Employment Opportunity Program], and things of that nature, those are tools that were available to the commanders to be able to emphasize those areas that ended up being deficient in these types of cases. And so, again, troops are going to go where they are led. And it is necessary to have the requisite leadership in place from the top down that are going to make sure that the priorities are in place to ensure our soldiers are taken care of.

Ms. JACOBS. Thank you.

And I guess my followup—and, Mr. Bland, since you talked about this a bit—is, you know, I heard you say this was an issue of leadership. And I guess what I am just trying to figure out is, how much was the sexual assault climate problem the result of poor command leadership or the problem with CID being untrained, as you all have highlighted in your previous answers? And I just want to know if you could expand on that and talk about how the leadership issue bleeds into the CID problems.

Mr. BLAND. If I may, Chris, I mean, I think it is, essentially, the manifestation of all those things in the aggregate, right? So, it is kind of like a perfect storm all coming together.

Chris had indicated in the report that only 3 percent of the cases that are worked by MPs or by CID involved these types of cases. Well, that 3 percent ended up being a bees' nest, a hornets' nest, for the Army.

So, I think if you look at the totality of what we looked at and the recommendations that were made, at the end of the day, leaders have to be held accountable in some tangible, some palpable way. You know, make it part of their review; make it part of their report card, those types of things, so that you can emphasize at the very top that those things are absolutely categorically important. It all starts from the leaders.

Mr. SWECKER. May I add that the leadership issue was an issue of omission, not commission. It was not placing emphasis on the SHARP program in general; placing emphasis and priority in other areas, which you would expect an Army combat brigade and command to place, which is readiness. But, during the course of that, they completely, utterly neglected the emphasis on the SHARP program and it never got down to the troop level, the NCO [non-commissioned officer] level, to enlisted ranks, where 80 percent of the victims and the subjects resided.

I, personally—and I think the other members of the committee share this—we are not placing all this at the foot of CID. We just made a note. That is one of nine findings, that CID is not responsible for all of the issues at Fort Hood. What we were saying was, in the course of the review, we saw that, in the case of complex cases, that there was a lot of inexperience. And we just felt like—and it wasn't even a close call—that addressing complex cases was a problem. And without that deterrent, and without all that good intelligence being harvested and provided to the commanders to take mitigating action, then that sort of added to the mix. As Andy described, it was a perfect storm. That all came together.

Ms. JACOBS. Thank you.

Ms. SPEIER. The gentlelady's time has expired and she yields back.

The gentleman from Texas, Mr. Fallon, is recognized for 5 minutes.

Mr. FALLON. Thank you, Madam Chair. Can you hear me?

Ms. SPEIER. We can hear you.

Mr. FALLON. Wonderful. Thank you.

Mr. Swecker, my colleague just mentioned—and I saw the same thing—Finding No. 9 I found alarming, the fact that it was a problem with the command. And I also noticed that, on that chart that we were given, that Fort Hood pretty much, literally, every single category for violent felonies, violent sex crimes, rapes, all the way down to drug crimes, drunk and disorderly, larceny, even AWOL, was there were higher incidences on average across the board, which I think really illustrates that it is rather obvious it is a command problem.

I believe Fort Hood is the largest base we have as far as Active Duty troops. Kind of like in a big city there is just higher crime, do you think that the fact that it is such a large base has something to play into the fact that they have larger incidences on average of crime?

Mr. SWECKER. That is part of it, but we were looking at crime rates, not raw numbers, so per capita crime. And a lot of the things, most of the things that we were looking at were on a per capita basis. So, it wasn't the raw numbers. But we found it an aggregating factor, if you will, that there were known risks of all of these things because of all these reports that have been done over the years. The fact that these were combat brigades, that 80 percent of the victims and perpetrators were in the enlisted ranks, that was well known; that these are 18- to 23-year-old soldiers where women were the minority in these brigades. I mean, the interviews bore that out, that there was a serious risk there that

was known, or should have been known, by leadership from the top down.

Unfortunately, because of the lack of emphasis, the lack of addressing these known risks, the NCOs, where the rubber meets the road, became backers. They did not facilitate reporting. They did not encourage reporting. In fact, many of them were perpetrators, and many of them were part of the ostracism and the shaming of the victims. So that there was a deterrent in actually filing reports of sexual assault and sexual harassment, et cetera.

Carrie, do you want to add to that?

Ms. RICCI. I would just add that there were regular reports, such as IG reports, command climate surveys, that type of information that was available to commanders, but that just wasn't acted on.

Mr. SWECKER. I mentioned in the first hearing that the climate surveys, there were red flags throughout in all of the key commands.

Mr. FALLON. Yes, it is incredibly troubling.

As far as CID, you, obviously, mentioned that it was lack of training and mentorship and experience, resources, staffing, that kind of thing. And instead of a tour, would there be a value in, instead of maybe a typical tour being 3 years, and then, a PCS, maybe making the Army, giving the option or mandating maybe it is a 5-year tour? And then also coupled with, as you said, some 1811 investigators. But do you think that would add some value, to extend the tours for the military investigators?

Mr. SWECKER. Anything that allows a particular busy office like Fort Hood to develop a cadre of experienced agents would be a good thing. Whether it is more 1811s, slowing down the transfers, restricting them from going off and doing protective detail, which seems to us to be a distraction for special agents that could have been spent doing investigations; we felt like the MPs could handle that kind of detail as opposed to pulling from the special agent ranks. But anything that provides continuity in the office, experience—what jumped out, as I said earlier, to all of us was just simply the lack of a group of trained, experienced agents. Even in the 5- to 8-year range, there just were very few of them, and if there were, most of them were supervisors.

Mr. FALLON. Yes, I was shocked. I mean, when you said 12 out of 76 had 1-year experience or more, I can't even believe that.

Mr. SWECKER. It was, actually, I think, somewhere around 90 percent of the enlisted agents were apprentice agents and 63 percent of the warrant officer special agents were apprentice. That didn't leave many to actually mentor these inexperienced agents. And then, a number of them were diverted for other duties—evidence custodians, cyber, et cetera. And they were chronically understaffed, somewhere around 60 percent throughout the time period that we looked at. So, you have got understaffing, inexperience, and then, we talked about underresourcing in areas of forensic exploitation of cell phones and other electronic evidence.

They only had one license to exploit a cell phone. Those are proprietary software licenses that you have to have to extract evidence from a cell phone. During the Guillen investigation, two of them expired. So, they had one left for the pendency of the Guillen inves-

tigation, and that was a key avenue of inquiry for that investigation.

Mr. FALLON. Thank you. My time has expired.

Ms. SPEIER. The gentleman's time has expired.

The gentlewoman from Texas, Ms. Garcia, is recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chair, and thank you for holding this very crucial hearing and for allowing me to participate.

It has been almost a year since the family of Vanessa Guillen first contacted my office for help. At our very first meeting, I listened to their concerns about the handling of the case by CID and could not believe what I was hearing. Throughout our work together in many meetings and visits to Fort Hood, I was consistently disturbed with the actions of CID and the negative impact it had had on the Vanessa Guillen case, from failing to look into claims of sexual harassment as a motive, not properly interviewing Vanessa's family members and friends, and the reassignment of a CID investigator in the middle of the investigation. I have seen firsthand, as have the Guillens, the problems that plague Fort Hood.

I appreciate the work of this committee, the special independent review committee. Your findings and recommendations align with my experiences with CID, and I will continue to fight for a change to ensure that what happened to Specialist Guillen and her family never happens again.

With that in mind, Mr. Chairman, I wanted to ask you, during my visit to Fort Hood, CID agents said that, while they were currently investigating the murder of Specialist Guillen, they were not looking further into the claims of sexual harassment, as that role would fall to her command. What can be done to ensure that CID is allowed to fully investigate a crime, including possible motives, just as any other law enforcement agency would?

Mr. SWECKER. That is a very good question. Andy and I discussed, and Mary had discussed, the narrow scope of some of these investigations when there were other issues that were relevant to the investigation, one of them being sexual harassment in that case. And we often were looking for that sort of thing in the file, and we couldn't find it.

I don't think that is something that you have to—I mean it may be something that you have to address through Army regulations, but it seems to me to be a logical investigative avenue to pursue.

Ms. GARCIA OF TEXAS. Well, it seemed logical to me, and I raised the issue when I was there on June 23rd, my first visit. And they started trying to give me a lecture about the difference between a CID investigation and sexual harassment claim. And finally, I had to stop them and remind them that I was a former judge and a lawyer, and that I knew a little bit about that.

But let's go on. One of your findings was a concern that the Guillen family had brought up, that the lead investigator was transferred. Is that common practice? Or did you find any evidence of this happening in other investigations? I mean, it seems like he could have gotten a waiver or permission to stay on until the end

of the investigation. It just doesn't make sense to me. So, is this the practice in the armed services to do this?

Mr. SWECKER. That was puzzling. Given the severity and the importance and the gravity of the investigation, it was just puzzling that this special agent in charge transferred out, particularly in the absence of what we thought was the role of case agent. So, it looked like the supervisors, the ASAC, the assistant special agent in charge, and special agent in charge, sort of functioned as the overall case agent, coordinating all aspects of the investigation. In most investigative agencies, they would have a case agent themselves doing that and the supervisors would be above that, looking at strategy and resources, and things like that. So, that made it even more puzzling.

Ms. GARCIA OF TEXAS. But is it common practice?

Mr. SWECKER. We don't know. We just saw it happen at Fort Hood, and we also know that just transfers in general, PCSes in general, are a major factor in the lack of experience and continuity, at least at Fort Hood, and we suspect at other offices that are busy.

Ms. GARCIA OF TEXAS. All right. You also said that resources were nonexistent; from the battalion, no guidance was given, and it was almost nonexistent until MG—which I guess is major general—Efflandt inquired into whether CID had sufficient resources and expertise. Do you recall when that happened?

Mr. SWECKER. It was about midway through the investigation.

Ms. GARCIA OF TEXAS. Would you say it was June, July?

Mr. SWECKER. I would say June.

Ms. GARCIA OF TEXAS. June?

Mr. SWECKER. Somewhere about mid-June. It was really perplexing that the MP—

Ms. GARCIA OF TEXAS. So, the major general hadn't even asked until then?

Mr. SWECKER. Right. But the lieutenant colonel who was over the 11th MP Battalion—

Ms. GARCIA OF TEXAS. Which was Colonel Overland.

Mr. SWECKER. No, this was someone else. Overland was the 3rd Cavalry Regiment commander.

Ms. GARCIA OF TEXAS. Okay.

Mr. SWECKER. This was someone that is responsible for the CID detachment there, as well as other CID detachments. Unfortunately, that commander, that lieutenant colonel, did not step in. First of all, we think that there should have been a recognition that they needed more resources, more people on the ground, more help with affidavits, more help with forensics, more help with evidence extraction, and that sort of thing, and analysis. And that didn't come from the chain of command within the CID detachment there, which would have been the 11th MP Battalion. It came from Major General Efflandt, who finally walked over and said, "Do you need anything?" to SAC [special agent in charge] Neff. And that's when they got more resources. Basically, this is at least what we were told, was the resources came when Major General Efflandt walked over and had a meeting and asked if they needed any help. And after that, help came.

Ms. GARCIA OF TEXAS. Well, that seems to coincide with the call that I made to White House Chief of Staff Meadows and to Army

Secretary McCarthy, because that is the first question I had. My first concern was that they had the resources and capacity to handle all that.

Ms. SPEIER. The gentlewoman's time has expired.

Ms. GARCIA OF TEXAS. Thank you, Madam Chair. I yield back. Thank you, sir.

Ms. SPEIER. The gentleman from Alabama, Mr. Clark—no, Mr. Carl. Excuse me.

Mr. CARL. Yes, it is so simple, it is easy to get confused.

Madam Chair, can you hear me now?

Ms. SPEIER. I certainly can, and I will never make that mistake again.

Mr. CARL. That is fine. Don't worry about that. It is simple.

I am not an attorney and I am not a judge. I am a businessperson. So, my question is, is this spike—I am going to call it a spike—in the drugs and all these different crimes, is there any way we can link that to management, when new management of the base may have come onboard? I know there would be a time lag there, but, to me, from a leadership standpoint, the buck stops here, and I have to take responsibility for it. And then, I will take care of it down the chain. It sounds like we are trying to identify, to me, we are trying to identify the criminals ourselves instead of trying to encourage the management, whatever rank that may be, to actually take responsibility for what is going on.

So, my question is, is there any way or has anybody thought about trying to link the timeline with the people that are supposed to be responsible for the welfare of these soldiers?

Mr. SWECKER. I addressed one of the more important functions, we felt like, of CID was to inform the command of trends, patterns, criminal intelligence, et cetera, things that were part of reports, but these reports were compartmentalized. There was a monthly crime report, but it really didn't analyze the crime, identify hot spots, identify establishments, trends, patterns, and that sort of thing. There were reports on crime rates, you know, felony crime rates, all the different crime categories. They were high in some areas. Drugs were one of them.

Those of us that have worked investigations over the years know that any kind of black market drives crime, whether it is drugs or something else. And drug suppression efforts, well, drugs themselves, usage and selling of drugs is not conducive to good order in the military. There is talk about legalization, and legalization is all around us, but it is not conducive to military readiness. And we felt like that was an area that should have been addressed by CID, the Department of Emergency Services, and the provost marshal, to arm the command with information about all of that. But we were told that drug suppression was a lost art, at least at Fort Hood.

And let me open this up. I have been doing a lot of talking. I would like to open it up to the other panelist members to see if they want to address the question.

Mr. CARL. My followup question would be, do we not have an established drug-testing program at Fort Hood?

Mr. SWECKER. There is, and there is at every military installation. And the drug results are reported. I don't know that anybody was really watching or highlighting those reports and interpreting

what they really meant, nor were they harvesting any intelligence from the positive drug tests, or trying to develop, as we mentioned in the report, sources of information. So, you could interview every single person that tested positive and try to find out where they got the drugs, what do they know about drugs; try to develop some live sources of information and actively engage in drug suppression efforts. But, again, I was told that that is a, quote, "lost art."

Andy? Mary?

Mr. BLAND. I just think, briefly, Chris, not only do I concur with everything that you have said, but it goes back to the fundamental aspects of what an investigator does. Being able to understand, you need to go that extra yard to do those types of things, to connect dots, to develop informants, to be able to drive some sort of indicia or analysis that will take you to where you may have criminal activity taking place. It is those things that your grassroots investigator does as part of their responsibilities and, quite frankly, it should be part of their passion for the job.

Mary.

Ms. COUNTS. Thank you.

I would like to concur with my colleagues, but I would add, from the sexual assault standpoint, we also interviewed SHARP representatives. And the SHARP representatives that I interviewed, every one of them told me three out of four female soldiers who report to Fort Hood, within 8 months of being there, ages 18 to 23, it was almost an initiation to either be sexually assaulted or sexually harassed. That was unbelievable to me: one, that this was happening, but, two, that this was known by people who are in the program that is supposed to prevent this kind of behavior.

And again, it goes to leadership. If you know this is happening, you have a responsibility to stop it. And we did not see that.

Mr. CARL. Thank you so much for that.

And, Madam Chair, I give my time back to you.

Ms. SPEIER. I thank the gentleman.

To follow up on the Congressman's question, if I recall correctly, your report said this was not an issue of leadership just in this narrow period of time. You suggested it dated back to 2013, if I am not mistaken, is that correct?

Mr. SWECKER. That is correct.

Ms. SPEIER. So, it was the leadership under a number of generals or colonels that, basically, had their eyes off the ball. So, this has been going on for quite some time at Fort Hood, correct?

Mr. SWECKER. I think that is correct. I mean, it was a question of sort of malaise as it relates to the sexual assault program, or the SHARP program, and just sort of pushing it aside because there were other priorities.

Ms. SPEIER. And then, there were 64 sexual assault cases per special agent at Fort Hood. How does a special agent handle 64 cases?

Mr. SWECKER. So, let me clear that up a little bit. That was per special victims investigator, which is a higher category with more training. Because there was such a low number, the ratio was huge. That is not to mean that they were individually working or working 60 cases. Those were mainly the 1811s. There were three, I think, or varying numbers of 1811s that were in that category.

They were there to mentor and to sort of oversee all of the sexual assault cases, but it just seemed like a very low number. And you couldn't possibly, even if you were just overseeing and mentoring these inexperienced agents—we actually felt like they should have been working the investigations, but they weren't really working them. As we understood it, they were simply overseeing them and trying to create some direction and oversee the cases.

Ms. SPEIER. So, the leadership at Fort Hood has changed. They have pulled out the entire team and replaced them. We had made a commitment in 6 months to return to Fort Hood and see what had transpired. What should we be looking for when we return?

Mr. SWECKER. I would be looking for active use of the Sexual Assault Review Board as a tool to manage the SHARP program and drive it, and monitor what is really going on. I would look for, are they looking at the life cycle of a sexual assault/sexual harassment complaint and tracking it from cradle to grave, if you will, from start to finish? Which nobody was doing and I am not sure they are doing it now.

But it just seems like somebody ought to be monitoring these cases closely. Is there emphasis on the program at the NCO level? So that, if we were to do a survey today, would we get the same responses that we got when we did our survey and we did our interviews?

I still think that there ought to be periodic, if the climate surveys show something as a red flag, that action ought to be taken on the climate surveys, which we did not see happen during the course of that. I would keep a close eye on the climate surveys because they are designed to identify red flags. Particularly, one of the areas is in the area of SHARP components and sexual assault reporting, fear of reporting, retaliation, and that sort of thing.

I mean, there is a number of things that I think can be done. We know that the missing soldier protocol has changed. We know that monthly crime analysis reports are being provided to the command. That started. We think those are two effective remedies or mitigations that have taken place. But I am not sure what else has taken place since we left there.

Ms. RICCI. Yes, I would say following the metrics. The Army is good at developing metrics and following them. The judge advocate general, for example, reported last year that half of all criminal cases involved a specification of sexual assault. Ten years ago, that was only 18 percent. Those metrics tell you where you need to focus your resources. So, in the same manner, commanders should be focusing on where the metrics are taking them.

Ms. SPEIER. Anyone else on the panel want to convey final words to us?

[No response.]

Ms. SPEIER. All right. Once again, Mr. Swecker, Ms. Ricci, thank you for your extraordinary contribution to the soldiers at Fort Hood and, frankly, our service members throughout the military. I think this has been a very soul-searching moment for many and has caused many of our investigative units around the country to look deeply into whether or not they are doing a good job. So, again, our gratitude for all that you have done.

Mr. SWECKER. Thank you.

Ms. RICCI. Madam Chair, can we thank you as well for keeping a focus on these important issues? We appreciate that.

Ms. SPEIER. Thank you.

Mr. SWECKER. Ditto here.

Ms. SPEIER. Thank you.

We will now have the second panel, and we will take a 5-minute recess.

[Recess.]

Ms. SPEIER. All right. We now welcome our second panel.

Major General Donna Martin, the Provost Marshal General and Commanding General of the U.S. Army Criminal Investigation Command; Brigadier General Terry Bullard, Commander, Air Force Office of Special Investigations; and Mr. Omar Lopez, Director of Naval Criminal Investigative Service.

We welcome you all. You will each have an opportunity to provide a statement for 5 minutes, and then, we will accept your other comments as written comments. And we thank you all for being here.

Major General Martin, would you like to begin?

STATEMENT OF MG DONNA MARTIN, USA, PROVOST MARSHAL GENERAL AND COMMANDING GENERAL, U.S. ARMY CRIMINAL INVESTIGATION COMMAND

General MARTIN. Good afternoon, Chairwoman Speier, Ranking Member Banks, and distinguished members of the subcommittee. Thank you for the opportunity to appear before you today.

I am here to discuss the United States Army Criminal Investigation Command, known as CID; its mission, organizational structure, ongoing reform initiatives, and our efforts to address the findings and recommendations of the Fort Hood Independent Review Committee.

I serve the United States Army in two capacities: as the Provost Marshal General of the Army and as the Commanding General of CID.

As the Provost Marshal General, I am the principal military advisor to the Secretary of the Army and the Chief of Staff of the Army on all Army policing and law enforcement matters. This includes law enforcement policy, criminal investigations, criminal intelligence, Army corrections and confinement, antiterrorism matters, and detention operations.

As the Commanding General of CID, I am responsible for overseeing the U.S. Army's primary criminal investigative organization. CID is responsible for conducting felony-level criminal investigations in which the Army is, or may be, a party of interest. For context, my special agents conduct criminal investigations that range from murder to organized crime, and they often partner with local, State, and other Federal law enforcement agencies, including the FBI and U.S. Marshals Service.

I am also here to address the Fort Hood Independent Review Committee findings regarding CID. The Secretary and the Chief of Staff of the Army accepted the committee's findings in whole, and based on the committee's findings and recommendations, I am working with key stakeholders to reform, restructure, and modernize CID to address the shortcomings identified in the report,

and to organize CID to better meet today's law enforcement challenges.

While CID remains the Army's premiere law enforcement organization, providing professional felony-level investigations and simultaneously prepared to support large-scale contingency operations, we are seizing this moment to reform and strengthen CID. We can and we will do better.

Since the report was released, Fort Hood has taken immediate actions on several of the Fort Hood Independent Review Committee's recommendations. Some of these efforts include creating a female mentorship program and several improvements aimed to support crime prevention and enhanced communication between Fort Hood law enforcement and local law enforcement.

Fort Hood has also recently stood up the Supporting Warrior Action Team, or SWAT. SWAT is a newly designed sexual assault prevention training program with the goal to train soldiers on how to recognize signs and early warnings of sexual misconduct, how to intervene in incidents of sexual misconduct, and how to advocate for vulnerable service members and the survivors of sexual misconduct.

Additionally, we have collaborated with OSI and NCIS to look at their organizations and consider some of their best practices and how they could benefit CID. Our efforts extend beyond just the Fort Hood Independent Review Committee's findings. They incorporate a holistic and collective approach with input from across the law enforcement enterprise.

And finally, I would like to address recent media reports discussing proposed courses of action that are being considered to restructure the CID. The courses of action reported in the media have not yet been decided, and I am preparing to brief Army senior leaders in the coming weeks. The report prematurely discusses draft planning documents that cover options to address improving CID capabilities. Ultimately, any decision made by Army senior leadership will lead to an organization with enhanced capabilities, organized and led by law enforcement professionals.

In closing, the findings of the Fort Hood Independent Review Committee were eye-opening to our Army, but particularly to the law enforcement enterprise. I do not take this report lightly, and reforming CID is my top priority. I acknowledge the necessity of the task ahead and I am dedicated to the CID's time-honored commitment to do what has to be done in order to protect our soldiers, civilians, and family members.

I, along with the Army's leadership, look forward to the opportunity to work with this committee to strengthen the Army's law enforcement effort, and I welcome the opportunity to answer your questions. Thank you.

[The prepared statement of General Martin can be found in the Appendix on page 57.]

Ms. SPEIER. General Bullard.

STATEMENT OF BRIG GEN TERRY BULLARD, USAF, COMMANDER, AIR FORCE OFFICE OF SPECIAL INVESTIGATIONS

General BULLARD. Madam Chairman Speier, Ranking Member Banks, and members of the subcommittee, I greatly appreciate the opportunity to appear here before you today.

As the commander of the Department of the Air Force Office of Special Investigations, or OSI, I join my colleagues here to discuss aspects of our agency's law enforcement mission and our continuous improvement processes, especially as they relate to the Fort Hood Independent Review Committee report. I am very proud to represent the civilian and uniformed men and women of OSI who are supporting our United States Air Force and Space Force from 303 units located across the globe.

As our Criminal Investigations Division colleagues have learned from the Fort Hood report, we, too, leveraged the report to assess our own policies and practices to identify all applicable areas for review and possible improvement. In line with our review, I would like to briefly cover the highlights of our observations in the areas of resourcing, training, currency, experience, collaboration, and the overall timeliness and sufficiency of our investigations.

On overall resourcing of OSI to execute our mission, the Department has sufficiently resourced the command to execute. Over the last 2 to 3 years, the Department has significantly enhanced the resourcing of OSI to help mitigate pre-identified significant shortfalls, with more capacity projected to come online soon specific to the areas of sexual assault, criminal analysis, and digital forensics.

On the training of our OSI agents, all new agents attend our OSI Academy at the Federal Law Enforcement Training Center for their initial training, along with over 90 other Federal partners. Along with our initial accession training, agents pursue additional training during their probationary period, and then complete annual training in a number of law enforcement related areas. Additionally, we provide advanced specialized training in a number of areas, such as sexual-based offenses and complex case management. While we believe our training programs are effective, we can always improve and we plan to. Specifically, while COVID has set us back on advanced training, like our advanced sexual assault course, we are using those lessons learned to explore offering more courses virtually and on demand to afford more access.

On the currency of our airmen to execute the mission, OSI has averaged executing over 3,000 law enforcement tied investigations annually over the past 5 years. This operations tempo teamed with field commands staffed with senior agent leadership and subject matter experts, as well as specialist squadrons with on-call expertise for traditional and digital forensics, among others, helps keep our agents' currency levels high.

On the issue of experience levels of our force to conduct highly complicated cases, in October 2020 OSI launched a study to examine experience levels and explore ways to better posture our less experienced members across the command. Recommendations from this review will better distribute probationary agents and ensure units with broad mission application and a higher percentage of probationary agents will be augmented with newly established field training agents. We also reviewed the experience levels of our field

leadership. Our region commanders, colonels who are themselves special agents, average 23 years of OSI experience, and subordinate commanders, captain through lieutenant colonel and GS-14s, who are also special agents, average 13 years.

Specific to collaboration, the Fort Hood report reinforced three OSI partner-based initiatives with departmental entities to institutionalize best practices in criminal and fraud-related matters. These initiatives are designed to drive deeper partnerships with our judge advocate and security forces teammates on investigations, as well as foster closer ties to agencies best placed to detect fraud.

Every month, OSI reviews measures of sufficiency and timeliness of our investigations. Overall, we feel our timeliness is solid, but we are further reviewing to ensure our metrics most accurately capture the timeliness of the more complex sexual assault investigations we conduct. We also assess the sufficiency of our investigation is solid, both by our own monthly oversight program and independent reviews like those done by the DOD [Department of Defense] Inspector General and the Defense Advisory Committee on Investigations, Prosecution, and Defense of Sexual Assault in the Armed Forces. These reviews routinely report OSI cases are overall sufficiently run, but we fully realize that there is always room for betterment, and we are dedicated to that continuous improvement. I recently requested a review of our oversight program to ensure it meets our needs for both rigor and sufficiency.

Members of the subcommittee, on behalf of the men and women of OSI, thank you for the opportunity to provide insight into some of the exceptional work our members do every day to protect the Department. As an organization, OSI has never been satisfied with the status quo and has always sought to pursue improvement.

I look forward to your questions and the dialog that they will drive among the panel, as we all work to improve our processes to best support the DOD. Thank you.

[The prepared statement of General Bullard can be found in the Appendix on page 63.]

Ms. SPEIER. Thank you.

Mr. Lopez.

STATEMENT OF OMAR LOPEZ, DIRECTOR, NAVAL CRIMINAL INVESTIGATIVE SERVICE

Mr. LOPEZ. Good afternoon, Chairwoman Speier, Ranking Member Banks, and distinguished committee members. Thank you for the opportunity to appear before you today to discuss the Naval Criminal Investigative Service and our efforts to address the scourge of sexual assaults in the Department of the Navy. I am honored to be representing the dedicated men and women of the NCIS stationed throughout the world supporting our warfighters on the Navy and Marine Corps team.

As the Director of NCIS, I am a career civilian special agent and a member of the Senior Executive Service, who reports directly to the Secretary of the Navy. This historical alignment continues to ensure NCIS's independence from perceived or actual undue command influence over investigative decisions. I am proud to lead a comparatively small but elite workforce located around the world

in 19 field offices, 191 satellite locations, in 41 different countries. NCIS special agents are also deployed to conflict areas around the world and serve aboard all carrier strike and amphibious readiness groups.

Since 1992, NCIS has organized itself in a manner similar to the FBI with a civilian director who leads both a criminal investigative and national security mission. NCIS special agents also possess civilian arrest authority, can seek Federal and State warrants, and are able to operate effectively and seamlessly both on and off military installations.

The current NCIS manpower structure evolved in the early 2000s following the attack on the USS *Cole*, shifting heavily toward force protection missions, supporting expeditionary forces, and covering 100 percent of Navy ship visits to foreign ports. In addition, NCIS, in consultation with Department and congressional stakeholders, later focused efforts on protecting critical Navy and Marine Corps technology and significantly expanded efforts in cyberspace, and now in combating the threat of domestic terrorism.

Over the last 8 years, sexual assault cases worked by NCIS have more than doubled. Despite this increase, departmental shifts and budget constraints have resulted in NCIS manpower being reduced over this same time period. However, NCIS, in coordination with Department and service leadership, has worked to surge resources from other non-intelligence funded programs to ensure that all allegations of sexual assault are fully investigated in a timely and thorough manner.

In maintaining this surge, NCIS has focused heavily on two key issues: improving the quality of investigations and reducing investigative timelines. This has resulted in a very robust case oversight system and significant reductions in timelines over this same period.

Due to the expeditionary nature of NCIS support to Navy and Marine Corps forces around the world, NCIS now requires that all special agents receive mandated DOD sexual assault training while attending our add-on academy at the Special Agent Program for Federal Law Enforcement Training Center. This allows us to leverage the full versatility of the criminal investigator job series, ensuring an immediate response to allegations of sexual assault anywhere in the world at any time, both at sea and ashore.

This great agility comes with long-term risks associated with this unrelenting operational tempo, the degradation of support to other critical mission areas and the long-term retention of these highly experienced investigators. Departmental and service leadership is well aware of this and is carefully working with NCIS to manage this risk.

Following the release of the Fort Hood Independent Commission report, NCIS undertook careful examination of its applicability to all parts of the NCIS enterprise. While this review is still ongoing and the majority of the report did not directly speak to NCIS structure, we did determine that there were many recommendations and areas for our improvement and focus.

Members of this committee, I thank you for the opportunity to provide some insight into the exceptional work our members do every day. Our solemn commitment to justice for all sexual assault

survivors continues to be one of my highest priorities as director. Through strong partnerships with SAPRO [Sexual Assault Prevention and Response] and service leadership, NCIS will continue to seek the technology and manpower investments needed to maintain its unwavering focus on thorough and timely criminal investigations, particularly those involving allegations of sexual assault and violence.

I welcome your questions and feedback, which will enable us to continue making positive strides towards addressing reforms within the military criminal investigative enterprise. Thank you.

[The prepared statement of Mr. Lopez can be found in the Appendix on page 70.]

Ms. SPEIER. Thank you, Mr. Lopez.

Let me go to you first. How many civilians do you have within NCIS?

Mr. LOPEZ. For inside of the special agent corps, 1811s who are doing criminal investigations, we have 753.

Ms. SPEIER. And what percentage is that?

Mr. LOPEZ. Of the whole agency?

Ms. SPEIER. Of civilian versus military.

Mr. LOPEZ. Oh, they are all civilian, ma'am.

Ms. SPEIER. They are all civilian. And you, at one point, had a structure that was very similar to the Army. What triggered your change?

Mr. LOPEZ. Back in 1991, there was an incident called the Tailhook incident that many people may be familiar with. As a result of that, there were some legislative actions as well as Department of Defense actions that resulted in separating NCIS. We went from being the NIS [Naval Investigative Service] to the Naval Criminal Investigative Service and a civilian director was appointed to lead it and civilianize the entire structure.

Ms. SPEIER. And Tailhook dealt with sexual assault of sailors, correct?

Mr. LOPEZ. That is correct, ma'am.

Ms. SPEIER. All right. Thank you.

General Bullard, what is the percentage of civilian to military within OSI?

General BULLARD. Representative Speier, we have approximately 475 civilians. My enlisted airmen are 1,053 special agents and my officers are 290.

Ms. SPEIER. All right. Thank you.

General Martin, what experience do you have conducting criminal investigations?

General MARTIN. Chairwoman Speier, I am not a criminal investigator. I am a military police officer by trade. I have 32 years of military service in a criminal military police role.

Ms. SPEIER. All right. So, General, you indicated two specifics in your opening remarks that you have taken as a result of the Fort Hood report: one to create a mentoring program for female soldiers and a new sexual assault training program called SWAT. I must tell you, I am truly disappointed that that is the extent of what you have gleaned from the report.

Let me ask you this: have you established a system to track the progress of specific and measurable goals, objectives, and metrics

as it relates to timely investigations, drug-crime suppressions, crime reduction, task force and joint investigative activities, staffing, and training?

[The information referred to can be found in the Appendix on page 87.]

General MARTIN. So, Chairwoman Speier, I will tell you that, first, let me correct the record. Those initiatives were taken by Fort Hood and the Fort Hood leadership. As a result of the Fort Hood independent findings, my command started a bottom-up assessment of the entire command, looking at the findings, and then, making an assessment of those capacities and capabilities that we needed in order to build a——

Ms. SPEIER. Well, let me ask you this: what percentage of the special agents at Fort Hood have less than 2 years experience now?

General MARTIN. And so, as I look at those demographics, at Fort Hood currently the number of agents with zero to 1 year is 12.

Ms. SPEIER. How about zero to two?

General MARTIN. Zero to three years, right, the category I have, is 21.

Ms. SPEIER. Twenty-one percent or 21——

General MARTIN. Twenty-one total number.

Ms. SPEIER. Twenty-one. So, how does that relate to the 92 percent? All right. What I would like for you to do is provide us separately a breakdown of what steps you have taken to respond to the report request that no more than 50 percent be journeymen or apprentices; what you have done to reduce the number of apprentices providing special agent services; what percentage are more than 3 years. Have you furnished mobile phone tracking expertise, social application, licenses and equipment specifically to that base?

[The information referred to can be found in the Appendix on page 87.]

General MARTIN. So, Chairwoman Speier, yes, that is complete.

Ms. SPEIER. So, there are now three licenses there?

General MARTIN. There are a total of seven licenses at Fort Hood.

Ms. SPEIER. And they have been renewed?

General MARTIN. All of them were not expired.

Ms. SPEIER. Well, according to Mr. Swecker, of the three, only one was operational at the time of disappearance of Specialist Guillen.

General MARTIN. And so, Chairwoman, the difference is the capability that was at the battalion level and the digital forensic cell, and that cell was not used by the detachment.

Ms. SPEIER. And that is no longer the case then?

General MARTIN. No, it is not.

Ms. SPEIER. Have you established an MOU [memorandum of understanding] and have begun embedding special agents with local law enforcement in Killeen and other areas?

General MARTIN. And so, Chairwoman, the requirement for an MOU is really not necessary. It is an inherent business practice that we have those partnerships with local, State, and Federal law enforcement.

Ms. SPEIER. Well, with all due respect, General, the Killeen sheriff, I believe, said that he presented a PowerPoint to the leadership

at Fort Hood wanting to do more work together, and they received no response to that. There are a hundred soldier cases that Killeen has presently, or at the time of this particular report, and many more who are victims who are outside the base, but are soldiers at Fort Hood. And there was no work being done together.

General MARTIN. And so, Congresswoman, I am happy to report that that is being addressed currently. And so, with the new 89th MP Brigade commander on the ground now, he has established those cells. CID is a part of those cells. And so, criminal intelligence fusion is being done with State and local law enforcement and with the law enforcement on the installation.

Ms. SPEIER. All right. Thank you.

Ranking Member Banks.

Mr. BANKS. Thank you, Madam Chair.

General Martin, good to see you again.

You talked about the bottom-up review. Tell us about the scope of the bottom-up review.

General MARTIN. So, thank you for the question, Congressman. One of the things that we wanted to look at was we wanted to look at experience of our agents. We wanted to look at how long our agents were staying on station. And so, some of the very immediate things that we did was extend our agents' time on station. And so, agents can stay up to 5, 6 years on station.

So, we also looked at those capabilities that our agents needed in order to execute these crimes. And one of our options—and the COAs, our courses of action, have not been briefed yet to Army senior leaders, but one of our COAs would add up to 300 1811s across our command to help fill some of those capability gaps that we currently do not have.

Mr. BANKS. So, was the bottom-up review just for Hood? Was it other posts? Full of Army? What was the scope of it?

General MARTIN. The scope is the entire Army.

Mr. BANKS. Okay. Fort Hood's number of open sex-crime cases warranted three times the number of sexual assault investigators than what they were allocated. What is the Army doing to ensure that allocations for SAIs are representative of caseloads in the future?

General MARTIN. So, for all of those cases, in our assessment we did we found that those requirements for investigators was much higher. And so, as a part of that assessment, we will grant those offices more 1811 investigators to execute those criminal investigations.

Mr. BANKS. Okay. Tell me, in your opinion, what is being done, or what have you seen, what effort is there to rebuild relationships with the Fort Hood community and improve the cooperation with local law enforcement?

General MARTIN. And so, as the Provost Marshal General, I am in charge of law enforcement policy across the Army. And one of the initiatives we are doing right now is a community policing initiative. And what that does is it strengthens the bond between the community and the policing force. And so, we have done things like bicycle patrol to put police in the presence, daily contact with the public. And so, we are using those initiatives to help build trust locally.

Mr. BANKS. At Fort Hood?

General MARTIN. At Fort Hood and many installations across the Army.

Mr. BANKS. Anything specific to Fort Hood that you can tell us about that you have done to repair the relationships locally there?

General MARTIN. And so, at Fort Hood, one of the things that our agents are doing is participating in this criminal fusion initiative that has been running at the installation. We are improving our relationship with local/State law enforcement every single day. And so, we are working hard to rebuild those relationships and we are working hard to ensure that the community feels that they are safe.

Mr. BANKS. Okay. That all sounds good, and those are things I would hope that we would be doing everywhere anyway. But I am not hearing a specific answer about a specific effort at Fort Hood to repair damaged relationships, that there should be an extra effort or strategy. I hope that you will take that back and give us more of a specific answer to that question. Do you believe that tools like the Disciplinary Control Board could be useful in preventing crime off-post?

General MARTIN. Yes, Congressman, and as a senior mission commander at Fort Leonard Wood, I used that specifically for that purpose.

Mr. BANKS. And what has been done to systematically improve case tracking, particularly for sex crimes?

General MARTIN. I will have to take that one back for the record as well, Congressman.

[The information referred to can be found in the Appendix on page 89.]

Mr. BANKS. Okay. Then, a last question for all three of you: What are the most useful field skills taught in each of your training curriculums, and what is something that you wish you could do more of that you aren't resourced to do right now? Mr. Lopez, we will start with you.

Mr. LOPEZ. Thank you, Ranking Member Banks.

I think one of the biggest or most useful capabilities that we have is our ability to direct hire. That gives us a very critical capability to really look for diversity in our workforce. We are able to go out and hire, for instance, expert investigators. We have brought people over from different agencies, local sheriffs. We bring over people from the Secret Service, from FBI, from other locations.

And so, when they come to NCIS after they go through our academy, they can kind of hit the ground and be a little bit more seasoned and experienced investigator, because, oftentimes, with the way in which we support the expeditionary forces, we are out there alone. There may only be one or two people or an agent afloat on a carrier. And so, they have to be able to do everything. So, that is one piece I think is really helpful for us.

The other, just in terms of resourcing, I think the threats are becoming more and more asymmetric, and I think it is very hard to define threats in the computer cyberspace, whether it is terrorism, as being one type of threat or another. And I think that we need to really continue to look at things in a very multidisciplinary way and approaching it from kind of a holistic government. I think task

forces and working on different environments, whether it is on the JTTF [Joint Terrorism Task Force] or other types of task forces, really is the key to combating the threats to the Navy and the Marine Corps.

Mr. BANKS. Okay. My time has expired. If both the Army and the Air Force can respond on the record, we would appreciate it very much.

The chairwoman has given me the liberty of allowing you to answer that question on the record.

General BULLARD. Absolutely. Thanks for the question, Representative Banks.

So, I would say our strength is in the diversity of our composition. I look at our civilian agents, our enlisted agents, our officer agents, what they bring each day to the composition at the detachment level, at the squadron level, and up through the command level, and the various ways, the background that they bring in to look at a particular investigation. So, that is absolutely one of the things that I have cherished as a detachment commander two times where I have had that composition; I have had that mix of civilian agents and military agents in the office to look at specific investigations. And then, I would absolutely transition even to our deployed mission set, where, again, that composition within our team gives us the ability to really look at some things through different perspectives and bring in different experience when we are tackling these problems, which, of course, problem solving is at the base of what it is we do.

From a challenge standpoint, I would absolutely agree with Director Lopez that the cyber environment presents a very unique, very complicated challenge, as we look at the authorities that we have, as we look at the talent that we have on hand, and how we tackle that problem with agents who have that cyber experience and some of the unique ways we are looking to get after that in partnership with the Air Force. And bringing in our cyber operators to partner with our agents is one way that we are tackling that, but it is definitely something in the future we are going to have to keep our eye on.

Mr. BANKS. Thank you.

General Martin.

General MARTIN. Yes, Congressman, I believe our strength lies in our people as well, their desire to execute crimes and to give our family members/our soldiers a safe environment in which to work. I believe that desire and that passion is there. So, the strength is definitely our people.

I think we are very challenged by resources. We have not had significant structural change inside of CID since pre-9/11, and yet we have had significant quadrupling cases of sexual assault. We have also had challenges and mission increase with the number of years now that it is required to maintain and retain evidence. We also have had a demise and a degradation of our military police structure. And so, that effort to prevent crime has been degraded over the years. And those present a challenge to us.

Mr. BANKS. Thank you. My time has expired.

Ms. SPEIER. Just a very brief question. Should CID or OSI or NCIS be providing the protective services as part of their function or should that be an MP function?

General BULLARD. So, Chairwoman, I can start with that question. I will tell you from our perspective, the way that OSI is built with our civilian 1811s, with our Federal law enforcement mandate, our engagement off-base, our level of training, I believe that the mission set is properly set for us.

However, what we have done is transition our model to OSI agent-led, but security forces members providing most of the manpower. So, the Air Force just recently approved 54 security force member billets in order to allow us to flesh out those details, still have agents in charge of the details themselves. But that actually allowed us to recoup a number of special agent positions back to the command in order to be able to put them back against investigative duties.

Ms. SPEIER. Mr. Lopez.

Mr. LOPEZ. Thank you, Chairwoman Speier.

Similar to General Bullard's comments, we have been doing it for a long time, the way he just described. We have 1811 special agents who are in charge of the details, whether it is in theater or whether it is domestic. And then, we use Navy and Marine Corps security forces, MAs [masters at arms], police officers that we train to do the support to those details.

Ms. SPEIER. All right. General Martin, my understanding was that there was actually someone pulled away at Fort Hood from the investigation in the Vanessa Guillen case to do a protective role for a period of a month. Maybe I am confusing the cases. Maybe it wasn't Vanessa Guillen; maybe it was another one. Are you changing that?

General MARTIN. Chairwoman, it is absolutely an option that we will look at and we will ensure that, once investigators start on a case, they are in that case from cradle to grave.

Ms. SPEIER. All right. Thank you.

Ms. Escobar, you are recognized for 5 minutes.

Ms. ESCOBAR. Thank you, Madam Chair.

Many thanks to our panel.

General Martin, I want to thank you for the work that has been done, but I agree with our chairwoman, there needs to be, in my view, a really robust effort. Because, as I mentioned to the first panel, what we are seeing is the tip of the iceberg. This is just what is being made visible to us, these cases. And I think that we are in a state of crisis in many regards.

I am curious, did you, in your fact-finding role, did you review Fort Bliss?

General MARTIN. Congresswoman, we reviewed every military installation.

Ms. ESCOBAR. Can you share with me what you discovered about Fort Bliss, what your thoughts are, and anything that you can share?

General MARTIN. So, as we looked at those installations that were division or corps, or it had a division or a corps—and Fort Bliss has a division—we recognized that they also need additional resources. And so, our options would lead to additional 1811s, civil-

ian investigators; also, additional assistant special agents in charge, or those ASACs, at division installation level. We also looked at additional drug investigators at our division installations.

And then, we also want to look at the prosecution and how we support prosecutions. And so, one of the options that we are looking at is actually building prosecutorial teams that consist of dedicated agents that work with trial counsel to bring cases to trial.

Also, across the board, we looked at that we needed about 30 civilian support agent personnel to take care of the administrative and the logistics functions and the technology functions that happen at the corps and the division installations. And as well, to take away some of those administrative burdens, we are going to put captains, military police officers, in charge of our offices to lead those administrative-type functions, to free up our investigators to do investigations.

Ms. ESCOBAR. Did you find—I mean, this is definitely the case at Fort Bliss—but did you find, or actually, what did you find with regard to backlogs, the backlog of cases? So, cases that are ready to go, but just they are languishing.

General MARTIN. So, I don't have that data, Congresswoman, but would be happy to provide that to you.

[The information referred to can be found in the Appendix on page 89.]

Ms. ESCOBAR. Okay. I really would like to better understand how quickly those cases are moving. As the ranking member mentioned, the feeling that justice delayed, it absolutely is justice denied, especially when the women that I have been hearing from feel like the inaction is a signal. It is a signal that their leadership doesn't care. It is a signal that the system doesn't care, and it is a signal that they remain vulnerable.

And I feel almost as though the backlog issue is a major red flag because, as we heard with the prior panel, one of the issues, also, is those serial offenders, those offenders that continue to prey upon our service members. And I have a suspicion that a part of that, you know, part of why they feel that they are able to do that is because they feel that there is no accountability.

And so, if you could please share that information about the backlog with us, I really do feel like that is one of those areas where we need to do a deep dive and understand the consequences of it, in addition to how we address it, and how we prevent the backlog. I do believe that that is an issue at Fort Bliss.

In my remaining 30 seconds, if you could just tell us a little bit more about the female mentorship program. Every time I visit an installation or talk to female soldiers, they are hungry for this. But I want to know, will it be a meaningful, sustained, resourced program?

General MARTIN. And so, the female mentorship program that is currently being worked at Fort Hood is the brain child, started, actually, at Fort Lee. And so, a group of female officers developed a program called the FMMP. It is a Female Mentorship Morale Program. And that program gave women a forum in which they could get together and talk about some of these concerns.

It also focused on professional development and other things that were of concern to women. It was a safe space for them to talk. And

so, that brain child at Fort Lee has now graduated and is actually spreading across the Army, and we will start at Fort Bliss, actually, as well, in 1st AD [Armored Division].

Ms. ESCOBAR. Thank you.

Madam Chairman, I am out of time. I yield back.

Ms. SPEIER. The gentlelady yields back.

The gentlewoman from California is recognized for 5 minutes.

Ms. Jacobs.

Ms. JACOBS. Thank you so much, Madam Chair.

In light of the criticism of CID, what would you tell a young soldier looking to become an MP or a CID agent?

General MARTIN. Thank you for the question.

I would tell a young soldier that, if you have an inquisitive mind, I would tell you that if you want to solve crime or if you think that you want to make a difference, then being a part of CID or being a part of the military police regiment is for you.

Ms. JACOBS. Thank you.

And can you tell us why military agents play such a critical role in the CID?

General MARTIN. Military agents play a critical role, especially in our deployed role. And so, part of our mission is sensitive-site exploitation. We also do logistic security, and logistic security ensures that equipment that is critical on the battlefield moves from port to theater and is safely transported for our warfighters.

And then, we also execute wartime crimes, the criminal crimes during wartime. So, military agents help us and give us the ability to execute that role.

Ms. JACOBS. Thank you.

Could you talk a little bit more about how their agents gain experience and what some recent CID success stories are?

General MARTIN. I would love to. So, our agents, about 45 percent of our agents have bachelor's degrees already before they come in. But our CID agents go to the United States Army Military Police School for a 14-week course there. And the Military Police School is also accredited by the same board that accredits the Federal Law Enforcement Training Center.

And they train agents in the subjects of criminal law, crime scene processing, testimonial evidence, fraud, investigative reports, special investigative techniques, crimes against persons. And then, our agents, as they progress in their careers, much like my fellow MCIOs, they also go to those advanced training skills at FLETC [Federal Law Enforcement Training Centers] as well as we go over to the Canadian law enforcement agency, and we do other training in other schools.

Ms. JACOBS. And are your agents trained to handle same-sex sexual assault investigations?

General MARTIN. Absolutely. Our agents are trained and they are absolutely capable of investigating crimes against same-sex persons.

Ms. JACOBS. Thank you.

And my last question is just if the Fort Hood Independent Review Committee sought your perspective or that of anyone in senior CID leadership positions as they were working on their report.

General MARTIN. And so, there were members of my agency that were attached for providing records to the Fort Hood Independent Review. But, as far as an interview with me, no, there was no interview. Thank you.

Ms. JACOBS. Okay. Thank you so much.

And, Madam Chair, I yield back the remainder of my time.

Ms. SPEIER. The gentlewoman yields back.

The gentlewoman from Texas, Ms. Garcia, is recognized for 5 minutes.

Ms. GARCIA OF TEXAS. Thank you, Madam Chair.

And I will start with Major General Martin. Major General, I just want to be clear. I know that I asked a question of the chairman of the previous panel, the question about the continuity of investigation when that agent was pulled away. And I think it says that he left his duties pursuant to his permanent change of station to another post in the middle of Guillen investigation. And then, in response to the chairwoman's question, you said it would be an option for them not to do that, to follow it from cradle to grave.

I mean, that doesn't sound like a commitment to change that to me, when you are saying it will be an option. Wasn't it an option before? I mean, can you commit to us today that that will change and that an investigator [who] starts an investigation, especially one as complex and critical as the Vanessa Guillen case, that they will finish it through?

General MARTIN. Chairwoman, I will make that commitment to you, that, yes, when an agent is involved in a complex criminal investigation, they will remain on station.

Ms. GARCIA OF TEXAS. They will? All right.

And I want to ask the same question. Does the Air Force have the same policy? And, of course, NCIS also.

General BULLARD. Representative Garcia, I think it is a very individual question by each unit, having been a detachment commander two times and looking at turnover and what we do in projecting for investigations, how they are going to be handled. Is there going to be a transition? Do we stop that agent from initiating new cases as a case agent?

Ms. GARCIA OF TEXAS. But do you have a policy or practice in place that covers that?

General BULLARD. We do not have a policy. It is a leadership-driven—

Ms. GARCIA OF TEXAS. Is there a policy or practice that, if they ask for a waiver, so that they could stay, that it would be granted?

General BULLARD. Representative Garcia, absolutely.

Ms. GARCIA OF TEXAS. All right.

General BULLARD. Absolutely. That is a discussion with leadership.

Ms. GARCIA OF TEXAS. Thank you.

NCIS.

Mr. LOPEZ. Thank you for the question. There isn't a specific policy, but it wouldn't happen. They would stay and work the case.

Ms. GARCIA OF TEXAS. Thank you.

The other thing that really troubled me was the case file also revealed that off-post suicides and deaths were not fully investigated by CID. I mean, it is just awful to think that CID would not look

at offsite suicides. And as we learned during our last visit with some of the sheriffs and law enforcement locally, as the chairwoman again pointed out, there didn't seem to be a lot of cooperation. Is that normal?

General MARTIN. No, Chairwoman—I am sorry—Representative Garcia, that is not—

Ms. GARCIA OF TEXAS. No, there is a chairwoman.

General MARTIN. I am sorry. That is not typical. So, that relationship is a jurisdictional issue. So, if a suicide or a case happens off the installation, we do a collaborative investigation with the local law enforcement in every case. Our 1811s have that authority to conduct those cases. But our military agents—

Ms. GARCIA OF TEXAS. I am sorry, I don't know what an 1811 is.

General MARTIN. Our civilian investigators.

Ms. GARCIA OF TEXAS. All right.

General MARTIN. So, they have those authorities off post. Our military investigators do not.

Ms. GARCIA OF TEXAS. No, I know about jurisdiction, but you still would not go out there and work together with the sheriff or the constable or the police chief of that area?

General MARTIN. That is correct, we would go out and work with them. And then, we would fulfill any requirements that they have on the installation; for example, to conduct any interviews with any service members at that time. That is what we would do to help an investigation on the installation.

Ms. GARCIA OF TEXAS. Is it normal in the Air Force?

General BULLARD. Representative Garcia, we have policy in place that we investigate all Active Duty deaths, regardless of where they occur.

Ms. GARCIA OF TEXAS. Regardless? So, you work together with the law enforcement in the community if it is off base?

General BULLARD. Absolutely.

Ms. GARCIA OF TEXAS. NCIS.

Mr. LOPEZ. We have the same policy as the Air Force.

Ms. GARCIA OF TEXAS. And is that a new policy or is it longstanding? It just seems odd that the Army just was not completely aligned with that.

Mr. LOPEZ. It is longstanding, ma'am.

Ms. GARCIA OF TEXAS. Longstanding?

Well, that brings me to my last question. Do you all ever get together to compare notes, best practices, to make sure that, whether it is a post or a base, that no matter where the soldier is, that they are safe? Because it just troubled us, again, when we visited Fort Hood, when we asked people, when we had the townhall with spouses and family members, how many felt safe. Nobody felt safe. Remember, Chairwoman, nobody raised their hand?

Ms. SPEIER. Will the gentlelady yield?

Ms. GARCIA OF TEXAS. Yes, ma'am.

Ms. SPEIER. One case, in particular, a mother talked about keeping a gun on a shelf in the kitchen because she was afraid on base and needed it to protect herself.

Ms. GARCIA OF TEXAS. I mean, is that normal? All three of you? I mean, their families have to feel safe. The soldiers have to feel

safe. Our families have to have a level of trust and confidence that they are safe.

General MARTIN. No, that is not normal for a family to feel unsafe on our military installations.

Ms. GARCIA OF TEXAS. A whole room full of families felt unsafe, ma'am, at Fort Hood.

General MARTIN. I understand, and we are going to work really hard to ensure that our families feel safe on the installation.

Ms. GARCIA OF TEXAS. Air Force.

General BULLARD. Representative Garcia, that is not what I would expect to hear from a military family on an Air Force installation. And we certainly work with base leadership, with our security forces partners, to make sure that that is not the case.

Ms. GARCIA OF TEXAS. Thank you.

NCIS.

Mr. LOPEZ. Yes, ma'am, it is the same for NCIS. We work closely with base leadership, and, in fact, we partner often with Air Force and Army locations where they have a facility and we will work out of their facility. So, we are in close contact with each other in terms of working together. So, that would not be something normal on any Navy base.

Ms. SPEIER. The gentlewoman's time has expired.

Ms. GARCIA OF TEXAS. Thank you, Madam Chair. I yield back.

Ms. SPEIER. The gentleman from Massachusetts, Mr. Lynch, is now recognized for 5 minutes.

Mr. LYNCH. Thank you, Madam Chair. I do really appreciate the courtesy of you allowing me to participate in this hearing, and thank you for all your great work. I really do appreciate it.

I thank the witnesses for their willingness to help the committee with its work.

I represent Brockton, Massachusetts, and specifically, I represent the family of Elder Fernandes. Sergeant Fernandes met an untimely death by suicide at Fort Hood. His remains were found on August 25th, 2020.

And CID was involved in an investigation prior to that surrounding Sergeant Fernandes' claims of sexual assault on the base, and obviously, remains involved in the overall case surrounding Sergeant Fernandes' death.

And I want to tell you, Sergeant Fernandes filed a complaint against his superior officer for sexual assault. And when Sergeant Fernandes went missing, I had contacted the family and expressed the willingness to travel to Fort Hood to help them find their son. However, by the time I got there, his body had been recovered. And so, even though I wasn't able to help them in that respect, I tried to help them get answers from CID.

And the day that I arrived, it was only a matter of days really from when Sergeant Fernandes had made the complaint of the sexual assault. But, in that short period of time—it might have been over a week, but not 2 weeks—CID had conducted an investigation of all relevant witnesses, all relevant testimony. They had conducted a polygraph of the accused officer. And the day that I arrived, they rendered a decision that they did not sustain the complaint. They dismissed the complaint against that superior officer.

But, to this day—to this day—we haven't received the report of what happened to Sergeant Fernandes from CID. We have got the report from the Temple Police Department, because that is where he expired. And we have the investigation results from Killeen, Texas. But, to this day—this is a young man whose body was discovered on August 17, 2020—and we don't have the report.

So, Madam Chair, if I could, I would like to enter into the record a letter from the attorney for the Honorable—excuse me. This is to the Honorable John E. Whitley, the Acting Secretary of the Army, and it is from Attorney Lenny Kesten, who is with Brody, Hardoon, Perkins & Kesten, LLP, representing the family. And they have some important questions there that I think need to be answered.

And so, my question to you is, why—

Ms. SPEIER. Without objection, it will be admitted into the record.

Mr. LYNCH. Thank you, Madam Chair.

[The information referred to can be found in the Appendix on page 83.]

Mr. LYNCH. So, the investigation to exonerate the officer was completed in days—days—including polygraph, which I question the integrity of that process. We don't even allow that in Federal court. But relying on a polygraph, you were in a rush to determine that the superior officer was not held to account. But when the family is looking for information about the disappearance of their son, it is taking forever, even though the local police have submitted their investigation and their report. Temple/Killeen, Texas, have both been forthcoming.

It is taking forever for CID to give the family the information regarding the death of their son. And I don't know if you are just trying to outwait us. I don't understand the pace of discovery here. It has been a long, long time for that family to be suffering and looking for answers for their son. We have got to do better than this.

So, why has it taken so long to give the family the information regarding their son's death?

General MARTIN. Representative Lynch, I don't believe that there has been a request for those records, and if there has, I would happily assist the family in receiving the report from CID.

Mr. LYNCH. Wait a minute. Wait a minute. When I was there, we asked for information in person. I believe you are one of the panel. I asked for the information. And then, the family requested it in writing.

Do you think that a family should have to—I mean, let's set aside the fact that we asked for the information and that is on the record in writing and personally. And I brought the family into the hearing, into the meeting, with CID at the time. They had nine officers working on this from CID. We asked for all that information.

But to suggest that the Army didn't know the family wanted to know the details of their son's disappearance and death, really? Is that a legitimate question?

General MARTIN. Representative Lynch, I will personally look into that.

Mr. LYNCH. Are you trying to say that the Army didn't know or didn't imagine that the family would want information regarding their son's death and disappearance? I mean, think about that.

Ms. SPEIER. The gentleman's time has expired. We will allow General Martin to respond.

General MARTIN. Representative Lynch, I will personally take that and I will ensure that the family gets the CID report.

Mr. LYNCH. Thank you, General. I appreciate that. Thank you.

Ms. SPEIER. All right. Each of you has referenced the fact that the caseload for sexual assaults has doubled, quadrupled. The numbers are skyrocketing. Do you have enough revenue or resources to provide the services necessary? And as the report had indicated, special victims' counsels [SVCs], which has been a huge success throughout the military, their caseload is like at 60 cases, which is far too many for a special victims' counsel to handle.

So, my question is, what resources do you need with the exponential increase in sexual assault cases? And have you also requested additional funding for SVCs? General Martin.

General MARTIN. Madam Chair, so our assessment would tell us that we need 20 additional special victims investigators inside of CID. We also are requesting in our reform effort to look at eight major case response teams. And these teams would be positioned at both of our groups, at Fort Lewis and at Fort Hunter Army Airfield. And so, that would give us an additional capability to surge capability on a major case with the expertise that is required. So, that major case response team would not only have special victims investigators, it would also include digital forensics experts and forensic science officers.

Ms. SPEIER. Special victims' counsels are a different function.

General MARTIN. That is correct, and they are controlled by the TJAG [The Judge Advocate General] of the Army.

Ms. SPEIER. And so, have you requested additional SVCs?

General MARTIN. I know that, currently, the TJAG is doing a bottom-up assessment of those capabilities as well.

Ms. SPEIER. All right. General Bullard.

General BULLARD. Representative Speier, we have identified the need for additional agents, additional analysts in support, individuals to be able to cover this increase in reporting that we have seen. We are in dialog with our Department now about obtaining those resources. So, that process is underway.

I cannot speak to the status of our special victims' counsels within the United States Air Force, but I know that we have a great partnership with them. But, just as General Martin pointed out, they fall within the span of control of the Judge Advocate General of the Air Force.

Ms. SPEIER. Mr. Lopez.

Mr. LOPEZ. Thank you, Chairwoman Speier.

To echo the Air Force, we have asked for manpower as well as technology investments. There is technology that we can utilize that would make some of these timelines even shorter; a lot of digital forensic evidence capabilities that continue to increase that I think would also help shorten timelines; tools that could be used to get into phones and other things faster than current technology. So, we are looking at that and exploring those investments because we think those could have direct correlation to timelines, as well as investing in additional manpower to get after the problem.

Ms. SPEIER. So, for each of you, would you make this subcommittee aware of what your requests are up the chain of command? Because our role is slightly different, but we want to make sure that these cases are promptly handled, that the resources are not an impediment in you doing your jobs. And if you need additional forensic tools, we need to know what they are, so that we can make sure that you are able to ascertain them.

[The information referred to can be found in the Appendix on page 87.]

Ms. SPEIER. Ranking Member Banks, any other questions?

Mr. BANKS. No.

Ms. SPEIER. There being none, all right, we want to thank you for your service. Thank you for being here today. What you do is incredibly important to the safety of our service members. If they don't feel safe, if they don't feel that there is the talent necessary to do the investigations, then we have failed them. So, I thank you all for being here and for your participation.

The committee stands adjourned.

[Whereupon, at 5:17 p.m., the subcommittee was adjourned.]

A P P E N D I X

MARCH 16, 2021

PREPARED STATEMENTS SUBMITTED FOR THE RECORD

MARCH 16, 2021

**Statement of Representative Jackie Speier
Military Personnel Subcommittee
March 16, 2021**

The hearing will now come to order. I want to welcome everyone to this hybrid hearing of Military Criminal Investigative Organization Reform Recommendations from the Fort Hood Independent Review Committee.

We will have two panels today. The first panel are members of the Fort Hood Independent Review who have firsthand knowledge of the findings and recommendations made and given to the Army. The second panels are the heads of each of the Service's investigative agencies who are here to tell us how their agencies work and could be improved.

The Fort Hood Report is required reading and revealed new challenges and new problems, but also, and more importantly, new solutions. Ultimately, it is a guidebook for how to create a smarter, safer, and more ready force.

One of the most important revelations of the Fort Hood Report are the much-needed reforms of the Military's Investigative Services, specifically, Army CID.

What the Independent Review committee found was startling:

"The Fort Hood CID is a training Ground." During FY2019, "58 of the 63 enlisted agents assigned to Fort Hood were apprentice agents who were fresh out of the 16 week CID Special Agent Course...and not fully accredited to conduct investigations solo." These young inexperienced agents were "checklist driven," focused on developing a complete case file rather than "identifying and working leads and suspects that are most likely to resolve cases."

"The average CID staffing at Fort Hood was approximately 65% and had dipped as low as 45%" in FYs 2018, 2019, and 2020.

"Fort Hood CID received almost no guidance and minimal support from the Battalion leadership."

"There was a serious and almost debilitating lack of continuity in the Fort Hood Special Agent ranks that hindered its overall mission."

The Fort Hood CID Detachment was over-assigned. "Fort Hood CID was found to have, by a large margin, the highest sex crimes caseload per Senior Special Victims Investigator (SSVI) with an average of 64.2 compared to 41.2."

Fort Hood CID Investigations were extremely long. "The yearly average days to complete an investigation between 2016 and 2020 ranged between a high of 214 days in 2016 to 115 in 2020." Sadly, "Victims seldom saw the outcome of their cases, and there was minimal deterrent value derived." Perhaps most disconcerting, is that "a large number of sexual assault cases were lost or dismissed at court-martial partially due to investigations that were rote and lack[ed] essential evidence."

And finally,

The Fort Hood Detachment was under resourced. There was a shortage of essential electronic forensic resources, an inability to maintain liaisons with local police, and a failure to support warrants.

And NONE of this would have come to light without the tragic deaths of so many individuals. Among them are Specialist Vanessa Guillen, Private First Class Brendan Wedel-Morales, Private First Class Scott Rosencrans, Sergeant Elder Fernandes, and Specialist Freddy Beningo Delacruz Jr. For them, their families, friends, and soldiers-in-arms, we MUST do better. We must hold leadership accountable, find solutions, and give the MCIOs the tools they need to make sure investigations are done right, completed in a timely manner, and are sufficient to hold criminals accountable at court-martial.

While the Fort Hood Report focused on CID, I believe that all of the MCIOs—CID, NCIS, and OSI will benefit by taking the Committee's findings and recommendations seriously.

I have said it before, and I will say it again, and again, and again: Until all the findings and recommendations have been put in place and Fort Hood is well on its way to being "The Great Place," it professes to be, I won't look away. I won't turn my back on our Servicemembers. I will ensure we keep our foot firmly on the pedal, until the Army turns itself around, and our servicemembers and their families are safe.

Because our Servicemembers deserve nothing but the best. The safest places to live and work; the best housing and medical care our nation can provide; the dignity and respect of their co-workers, leaders, and subordinates; and the most advanced, technically proficient criminal investigative services in the country.

Opening Statement
House Committee on Armed Services Subcommittee on Military Personnel

Hearing Title: Fort Hood 2020: The Findings and Recommendations of the Fort Hood Independent Review Committee
Date: Thursday, March 11, 2021 4:00PM
Location: Room 2118 Rayburn House Office Building

Chairwoman Speier, Ranking Member Banks, and Distinguished Members of the Subcommittee:

Thank you for the opportunity to appear before you to discuss the findings and recommendations of the Fort Hood Independent Review Committee.

The Secretary of the Army appointed five executive members who have broad expertise with organizational dynamics, the law, and government investigations, and a combined 75 years of experience as active-duty military and law-enforcement personnel. Other members of the team included five former FBI Special Agents all of whom have extensive post FBI experience in corporate security, risk management and investigations. We have four team members with us today to answer your questions, two in person and two by Zoom.

While the CVs of these team members have been provided to the Subcommittee to be made part of the record I would like to briefly introduce these members today.

Carrie Ricci is a retired Army JAG Officer who served three years at Fort Hood, including as a Trial Counsel, and is now a senior executive serving as Associate General Counsel for the US Department of Agriculture. Carrie conducted over 100 interviews of 1CD and 3CR soldiers, dozens of specialized interviews of key Fort Hood personnel and outside contacts. She also conducted group interviews consisting of 30-45 soldiers from various FT Hood based Units. As a FHIRC Committee member she co-authored the Final Report and has testified before this Subcommittee regarding the report.

Mary Counts served over 25 years as an FBI Special Agent and Supervisory Special Agent in the Honolulu, Washington DC and El Paso Field Offices as well as FBI Headquarters. She worked and directed investigations of drug cartels, gangs, crimes against children and kidnappings. In her role as a FHIRC team member Mary personally conducted 157 face to face interviews with female service members at Fort Hood, the majority of whom were assigned to the Third Calvary Regiment and the First Calvary Division. She also reviewed and summarized the results of all the focus group meetings conducted by members of the Executive Committee during their review, which included 1,817 service members of all ranks. In addition she reviewed a number of sexual assault case files provided by the Army Criminal Investigative Command (CID) at Fort Hood.

Andy Bland III is a 23-year veteran of the FBI. His final assignment was as Special Agent in Charge of the FBI's Houston office. He also served as the FBI's Senior-Level Executive Attaché in Baghdad, Iraq; as the Deputy Assistant Director of the Inspection Division at FBI Headquarters in Washington, DC and as Special Agent in Charge of the FBI Academy at Quantico, VA. He previously served as the Senior Vice President & Chief Security Officer for a Financial Services corpora-

tion for 11 years. Andrew holds a BS degree in Engineering from the United States Military Academy at West Point. He successfully completed both the US Army Airborne and Ranger Schools at Fort Benning, Georgia, and also led combat arms units in California and Northern Germany during the course of his six-year military career. Andy conducted over 100 interviews of 1CD and 3CR soldiers and reviewed in detail number of death investigations conducted by CID and developed some important perspectives in that regard.

I am the Chairman of the FHIRC. I am a former state prosecutor and served 24 years in the FBI, retiring as Acting Executive Assistant Director of the Law Enforcement Services Branch with responsibility for eight FBI Divisions including the Criminal Investigative Division, Cyber Investigations, International Operations, The FBI Academy and Law Enforcement Liaison. I also served as a Special Agent in Charge, Inspector and On Scene Commander of FBI Operations in Iraq. I currently practice law and conduct independent reviews as a risk and security consultant.

The Committee was directed by the Secretary of the Army to “conduct a comprehensive assessment of the Fort Hood command climate and culture [], and its impact, if any, on the safety, welfare and readiness of our Soldiers and units.” The relevant part of the Charter that we will address today includes the following: *Whether the relevant commands and units at Fort Hood (e.g., III Corps, 3rd Cavalry Regiment, the 38th and 43rd Military Police Detachments [Fort Hood CID Office] and 11th Military Police Battalion) are in compliance with all applicable policies and regulations regarding sexual assault prevention and response (SAPR) sexual harassment and equal opportunity.*

It is absolutely critical to understand the basic mission of CID in assessing its effectiveness. The fundamentals objectives of CID are set forth in Army Regulation 195-2 Section 1-6 titled Objectives. The relevant portions of this section state that the Objectives of CID are fourfold:

- a. *Ensuring known or suspected serious crimes and crimes which may result in damaging the public confidence in the Army are thoroughly and impartially investigated by USACIDC special agents.*
- b. *Participating in the Army crime prevention program by identifying areas which are especially vulnerable to crime and by making recommendations to appropriate authorities for elimination of conditions conducive to criminal activity. This USACIDC effort, in the form of crime surveys, includes the examination of all aspects of management and property and fiscal accountability in which malfeasance and misfeasance may occur. Additionally, the Army crime prevention program will be conducted when criminal conditions, either engaged in or directed against Army personnel, may affect troop health, discipline, and welfare both on and off military installations.*
- c. *Informing promptly appropriate authorities of facts uncovered during criminal investigations and crime prevention activities by preparing and submitting required reports in accordance with applicable directives.*
- d. *Maintaining a proactive criminal intelligence collection, analysis and reporting cycle to alert commanders to threats and criminal elements. Commanders who are provided with validated criminal intelligence can initiate appropriate force protection measures.*

As part of the command climate, the issues of crime rates and Criminal Investigation Division (CID) operations were examined. Members of the Committee interviewed various members of the 11th MP Battalion, relevant CID Commanders at FT Hood, CID Agents and dozens of CID stakeholders on and off then base including Police Chiefs, Sheriffs, District Attorneys and Federal Prosecutors, community leaders, The FBI, the Texas Department of Public Safety and the

Provost Marshall's Office. We reviewed all death and suicide investigative files and a broad sampling of sexual assault files. Dozens of data research and analysis products were conducted which provided highly relevant insights into CID operations and effectiveness.

Finding #4 in the Final FHIRC report stated that The Fort Hood CID had various inefficiencies that adversely impacted accomplishment of its mission. The FHIRC determined that the Fort Hood based 43rd Criminal Investigative Division (CID) detachment was understaffed, under-experienced, over-assigned and poorly supported leading to inefficiencies that had an adverse impact on investigations, especially complex cases involving sex crimes and Soldier deaths. The FHIRC determined that these inefficiencies are the result of staffing protocols and other policies and procedures that transcend Fort Hood CID.

It is important to note at the outset that this Finding does not challenge the competence, motivation, work ethic or on site leadership of the FT Hood CID. The issue is one of experience, resources, staffing methods and the CID business model.

A significant portion of the report addressed the role of CID in conducting prompt, thorough investigations of death, felony and sex crimes cases. Another important CID objective that was in scope was the role of CID in providing meaningful criminal intelligence analysis to Fort Hood Commanders to enable Commanders to formulate and implement prevention and mitigation measures. The FHIRC found that CID played no role whatsoever in addressing this important function.

In essence we found that the Fort Hood CID was a training ground. When considering the crime issues, the number of highly publicized death cases, the high number of sexual assaults and the other crime dynamics on the post this situation impacted investigative tempo, quality and timeliness of investigations, especially when a very complex case arose such as the disappearance of Specialist Vanessa Guillén. There were simply too few journeyman level Agents to work the complex sex crime and death cases while mentoring the large number of inexperienced and un-credentialed Special Agents who were constantly transferring in and out. There was minimal continuity and institutional knowledge at the Fort Hood CID. This also impacted outside law enforcement relationships as discussed below.

A significant factor in the inefficiencies noted was apparent in the Fort Hood CID's caseload numbers when compared to its peers. Fort Hood was found to have by a large margin the highest sex crimes caseload per Senior Special Victims Investigator with an average of 64.2 compared to 41.2. Fort Hood CID had the second highest caseload per Basic Special Victims Investigator (BSVI) when compared to installations of a similar size. (Chart 49 figure 2.)

CID and outside law enforcement and prosecution sources stated that due to the wholesale inexperience of the Agent cadre the investigations are "checklist driven" with emphasis on developing a complete file as opposed to identifying and working leads and suspects that are most likely to resolve cases. Investigative acumen and experience driven actions are lacking. The Commander/SAC and ASACs are competent and experienced, however they have burdensome administrative duties and also carry a caseload. They have very little time to mentor.

The inexperience of CID Special Agents was evident in CID onsite file reviews that FHIRC Members conducted of death/suicide and sexual assault cases from FYs 2018-2020. These reviews revealed some areas of concern as to investigative attention to detail, completeness and file documentation. With respect to the quality of investigations conducted by CID, file reviews revealed that the overall number of interviews of relevant personnel were viewed to be insufficient in terms of scope and quality. Moreover, interviews were generally pro-forma, shallow and lacking in the degree of depth/granularity re the identification and documentation of requisite details during the initial stages of their cases that could have generated viable, tangible leads to logically pursue on behalf of achieving positive investigative outcomes.

Consistent and definitive progress on behalf of many of these cases seemed to languish over time and was characterized by a notable lack of investigative vigor and/or a sense of urgency.

State and federal prosecuting attorneys and local law enforcement advised that there is little interaction between their offices and CID. Unlike other Army posts there are no CID Agents imbedded at any of the local police departments. They could not remember a true joint investigation they had done with CID despite the many overlapping jurisdiction cases involving Soldier subjects or victims. It was evident that none of the Chiefs or Sheriffs had met the previous CID C/SAC and were barely acquainted with the current C/SAC. Many described CID as a “closed book” because of its perceived limitations in sharing information. The FHIRC has determined that a well-crafted MOU and joint investigations would greatly enhance investigations of mutual interest.

It was discovered that the Killeen Police Department made a formal request to Fort Hood CID to imbed an Agent with them because they handle over 100 Soldier-subject cases a year and many victims are Soldiers. The Chief of the KPD produced a PowerPoint (PPT) presentation for the FHIRC which was used to support the request to CID. The presentation opened with the purpose of the request: “To develop a strong partnership with the Killeen PD and Fort Hood CID to allow for early identification of problems and rapid joint solutions reducing crime and violence involving US Army personnel” The PPT went on to describe the current state which described as ad hoc coordination. It was a well-reasoned and justified request, however, CID leadership advised a Member of the FHIRC that there were no Agents with the requisite skills and experience to imbed with local law enforcement. Another limitation was that any Agent who was assigned would be subject to a PCS.

Finally, the FHIRC determined that serious crime issues on and off Fort Hood were neither identified nor addressed. There was a conspicuous absence of an effective risk management approach to crime incident reduction and Soldier victimization. Despite having the capability, very few tools were employed at Fort Hood to do so. Both the Directorate of Emergency Services (DES) and the CID have a mandate and a role to play in crime reduction. Each contributed very little analysis, feedback and general situational awareness to the command toward facilitating and enabling such actions. This was a missed opportunity.

In short, the CID staffing and resource allocation model as it relates to Fort Hood does not work effectively to support the CID mission. There are not enough experienced Agents to provide continuity and institutional experience to work complex cases or be proactive in crime prevention. The Fort Hood CID needs to have a balanced mix of apprentice, experienced and journeyman level Agents to provide stability and ongoing expertise. There should always be a cadre of experienced

and highly experienced investigators to handle the over 340 sex crime cases and 20-30 death cases per year involving Fort Hood Soldiers. These are complex matters that involve forensic evidence, evidentiary warrants, evidence analysis and informed judgment about investigative strategy. The Fort Hood CID must be provided the capability to work joint investigations with their state, local and federal counterparts and not wait for a crisis investigation such as Vanessa Guillén to attempt to do so.

The FHIRC Final Report made 8 significant Findings and 70 Recommendations all of which were accepted by the then Secretary of the Army, Ryan McCarthy. A total of 11 Recommendations addressed CID operations, the most significant of which addressed the following:

- The Fort Hood CID should establish and track the progress of specific and measurable goals, objectives and metrics for their operations regarding timely investigations, drug crime suppression, crime reduction, task force and joint investigation activities, staffing and training
- The CID Command should evaluate its staffing model and personnel movement protocols for high tempo/high turnover CID offices like Fort Hood to ensure they are staffed at a level where they are capable of working complex cases on the installation, joint investigations for cases off the installation, engage in proactive crime suppression in conjunction with DES and Commanders especially drug incidents and competently and effectively handle the large volume of death and sex crime cases.
- CID should enhance the availability at the Detachment level of expertise, licenses and equipment related to forensic services, specifically related to the retrieval and exploitation of electronic evidence regarding mobile phones and laptops, to service the high volume of requests in a timely manner.
- CID Command should ensure that on the largest and busiest installation, the CID Office has an appropriate number of experienced Special Agents to handle complex investigations and mentor apprentice Special Agents.
- The USACIDC and the Army Department of Administrative Services should evaluate whether this requires a greater number of CID Civilian Special Agents (1811) civilian investigators for continuity and effectiveness in handling complex cases.
- CID Fort Hood should immediately establish MOUs with local law enforcement stakeholders such as KPD, Bell County and other stakeholder law enforcement partners to facilitate rapid notification and tracking of Soldier subjects and victims; conduct of joint investigations involving crimes involving Soldiers and cases of mutual interest; development of true Law enforcement partnerships; enhance day-to-day communication channels; exchange of crime information, criminal intelligence and crime analysis; identify establishments, neighborhoods and areas off post that were are high risk to soldiers;
- Using information and intelligence provided by CID and DES, Fort Hood should employ all the tools available to the Command to reduce crime such as drug suppression, declarations that high crime establishments are off limits, identification and banning of high risk activities and sites off post, barracks health and welfare checks, targeted law enforcement operations on base;

- CID should fully investigate all drug overdoses to determine the source of the drugs and the extent and nature of the soldier's and his/her associate's involvement in drugs;
- CID should fully investigate all death cases, including suicides on and off post to determine whether high-risk people, places or activities contributed to the death to inform responsible commanders and enable mitigation strategies to be formulated.

That concludes my statement and as the Chair of the FHIRC, we welcome the opportunity to field any questions, and with your concurrence I will direct them to the appropriate Committee Team Member as necessary, to ensure the Subcommittee receives fulsome responses.

Chris Swecker**Chairman, Fort Hood Independent Review Committee**

Chris Swecker has over 39 years of experience in criminal prosecutions, law enforcement, national security, legal, and corporate security/risk management positions. He currently manages a solo law practice and is CEO of a respected corporate security/risk management consulting company, Chris Swecker Enterprises. He has led independent reviews of Fortune 500 companies, Universities and law enforcement organizations.

Swecker served 24 years with the Federal Bureau of Investigation (FBI) before retiring as Assistant Director of the FBI's Criminal Investigative Division (CID) where he led all FBI criminal investigations including public corruption, corporate fraud, electronic crimes, money laundering, organized crime/drug trafficking and financial crime matters. He also led national task forces on corporate fraud, cyber crimes, violent gangs, mortgage fraud, crimes against children, public corruption and organized crime. In 2006 he was promoted to Acting Executive Assistant Director where he was responsible for eight FBI divisions including Cyber and Criminal Investigations, International Operations, The FBI Academy, Crisis Management/Hostage Rescue Team and Crisis Operations, Operational Technology, The FBI Forensic Lab and Criminal Justice Information Systems. This leadership scope was more than half of the FBI's total resources. In 2003 Swecker served as the FBI's On Scene Commander in Iraq. He led a team of FBI Agents conducting counter-intelligence, terror financing/international terrorism investigations including dozens of suicide bombing attacks on the UN headquarters and other targets occupied by US civilians. Swecker's team also created a task force that studied IEDs, assisted military components in tactical counter insurgency/terrorist operations. He acted as an advisor to the Coalition Provisional Authority (CPA), civilian and military leaders on terrorism, terror financing, security, intelligence and forensic explosives investigations. He was Corporate Security Director for Bank of America from 2006 to 2009.

Carrie F. Ricci, *Associate General Counsel, Marketing, Regulatory and Food Safety Programs Division (MRFSPD), Office of the General Counsel (OGC), U.S. Department of Agriculture (USDA), Senior Executive Service.* Ms. Ricci leads a team of 30 attorneys and professional support staff that provide legal services to both the Marketing and Regulatory Programs and the Food Safety mission areas of USDA. Prior to joining USDA, Ms. Ricci served as an Assistant General Counsel with the Department of Defense Education Activity, a field activity consisting of fourteen school districts servicing children in grades K-12 in locations spanning the globe. Prior to joining DoDEA, Ms. Ricci served on active duty in the U.S. Army for 22 years.

Ms. Ricci is a 1988 graduate of Georgetown University where she was commissioned in the Adjutant General's Corps through the ROTC program. As a lieutenant, Ms. Ricci operated five military post offices in Germany and later deployed to Operation DESERT STORM/DESERT SHEILD, serving as a platoon leader for the 115th Postal Company (FWD). She subsequently served as an Adjutant with the 902d Military Intelligence Group, Fort Meade, Maryland, before being selected to participate in the Army's Funded Legal Education Program. She graduated from the University of Maryland School of Law and became a U.S. Army Judge Advocate in 1996. She then served with the 4th Infantry Division, Fort Hood, Texas, as an Administrative and Operational Law Attorney, and a Trial Counsel. Other assignments include Chief of International Law for United States Central Command, Deployment to Qatar in support of Operations IRAQI FREEDOM and ENDURING FREEDOM, Deputy Staff Judge Advocate for the U.S. Army Intelligence and Security Command, and Assistant to the Army General Counsel on Personnel Law matters.

Ms. Ricci holds an LL.M. in Intellectual Property Law from George Washington University School of Law, and an LL.M. in Military Law from the Judge Advocate General's Legal Center and School. She is a graduate of the Judge Advocate Basic and Graduate Courses, and the U.S. Army Command and General Staff College.

MARY J. COUNTS

Mary retired from the FBI in 2007 after twenty nine years of conducting and leading criminal investigations as a Special Agent and a Supervisory Special Agent in six different FBI Field Divisions and FBIHQ. A dedicated and passionate investigator, Mary was repeatedly recognized for her ability to manage all aspects of complex cases to include the effective and timely use of intelligence and source information; the thorough documentation and reporting of these investigations; and, her ability to forge solid working relationships with other law enforcement entities.

Mary currently serves as a Special Investigator with the FBI's Background Investigation Contract Services Unit, conducting sensitive investigations on employees and candidates for employment requiring security clearances, a position she has held for the past twelve years.

The granddaughter, daughter, and mother of United States Service Members, (Navy, Army, and United States Marines Corps, respectively), Mary welcomed the opportunity to serve as a Special Consultant to the Fort Hood Independent Review Committee. In this role, she personally interviewed more than 100 servicewomen stationed at Fort Hood, many of whom were victims of sexual assault and sexual harassment. She is honored to appear before the House Armed Services Subcommittee on Military Personnel.

Mary earned a Bachelor's Degree in Sociology from the College of the Holy Cross in Worcester, Massachusetts, in 1978. She currently resides in Charlotte, North Carolina.

Andrew R. Bland, III

Andrew R. Bland, III is currently retained as the Principal Security Consultant for a San Antonio, TX-based Security, Risk Management and Business Resiliency Solutions LLC. He previously served as the Senior Vice President & Chief Security Officer, Vericast (formerly known as Harland Clarke Holdings) from May 2009 until April 2020. He assumed this position in 2010 after initially joining the organization in 2009 as Harland Clarke's Vice President of Corporate Security. In this capacity, Andrew and his Global Security Team were responsible for providing globally-oriented security strategy, governance and centralized operational/program management, as well as for implementing comprehensive security risk management methodologies to protect Vericast's personnel, data, facilities and assets. A 23-year veteran of the FBI, Andrew's last assignment prior to joining Vericast was as Special Agent in Charge of the FBI's Houston office. He also served as the FBI's Senior-Level Executive Attaché in Baghdad, Iraq; as the Deputy Assistant Director of the Inspection Division at FBI Headquarters in Washington, D.C.; and as Special Agent in Charge of the FBI Academy at Quantico, VA.

In recognition of his distinguished service, Andrew received the prestigious 2007 Presidential Meritorious Rank Executive award, given to a select group of civil service employees each year and conferred by the President of the United States.

Andrew holds a Bachelor of Science degree in Engineering from the United States Military Academy at West Point. He successfully completed both the U.S. Army Airborne and Ranger Schools at Fort Benning, Georgia, and also led combat arms units in California and Northern Germany during the course of his six-year military career.

RECORD VERSION

STATEMENT BY

MAJOR GENERAL DONNA MARTIN
THE PROVOST MARSHAL GENERAL AND COMMANDING GENERAL OF THE U.S.
ARMY CRIMINAL INVESTIGATION COMMAND
UNITED STATES ARMY

BEFORE THE

SUBCOMMITTEE ON MILITARY PERSONNEL
COMMITTEE ON ARMED SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

FIRST SESSION, 117TH CONGRESS

ON MILITARY CRIMINAL INVESTIGATIVE ORGANIZATION REFORM
RECOMMENDATIONS FROM THE FORT HOOD INDEPENDENT REVIEW
COMMITTEE

MARCH 16, 2021

NOT FOR PUBLICATION UNTIL RELEASED BY THE
COMMITTEE ON ARMED SERVICES

Chairwoman Speier, Ranking Member Banks, and Members of the Subcommittee, thank you for the opportunity to appear before you today. I am here to discuss the United States Army Criminal Investigation Command, its mission, organizational structure, ongoing reform initiatives, and our efforts to address the findings and recommendations of the Fort Hood Independent Review Committee.

I serve the United States Army in two capacities: as the Provost Marshal General of the Army and as the Commanding General of the U.S. Army Criminal Investigation Command. As the Provost Marshal General, I am the principal military advisor to the Secretary of the Army and Chief of Staff of the Army on all Army policing and law enforcement matters. This includes law enforcement policy, criminal investigations, criminal intelligence, physical security, Army corrections and confinement, antiterrorism matters, and detention operations, as well as forensics and biometrics.

As the Commanding General of the U.S. Army Criminal Investigation Command, I am responsible for overseeing the U.S. Army's primary criminal investigative organization. The Criminal Investigation Command is responsible for conducting felony-level criminal investigations in which the Army is, or may be, a party of interest. For context, the Army Criminal Investigation Command handles criminal cases and investigations that are comparable in severity to cases handled by the Federal Bureau of Investigation (FBI). My Special Agents conduct criminal investigations that range from murder to organized crime and they often partner with local, state, and other federal law enforcement agencies, including the FBI and the U.S. Marshals Service.

The Army Criminal Investigation Command is organized to accomplish four principal functions:

First, I have two Regional Brigade Commands that are responsible for felony-level investigative functions. The 3rd Military Police Group, located at Hunter Army Air Field, Georgia, and the 6th Military Police Group, located at Joint Base Lewis-McChord, Washington. These two groups split the globe for felony-level investigative responsibilities. The two brigades, one in the East and one in the West, each have associated subordinate Battalions and Detachments.

Second, the 701st Military Police Group, based in Quantico, Virginia, has a worldwide focus. Their function and expertise is in major procurement fraud, cyber-crimes, classified and sensitive investigations, and protective services. Members of two U.S. Army Reserve Detachments are also routinely activated to support the Criminal Investigation Command's daily protective services mission that provides world-wide, executive-level personal protection to senior Department of Defense and Army leaders. Based on the global threat picture, protective service missions are also augmented by the Criminal Investigation Command's field case agents for limited operational support.

The third function is contained in the U.S. Army Criminal Investigation Laboratory and the Defense Forensic Science Center, both located at Fort Gillem, Georgia. These two labs directly support my Special Agents in the field and the Department of Defense and military criminal investigative organizations worldwide. Their laboratories house scientists that support Department of Defense Law Enforcement agencies through the processing of forensic evidence. This includes, for example, processing sexual assault cases, identifying latent fingerprints, operating the DNA database for submission to the Federal DNA database, and Department of Defense biometrics operations.

The last function, the U.S. Army Crime Records Center, located in Quantico, Virginia, is the Army's warehouse for criminal records from the Criminal Investigation Command, uniformed Military Police, and all Department of the Army Civilian Police. The Crime Records Center also completes background investigations for Army selection boards, conducts crime records compliance, ensures fingerprint submission to the FBI database, and receives and processes Freedom of Information Act and Privacy Act requests for Army Law Enforcement records.

I am also here to discuss the Fort Hood Independent Review Committee's findings. Last July, the Secretary of the Army appointed the Fort Hood Independent Review Committee to "conduct a comprehensive assessment of the Fort Hood command climate and culture, and its impact, if any, on the safety, welfare and readiness of our Soldiers and units." The Secretary and the Chief of Staff of the Army accepted the Committee's findings in whole. And, based on the Committee's findings and recommendations, I am working with key stake holders to reform, re-structure, and

modernize the U.S. Army Criminal Investigation Command to address the shortcomings identified in the report, and organize the Criminal Investigation Command to better meet today's law enforcement challenges.

The current Criminal Investigation Command structure is based on the pre-9/11 threat model. This structure did not afford adequate flexibility to simultaneously address changing law enforcement requirements. Over the last two decades we have seen the following: (1) significant increases for investigative capabilities necessary to effectively handle the number of reported sexual assault allegations; (2) the doubling of personal protection requirements for high ranking Department of Defense officials and their families; (3) new requirements that extended the legal obligations for retention of sexual assault evidence thereby increasing resource requirements (e.g., people and facilities); and (4) the decline of existing Military Police and Directorate of Emergency Services capabilities in crime prevention, criminal intelligence analysis, and AWOL/Deserter apprehension due to gradual resource reductions over time.

This increased mission growth across the spectrum of all law enforcement operations significantly impacted our ability to conduct proactive policing and crime prevention efforts. Force realignment alone is insufficient to address these enduring and growing requirements. The future Army Criminal Investigation Command redesign must explore options including targeted capability growth to adequately address these growing law enforcement requirements and the issues identified in the Fort Hood Independent Review.

I have gathered input from key stakeholders to directly address the Independent Review Committee's findings, which indicated that inefficiencies within the Army Criminal Investigation Command detachments adversely impacted the mission. Specifically, the Criminal Investigation Command lacked sufficient numbers of Special Agents, those Agents lacked adequate experience, and they were over-assigned. Moreover, the Criminal Investigation Command is under-resourced, all of which resulted in lengthy investigations.

We are working closely with the other Services' Military Criminal Investigative Organizations to help find common solutions. We are diligently identifying solutions to

optimize and create efficiencies to resource the Criminal Investigation Command's investigative capacity and capability, increase investigative support, develop agent experience, and improve collaboration with local law enforcement agencies. While the Criminal Investigation Command remains the Army's premier law enforcement organization—providing professional felony level investigations and prepared to simultaneously provide support to large scale contingency operations—we can do better. I will present my recommendations to Army Senior Leaders in the coming weeks and I will keep this Committee informed on significant matters regarding our reform efforts.

In closing, the findings of the Fort Hood Independent Review Committee were eye-opening to our Army, but particularly to the law enforcement enterprise. I do not take this report lightly, and reforming the Army Criminal Investigation Command is my top priority. I acknowledge the necessity of the task ahead and I am dedicated to the Criminal Investigation Command's time-honored commitment to *Do What Has To Be Done* in order to protect our Soldiers, Civilians and Families. I, along with the Army's leadership, look forward to the opportunity to work with this Committee to strengthen the Army's Law Enforcement effort and I welcome the opportunity to answer your questions.

Thank you.

Major General Donna W. Martin
The Provost Marshal General of the Army,
Commanding General U.S. Army Criminal Investigation Command

Major General Donna W. Martin is a native of Yorktown, Virginia. She graduated from Old Dominion University with a Bachelor of Science in Criminal Justice. She was commissioned a second lieutenant in the Military Police Corps in 1988. MG Martin earned a Master's degree in Strategic Studies from the United States Army War College in Carlisle Barracks, Pennsylvania.

MG Martin has served in every staff position from Battalion to Combatant Command (United States Pacific Command). In 2006, MG Martin was selected to command the 385th Military Police Battalion (Dragoons) at Fort Stewart, Georgia. The Battalion Headquarters deployed to Afghanistan from 2006-2008 providing command and control to seven Military Police units and a National Guard Field Artillery Battery. After command, MG Martin remained at Fort Stewart to serve as the Inspector General of the 3rd Infantry Division and deployed to Iraq in October 2009.

MG Martin has commanded twice at brigade level. She commanded the 202nd Military Police Group (Criminal Investigation Division) at Kaiserslautern, Germany, from July 2011 until May 2013. In June 2013, she assumed command of the Rear Detachment of the 18th Military Police Brigade. In June 2014, MG Martin reported for duty as the Chief of Investigations, HQDA Inspector General Agency. From March 2015 until June 2017, MG Martin assumed duties as the Deputy Commanding General, United States Army Recruiting Command at Fort Knox, Kentucky. From June 2017 to August 2018, MG Martin also served as the Chief of the Military Police Corps Regiment and Commandant of the Military Police School. In August 2018, MG Martin assumed command of the Maneuver Support Center of Excellence at Fort Leonard Wood, Missouri.

MG Martin's military awards include: Legion of Merit w/1 OLC; Bronze Star Medal w/1 OLC; Defense Meritorious Service Medal; Meritorious Service Medal w/4 OLC; Army Commendation Medal w/4 OLC; and an Army Achievement Medal.

DEPARTMENT OF THE AIR FORCE
PRESENTATION TO
THE SUBCOMMITTEE ON MILITARY PERSONNEL
COMMITTEE ON ARMED SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES
FIRST SESSION, 117TH CONGRESS

STATEMENT OF
BRIGADIER GENERAL TERRY BULLARD
COMMANDER OF THE AIR FORCE OFFICE OF SPECIAL
INVESTIGATIONS
MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS;
UNDERSTANDING HOW EACH OPERATE THEIR
INVESTIGATIVE SERVICE

16 MARCH 2021

NOT FOR PUBLICATION UNTIL RELEASED
BY THE COMMITTEE ON ARMED SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES

Madam Chairwoman Speier, Ranking Member Banks, and Members of the Subcommittee, I greatly appreciate the opportunity to appear here before you today. As the Commander of the Department of the Air Force (DAF) Office of Special Investigations, or OSI, I join my colleagues here to discuss aspects of our agency's law enforcement (LE) mission and our continuous improvement processes especially as they relate to the Fort Hood Independent Review Committee's report. I am very proud to represent the civilian and uniformed men and women of OSI who are supporting our US Air Force and Space Force from 303 units located across the globe.

As our Criminal Investigations Division (CID) colleagues learned from the Fort Hood report - we too leveraged the report to assess our own policies and practices to identify all applicable areas for review and possible improvement. In line with our review, I'd like to briefly cover the highlights of our observations in the areas of resourcing, training, currency, experience, collaboration, and the overall timeliness and sufficiency of our investigations.

On overall resourcing of OSI to execute the LE mission, the DAF has sufficiently resourced the command to execute our mission. Over the last 2-3 years, the Department has significantly enhanced the resourcing of OSI to help mitigate pre-identified significant shortfalls with more capacity projected to come online soon specific to the areas of sexual assault, sexual-based crimes trend analysis, digital forensics, interpersonal violence, targeted violence, and insider threats.

On training of our OSI agents to conduct the law enforcement mission, all new agents attend our OSI Academy at the Federal Law Enforcement Training Center for their initial training along with over 90 other federal LE partners. Along with our initial accession training,

agents pursue additional training during their probationary period and then complete annual training in a number of law enforcement related areas. Additionally, we provide advanced specialized training in a number of areas such as sexual based offenses, complex case management, child forensic interviews, cognitive interviews, and forensics. While we believe our training programs are effective, we can always improve and we plan to. Specifically, while COVID has set us back on advanced training like our advanced sexual assault course, we are using those lessons learned to explore offering more courses virtually and on-demand to afford more access across the force.

On the currency of our airmen to execute the LE mission, OSI has averaged executing over 3000 law enforcement tied investigations annually over the past five years. This high operations tempo teamed with field commands staffed with senior agent leadership and subject matter experts, as well as specialist squadrons with on-call expertise for traditional and digital forensics, among others, helps to keep our agents' currency levels high.

On the issue of the experience levels of our force to conduct highly complicated law enforcement investigations, in October 2020 OSI launched an effort to examine experience levels and explore ways to more equitably posture our less experienced members across the command. Recommendations from this review will better distribute probationary agents across the command and ensure units with broad OSI mission application and a higher percentage of probationary agents will be augmented with newly established field training agents. We also reviewed the experience levels of our leadership in the field. Our Region commanders, Colonels who are themselves Special Agents, average 23 years of OSI experience, and subordinate

commanders, Captain through Lieutenant Colonel and GS-14s who are also Special Agents, average 13 years.

Specific to collaboration, the Fort Hood report coincided and reinforced three OSI partner-based initiatives with DAF/Department of Defense (DoD) entities to institutionalize best practices in criminal- and fraud-related matters. These initiatives are designed to drive deeper partnership with our Judge Advocate and Security Forces teammates on investigations, as well as foster closer ties to installation-level agencies best placed to detect fraud.

Every month, OSI reviews measures of sufficiency and timeliness of our investigations command-wide. Overall, we feel our timeliness is solid – but we are further reviewing to ensure our metrics most accurately capture the timeliness of the more complex sexual assault investigations we conduct. We also assess the sufficiency of our investigations is solid – both by our own monthly oversight program and independent reviews from others, like the DoD Inspector General (DoDIG) and the Defense Advisory Committee on Investigations, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC-IPAD). These reviews routinely report OSI cases are overall sufficiently run, but we fully realize there is always room for improvement and we are dedicated to continuous improvement. I recently requested a review of our oversight program to ensure it meets our needs for both rigor and accuracy.

Members of the committee, on behalf of the men and women of OSI, thank you for the opportunity today to provide insight into some of the exceptional work our members do every day to protect DAF personnel and resources. As an organization, OSI has never been satisfied with the status quo and has always sought to pursue continuous improvement. I look forward to

your questions, and the dialogue they will drive among the panel as we all work to improve our processes to best support the DoD.

Brigadier General Terry L. Bullard

Brig. Gen. Terry L. Bullard is the Commander, Air Force Office of Special Investigations, Quantico, Virginia. As the AFOSI Commander, Brig. Gen. Bullard derives his independent criminal and counterintelligence investigative and operational authorities directly from the Secretary of the Air Force and executes the Field Operating Agency's mission through a network of over 3,000 total force Airmen assigned to major Air Force installations and a variety of operating locations worldwide. Brig. Gen. Bullard executes the mission of AFOSI under the administrative guidance and oversight of the Inspector General of the Air Force. AFOSI is a federal law enforcement agency with responsibility for conducting criminal investigations, counterintelligence and specialized investigative activities and operations, protective service operations and integrated force protection for the Air Force globally. AFOSI is also a combat-ready military criminal investigative organization that provides the Air Force a wartime capability with counterintelligence support to force protection to find, fix, track and neutralize enemy threats in hostile and contested environments. AFOSI is the Air Force's focal point for working with U.S. and foreign nation law enforcement and security services in order to provide timely and accurate threat information in all environments.

Brig. Gen. Bullard entered the Air Force in 1993 as a distinguished graduate of the Air Force ROTC program at The Citadel. Upon commissioning, he was directly accessed into AFOSI. Brig. Gen. Bullard has served as a Special Agent, Operations Officer, Forensic Science Specialist, Joint Staff Officer, two-time Detachment Commander in overseas locations in the Indo-Pacific Command and European Command areas of responsibility, a Squadron Commander and Region Commander, and has taught on the faculty of Air University in both the research and strategy departments. Brig. Gen. Bullard has deployed five times throughout the U.S. Central Command area of responsibility in a variety of positions. He has served at the tactical level conducting counterintelligence-related activities, at the operational level as the Deputy J2X Forward, USCENTCOM, and as Commander, 24th Expeditionary Field Investigations Squadron. Prior to his current position, Brig. Gen. Bullard was the Vice Commander, AFOSI, Quantico, Virginia.

EDUCATION

1993 Bachelor of Arts, Political Science, The Citadel, Charleston, S.C.
 1994 Air Force Office of Special Investigations Basic Investigations Course, Bolling Air Force Base, Washington, D.C.
 1997 Squadron Officer School, Maxwell AFB, Ala.
 2001 Master of Forensic Science, George Washington University, Washington, D.C.
 2001 Forensic Medicine Fellow, Armed Forces Institute of Pathology, Rockville, Md.
 2005 Master of Military Operational Art and Science, Air Command and Staff College, Maxwell AFB, Ala.
 2011 Master of Strategic Studies, Air War College, Maxwell AFB, Ala.
 2014 Air Force Enterprise Leadership Seminar, Kenan-Flagler Business School, University of North Carolina, Chapel Hill

ASSIGNMENTS

September 1993 – July 1996, Special Agent, Air Force Office of Special Investigations Detachment 111, Edwards Air Force Base, Calif.
 July 1996 – July 1998, Operations Officer, AFOSI Detachment 209 and Chief, Detachment 209 Operating Locater A, Headquarters Eighth Air Force, Barksdale AFB, La.
 July 1998 – July 2000, Commander, AFOSI Detachment 601, Hickam AFB, Hawaii
 July 2000 – September 2001, Student, Air Force Institute of Technology, George Washington University, Washington, D.C., and Forensic Medicine Fellow, Armed Forces Institute of Pathology, Rockville, Md.
 September 2001 – July 2004, Chief, Forensic Science Branch, AFOSI Detachment 303, Travis AFB, Calif.

July 2004 – July 2005, Student, Air Command and Staff College, Maxwell AFB, Ala.
 July 2005 – September 2006, Deputy J2X-Forward and Counterintelligence Coordinating Authority-
 Qatar, Camp As Saliyah, Qatar
 September 2006 – July 2009, Commander, AFOSI Detachment 512, Lakenheath-Mildenhall, United
 Kingdom
 July 2009 – July 2012, AFOSI Command Chair, Air University, and Student, Air War College, Maxwell
 AFB, Ala.
 July 2012 – July 2013, Commander, AFOSI 24th Expeditionary Field Investigations Squadron and
 Director, AFOSI Special Staff, Headquarters Air Force Central Command, Al Udeid Air Base, Qatar
 July 2013 – June 2014, Vice Commander, AFOSI 2nd Field Investigations Region, Joint Base Langley-
 Eustis, Va.
 June 2014 – May 2017, Commander, AFOSI 2nd Field Investigations Region, Joint Base Langley-Eustis,
 Va.
 May 2017 – May 2019, Vice Commander, Headquarters AFOSI, Quantico, Va.
 May 2019 – present, Commander, Headquarters AFOSI, Quantico, Va.

SUMMARY OF JOINT ASSIGNMENTS

1. July 2005 – September 2006, Deputy J2X-Forward and Counterintelligence Coordinating Authority-
 Qatar, Camp As Saliyah, Qatar, as a Major

MAJOR AWARDS AND DECORATIONS

Legion of Merit with oak leaf cluster
 Bronze Star Medal
 Defense Meritorious Service Medal
 Air Force Meritorious Service Medal with three oak leaf clusters
 Joint Service Commendation Medal
 Air Force Commendation Medal with two oak leaf clusters
 Air Force Achievement Medal with two oak leaf clusters
 Joint Meritorious Unit Award
 Air Force Meritorious Unit Award
 Afghanistan Campaign Medal with bronze star
 Iraq Campaign Medal with two bronze stars
 Global War on Terrorism Expeditionary Medal
 Humanitarian Service Medal
 French Medaille De La Defense Nationale

EFFECTIVE DATES OF PROMOTION

Second Lieutenant July 20, 1993
 First Lieutenant July 20, 1995
 Captain July 20, 1997
 Major July 1, 2003
 Lieutenant Colonel Sept. 1, 2007
 Colonel Sept. 1, 2013
 Brigadier General May 3, 2019

(Current as of September 2019)

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HOUSE ARMED SERVICES COMMITTEE

RECORD VERSION

STATEMENT BY

**MR. OMAR LOPEZ
DIRECTOR
NAVAL CRIMINAL INVESTIGATIVE SERVICE**

BEFORE THE

**SUBCOMMITTEE ON MILITARY PERSONNEL
COMMITTEE ON ARMED SERVICES
UNITED STATES HOUSE OF REPRESENTATIVES**

FIRST SESSION, 117TH CONGRESS

**ON MILITARY CRIMINAL INVESTIGATIVE ORGANIZATIONS - UNDERSTANDING HOW
EACH OPERATE THEIR INVESTIGATIVE SERVICE**

MARCH 16, 2021

NOT FOR PUBLICATION
UNTIL RELEASED BY THE
HOUSE ARMED SERVICES COMMITTEE

Good afternoon Chairwoman Speier, Ranking Member Banks, and Committee Members. Thank you for the opportunity to appear before you today to discuss the Naval Criminal Investigative Service and our efforts to address the scourge of sexual assaults in the Department of the Navy (DON). I am pleased to be representing the dedicated men and women of the NCIS who are stationed throughout the world supporting garrisoned and deployed elements of the Navy and Marine Corps. I am equally pleased to be testifying alongside my law enforcement colleagues from Army and Air Force.

Sexual assault is a uniquely destructive crime that erodes the esprit de corps and trust among our DON uniformed services and civilians. The NCIS has marshaled its resources to demonstrate to all sexual assault survivors our commitment to thorough, accurate, and timely investigations into these allegations, which betray the oath we have all sworn to uphold.

In NCIS, sexual assaults fall within a larger category of crimes known as Family and Sexual Violence. Other crimes in this category include domestic violence and child sexual abuse. In my first 18 months as Director, I have visited most NCIS offices and I can personally attest to the sustained level of effort and passion with which the NCIS pursues its Family and Sexual Violence mission. We remain steadfast in our commitment to bringing justice to all victims of these heinous crimes.

As NCIS Director, I am a Special Agent and career civilian member of the Senior Executive Service who reports directly to the Secretary of the Navy. This organizational alignment ensures NCIS independence from perceived or actual undue command influence over investigative decisions. In Fiscal Year 2020, NCIS' comparatively smaller but elite employees numbered 2064 personnel located globally in 19 field offices and 191 satellite locations, in 41 different countries, both ashore and afloat. NCIS Special Agents are also deployed to conflict

areas around the world, and serve onboard all Carrier Strike and Amphibious Readiness Groups. This workforce is mainly comprised of federal civilian 1811 (Criminal Investigation Series) Special Agents and analysts, investigative operational specialists, forensic consultants, digital forensic examiners, technical countermeasure specialists, investigative computer specialists, physical security specialists, training specialists, forensic scientists, evidence custodians, and other administrative professional staff, with additional military personnel supporting criminal investigations, manning our twenty-four hour watch floor - Multiple Threat Alert Center (MTAC), furnishing specialized support for such activities as port security assessments, intelligence analysis and protective detail augmentation. NCIS organizes itself in a manner similar to the Federal Bureau of Investigation (FBI) and other federal law enforcement organizations, with a Criminal Investigative and National Security mission, and with a Special Agent in Charge of each of NCIS's 19 Field Offices. These field offices may have either a geographic focus, our primary model, or a functional focus (e.g., Cyber Field Office), so designed for specialized activity mostly in the National Security arena. Although over 50 years old, the current NCIS manpower structure evolved in the early 2000's following the attack on the USS Cole, shifting heavily towards a force protection mission, supporting Navy and Marine Corps expeditionary forces and 100% of ship visits to foreign ports. In addition to our focused efforts on complex criminal investigations, NCIS, in consultation with DoD, Department of Navy and Congressional stakeholders, later shifted additional efforts on protecting critical Navy and Marine Corps technology and significantly expanded efforts in cyberspace, and now is faced with the growing threat of domestic terrorism.

NCIS is a federal law enforcement agency authorized under Title 10 of the United States Code, Department of Defense Instructions, and Secretary of the Navy authority to investigate

felony-level incidents of crime and national security related activity, to include Counterintelligence and Cyber investigations having a Navy or Marine Corps nexus. NCIS is funded via three separate budget streams: Security and Investigative Activity (S&IA), Military Intelligence Program, and National Intelligence Program funding. Sexual assault investigations fall exclusively within the S&IA budget. In addition, all Special Agents receive advanced sexual assault training across all disciplines, thereby fully leveraging the versatility of the Criminal Investigation GS-1811 job series ensuring an immediate NCIS response to any allegation of sexual assault anywhere in the world, afloat or ashore. As civilian Special Agents with civilian and military arrest authority, NCIS is able to operate effectively with federal, state, and local law enforcement agencies both on and off military facilities. In large Navy fleet and Marine Corps troop concentration areas, NCIS proactively participates in, and partners with local, state, and federal task forces, to include the FBI's Joint Terrorism Task Force, to better mitigate criminal, terrorist, cyber, and foreign intelligence threats. The NCIS investigators, as civilian Special Agents, are empowered by Title 10 U.S.C 8750 to appear before federal magistrates to seek warrants authorizing searches and arrests, in addition to the investigative authorities granted by the Uniform Code of Military Justice. Additionally, some states provide investigative authority to civilian federal agents, including NCIS Special Agents, to pursue state warrants for felonious crimes like sexual assaults. In fleet concentration areas, the NCIS assigns Special Agents and personnel to local police departments to increase information sharing and collaboration in joint investigations.

NCIS derives its authority to investigate sexual assaults from Department of Defense Instruction 5505.18, Investigations of Sexual Assaults in the DoD, and Secretary of the Navy Instruction 5430.107, Missions and Functions of the NCIS. All NCIS agents are trained at the

Federal Law Enforcement Training Center, Brunswick, GA, where the majority of federal law enforcement officers receive their initial training. The initial 12-week training course consists of developing aptitudes in conducting investigations, collecting evidence, interviewing witnesses, managing confidential informants, preparing investigations for prosecution, testifying, and other law enforcement centric tactics. Additionally, new agents receive a follow-on extensive 12-week NCIS specific Special Agent Basic Training program. During SABT, all Special Agents receive 70 hours of specialized sexual assault investigative training focusing on victim-centric interviewing techniques, victim and perpetrator psychological aspects, sex assault evidence considerations, victim's rights, and unique attributes of sex assault prosecutions. The training includes live role player practical exercises and critical national security investigative training. Upon graduation, NCIS Special Agents work under a formal 16-week Field Training Agent program that assesses their competence in investigating a range of crimes, including sexual assaults. Only after successful completion of this program may an NCIS Special Agent independently investigate a sexual assault allegation. These agents are led by a team of highly experienced professionals. At the regional level, the executive leadership comprises 1811 Special Agents with an average tenure of 20.5 years with NCIS; at the local field office level, the Special Agents in Charge leading those offices have an average tenure of 17.2 years of criminal investigative experience.

Over the last eight years, sexual assault cases worked by NCIS have increased by over 100 percent. Despite this increase, Departmental shifts and budget constraints, have resulted in NCIS manpower reductions over this same time period. In response to this increase in sexual assaults, the NCIS has re-aligned significant non-intelligence funded resources so as to ensure all allegations of sexual assault, and other complex criminal allegations, to include the rise in

domestic terrorism, are fully investigated in a timely and thorough manner. Armed with the knowledge that survivors lose confidence and trust in the system when they experience delays in the investigative process, NCIS focuses heavily on improving the quality of the investigations while reducing investigative timelines. The result is that despite the significant increase in reports of sexual assault, over that same period the NCIS was able to reduce its average timeline per investigation by approximately 40%. This sustained effort is only possible because of the versatility and training of NCIS 1811 Special Agents, permitting NCIS to quickly shift and surge experience against the most pernicious threats facing DON. The longer-term risk associated with this unrelenting operational tempo is a degradation in other mission areas to include death investigations, including suicides, domestic terrorism, criminal and force protection threats to Navy ships visiting foreign ports, and perennially corrosive challenges such as narcotics and procurement fraud. The Department is well aware of this and is carefully working with NCIS to manage this risk. There is also concern that this operational tempo will have long term impact on our ability to retain these very experienced criminal investigators. It should be noted that similar to the FBI, NCIS counterintelligence, terrorism, espionage, and cyber investigative missions are performed separately within the organization. However, all 1811 Special Agent resources, regardless of discipline, are trained and fully capable to respond and surge on sexual assault incidents.

Prior to the release of the Fort Hood Independent Review Commission (FHIRC) report, NCIS, like our OSI counterparts, identified the need to look at the experience levels of agents in the field and explore ways to ward against having too many less experienced or probationary agents in key field offices and overseas locations. Following the release of the FHIRC, NCIS undertook a careful examination of its applicability to all parts of the NCIS enterprise. While the

majority of the report did not directly apply to NCIS structure or practices, NCIS did determine that there were areas for improvement and focus. Examples pertain to the NCIS mobility policy, with a recommendation to continuously re-examine that policy, and offer greater assignment flexibility designed to place the right resources and experience in the right locations at the right time. This recommended action must be realized while balancing workforce recruitment and retention. Further, NCIS created Field Training Coordinators to standardize the quality of the program in locations where NCIS assigns new agents just graduating from basic training. In 2019, prior to the report, NCIS began implementing a quality control/resource assessment tool known as Systematic Planning, Accountability, and Resourcing through Collaboration (SPARC). In prior years, all NCIS sexual assault investigations undergo a comprehensive oversight process from the local office supervisor as well as periodic regional and headquarters oversight visits, which are now reinforced with annual SPARC stand-downs, that examine quality, timeliness and policy compliance of these investigations and other aspects of the NCIS mission. These mechanisms allow NCIS to gather a wealth of data to assess manpower requirements worldwide and ensure NCIS allocates resources commensurate with mission demands. NCIS aspires to institutionalize data-driven staffing and resourcing decisions and maximize the efficiency of finite resources. The Law Enforcement Information Exchange (LInX) initiative launched many years ago, is just such an effort designed to enhance information sharing between local, state, and federal law enforcement in areas of strategic importance to the DON. LInX provides participating law enforcement partner agencies with secure access to regional crime and incident data and the tools needed to process it, enabling investigators to search across jurisdictional boundaries to make data-driven decisions to help solve crimes and resolve suspicious events.

Similar to sexual assault investigations, death investigations, whether the cause is accidental, natural, homicide or suicide, regularly entail physical and digital evidence collection and analysis. As with sexual assault investigations, these resource-intensive cases require significant man-hours and specialized support from professionals trained as forensic consultants and digital forensic analysts. The essential techniques employed by these specialized functions to gather evidence can extend the timeline on both sexual assault investigations and death investigations, leading to delays and survivor frustration with the investigative process. The NCIS dedicates additional staffing and resources towards these specialized areas in order to alleviate delays in the investigative process. Nonetheless, resource constraints prevent levels of staffing in these specialized areas that NCIS would consider optimal.

Members of the committee, on behalf of the men and women of the NCIS, I thank you for the opportunity to provide insight into some of the exceptional work our members do every day to protect Navy and Marine Corps personnel and resources. The progress made in reducing sexual assault investigation timelines increases survivors' confidence, without sacrificing quality and thoroughness. Our solemn commitment to justice for all sexual assault survivors continues to be one of my highest priorities as Director. There are any number of studies that persuasively assert incidents of sexual assault are significantly underreported, largely due a survivor's dissatisfaction with the process. As the NCIS and the larger Department improve trust, NCIS anticipates reports of sexual assaults may continue to rise, which may strain investigative resources. Through its strong partnerships with SAPRO and Service leadership NCIS will continue to seek the technology and manpower investments needed to maintain its unwavering focus on thorough and timely sexual assault investigations. My colleagues and I lead

organizations fully focused on addressing these important issues. We welcome your questions and feedback, which will enable us to continue making positive strides towards addressing the crime of sexual assault.

Thank you.

Omar R. Lopez
Director
Naval Criminal Investigative Service

Omar R. Lopez became the sixth civilian Director of the Naval Criminal Investigative Service (NCIS) in June 2019. He leads the agency as it investigates and defeats threats from across the foreign intelligence, terrorist, and criminal spectrum by conducting operations and investigations ashore, afloat, and in cyberspace, to protect and preserve the superiority of Navy and Marine Corps warfighters.

Prior to his selection as Director, Mr. Lopez served as Executive Assistant Director for the NCIS National Security Directorate. He exercised program management and oversight over global counterterrorism and counterintelligence investigations and operations, including espionage, terrorism, compromise, technology transfer, cyber operations, threats to research, development, and acquisition programs; force protection activities, and insider threat programs. He served previously in leadership positions at NCIS Headquarters and field offices, both domestically and overseas. He has been recognized for developing innovative approaches in partnership with other Federal agencies, enabling NCIS to better support the Department of the Navy.

Mr. Lopez began his career with NCIS as a Special Agent in 2003, assigned to the Port Hueneme Resident Agency in California. He has worked across NCIS mission areas, including criminal drug operations, national security operations, and protective service operations, with special assignments to Federal, state, and local task forces, including deployment with the Coalition Provisional Authority – Iraq.

Mr. Lopez was commissioned in the Navy as a Judge Advocate in 1995. He served in active duty and reserve assignments with U.S. Naval Special Warfare Command, U.S. Pacific Command, and the U.S. Court of Appeals for the Armed Forces. He also served as a Trial Counsel and Special Assistant U.S. Attorney in California. Following active duty, he worked for a law firm in Washington D.C., specializing in litigation and energy regulation.

Mr. Lopez is a native of Los Angeles, California. He earned a Bachelor of Arts degree in Political Science with honors from California State University (Pomona). He also holds a Juris Doctor degree from Loyola Law School and practiced formerly in California and Washington, D.C.

JUNE 2019

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MARCH 16, 2021

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March 4, 2021

Via Federal Express
The Honorable John E. Whitley
Acting Secretary of the Army
101 Army Pentagon
Washington, DC 20310-0101

RE: Sgt. Elder Fernandes

Dear Secretary Whitley:

I represent the family of United States Army Sergeant Elder Fernandes. As you know, Sgt. Fernandes was stationed at Fort Hood, Texas, went missing in Killeen on August 17, 2020, and his remains were found in Temple, Texas on August 25, 2020. Ever since his disappearance and tragic death, his family has been searching for answers as to what happened to their loved one. I am writing to ask you to help the family obtain information from the Army.

As his remains were found in Temple, that Police Department was designated as the lead investigative agency. It is my understanding that the Killeen Police also searched for Sgt. Fernandes, and we are informed that the Army conducted a search as well. The Temple Police Department has provided us with their reports regarding their investigation of this matter, and we have requested the Killeen Police reports. I was informed that the Temple Police have information as to what the Army did to search for Sgt. Fernandes. Unfortunately, at the request of the United States Army, the information regarding the actions of Army investigators was withheld from Sgt. Fernandes' family.

Sgt. Elder Fernandes was transferred from his previous assignment in Germany to Fort Hood in January of 2020. At that point in time, he loved being a member of the armed forces and told his family that he wanted to make the United States Army his career. However, during his stay at Fort Hood, his emotional condition deteriorated. He reported that he was sexually assaulted in May of 2020, and sought counseling as a result of being bullied. His emotional condition deteriorated so much that on August 11, 2020, Sgt. Fernandes checked himself into the Carl R. Darnall Army Medical Center where he informed his treating physicians that he could not handle being in the Army any longer and would kill himself if he had to go back. He indicated that he had been AWOL for three days prior to arrival and that he had been sleeping in a parking lot.

He was admitted the same day and deemed a high suicide risk. He was inpatient at the hospital until his treatment team determined that he could be released. He was discharged on August 17, 2020. The team was aware that he was living off base and that he had been living on the streets before he was admitted. They also knew that he had repeatedly indicated that he would kill himself if he was forced to stay in the Army. Despite this, he was told to return to duty and to report to the base on August 18, 2020. Rather than providing him with follow-up support, Sgt. Fernandes was dropped off on a street in Killeen, Texas in front of a friend's apartment.

Prior to leaving the hospital, Sgt. Fernandes told his mother that he would call her on August 17th after his discharge. He did not. On the morning of August 18, 2020, his mother spoke to Sgt. Fernandes' supervisor on the base and asked to speak to her son. She was told that he did not appear for work. Sgt. Fernandes' mother flew to Texas on the morning of August 19, 2020 and spoke to Army representatives and to Killeen Police imploring them to search for her son. Sgt. Fernandes was found deceased and hanging from a tree in Temple, Texas on August 25, 2020.

I suggest that the Fernandes family deserves to know what the United States Army did to keep Sgt. Fernandes safe and to find him once he disappeared. To date, they have received scant answers regarding these questions from the Army. They have seen press releases, the contents of which are at odds with what they were told at Fort Hood. This cannot stand.


I ask that the United States Army release all of the records in their possession regarding the efforts made to find Sgt. Fernandes. We also request all information as to any investigation into the reasons that he may have taken his own life.

I look forward to hearing from you at your earliest convenience. My cell phone number is (617) 645-0768 and my email address is lkestn@bhpklaw.com.

Thank you for your courtesy and cooperation.

Very truly yours,

BRODY, HARDOON, PERKINS & KESTEN, LLP


Leonard H. Kesten

LHK:ld

cc. Bruce B. Fernández /via email: Bruce.Fernandez@mail.house.gov
Deputy Chief of Staff / Legislative Director
Rep. Stephen F. Lynch (MA-08)
2109 Rayburn House Office Building

**WITNESS RESPONSES TO QUESTIONS ASKED DURING
THE HEARING**

MARCH 16, 2021

RESPONSES TO QUESTIONS SUBMITTED BY MS. SPEIER

General MARTIN. The following systems are currently in effect:

a. Timely investigations: Investigations are tracked at Fort Hood during the monthly Battalion Operations synchronization meeting. Programmatically, timely investigations are one of the investigative standards defined in CID Regulation (CIDR) 195-1. Compliance with this standard is part of the Battalion (BN)/Group (GP) Organizational Inspection Program (OIP) as well as periodic Inspector General (IG) inspections in accordance with Army Regulation 1-201 and CID Regulation 1-201. CIDR 195-1 contains a measurable standard that when applied appropriately will reflect the unit's ability to keep investigations from stagnating.

b. Drug crime suppression: Drug suppression is tracked at Fort Hood during the Battalion Operations synchronization meeting. Programmatically, this is one of the investigative support program standards defined in CIDR 195-1, Appendix D-8e (Drug Suppression Program), which provides criteria to evaluate an investigative unit's drug suppression activities. Compliance with this standard is part of the BN/GP OIP as well as periodic IG inspections in accordance with AR 1-201 and CID Regulation 1-201. CIDR 195-1 contains a measurable standard that when applied appropriately will reflect the unit's ability to counter installation drug problems. On February 16, 2021, USACIDC updated Drug Suppression Team (DST) policy to include emphasis on additional training for DSTs that includes source development, joint training opportunities, fostering relationships with local law enforcement drug enforcement units, trend analysis, and establishing local goals and metrics to assess effectiveness.

c. Crime reduction: At Fort Hood, CID and DES collaborate monthly on statistics being reported for the Crime Prevention Briefing and the Garrison's Armed Forces Disciplinary Control Board. Programmatically, this is one of the investigative support program standards defined in CIDR 195-1, Appendix D-8c (Crime Prevention Survey Program), which establishes objectives to evaluate the investigative unit's crime prevention efforts. Compliance with this standard is part of the BN/GP OIP as well as periodic IG inspections in accordance with AR 1-201 and CID Regulation 1-201. CIDR 195-1 contains a measurable standard that when applied appropriately will reflect the unit's ability to meet commander's crime prevention needs.

d. Task force and joint investigative activities: At the Battalion-level, the Crisis Incident Response Plan (CIRP) encompasses Law Enforcement Task Force creation, structure, and participation, published March 24, 2021. USACIDC has also designed a major crimes response team postured at the Group level to respond to complex crimes and provide an on-demand Law Enforcement Task Force operations capability to assist the SAC at the supported installation.

Joint investigative activities are measurable requirements clearly defined in CIDR 195-1, Chapter 4-9 (Joint Investigations) as it relates to the initiation of joint investigations when an Army interest exists and a coordinated effort is essential. Compliance with this standard is part of the BN/GP OIP as well as periodic IG inspections in accordance with AR 1-201 and CID Regulation 1-201. CIDR 195-1 contains a measurable standard that when applied appropriately will reflect the unit's ability to effectively participate in the investigation of off-post incidents.

e. Staffing: Staffing is monitored by the battalion, the group, and USACIDC. Criminal investigative operations are reviewed on a monthly basis by the Battalion Command and Staff and it covers all detachments and offices. In turn, this same monthly process is conducted at the Group echelon for Battalions and at CID Command for Groups. Unit readiness is measured through the Army Unit Status Report. The USACIDC manages and re-allocates its structure as necessary through the Army Command Plan process. The review measures the relative health of each office based on investigative workload and manpower authorizations within its structure.

Staffing is part of the overall organization and management standards outlined in CIDR 195-1, Appendix D-7. These standards apply to the investigative unit's organization, effectiveness of management processes, and impact on mission. Compliance with this standard is part of the battalion/group OIP, as well as periodic IG inspections. CIDR 195-1 contains measurable standards that when applied appro-

appropriately will reflect the unit's ability to effectively staff, organize, manage, and supervise investigative units below the battalion level.

f. Training: Battalion, Group, and USACIDC prioritized the Fort Hood CID Office for Agent courses in the second quarter of FY21 (Special Victims Capability Course (SVCC), Advanced Crime Scene Investigative Techniques Course (ACSITC), and Drug Suppression Team). Agent training metrics are tracked at every echelon to USACIDC headquarters. As of March 24, 2021, the Fort Hood CID Office is 80% trained at the Special Victims Capability Course, 31% for the Advanced Crime Scene Investigative Techniques Course, and 100% of the current Drug Suppression Team members are trained to include additional advanced training. Programmatically, training is one of the investigative support program standards defined in CIDR 195-1, Appendix D-8k (Training Program), which establishes objectives to evaluate the investigative unit's training efforts. Compliance with this standard is part of the battalion/group OIP, as well as periodic IG inspections in accordance with AR 1-201 and CID Regulation 1-201. CIDR 195-1 contains a measurable standard that when applied appropriately will reflect how well the unit is accomplishing training to address investigative deficiencies and agent experience.

Agent specific training guidance is outlined every other year in USACIDC Command Training Guidance including training priorities for resource allocation, professional military education, and most importantly for primary investigative agents. To maintain Special Victim Investigation and Prosecution (SVIP) teams, units were directed to maximize attendance at SVCC, ACSITC, Domestic Violence Intervention Training (DVIT), and Child Abuse Prevention Investigative Techniques (CAPIT) courses to sustain the SVIP team requirements and increase Basic and Senior SVIP qualified Agents across USACIDC. The SVIP Concept of Operations (CONOP) establishes the selection, training, and certification guidelines for SVIP positions. [See page 27.]

General MARTIN. When necessary, agents are afforded opportunity to remain on station beyond three years (one year increments), or can be moved earlier in order to fill critical shortages at locations in need of experience/expertise. USACIDC relocated additional senior warrant officers and enlisted agents to Fort Hood, which led to a net increase in experienced agents.

Fort Hood CID Office specific statistics as of March 24, 2021:

- Current agent manning level is 100% (48 authorized/48 assigned)
- Current apprentice agent ratio is 22.9%(11/48)—FHIRC recommended no higher than 50%
- Current % of SAs with over 5 years of experience is 29%(14/48); FHIRC recommended at least 30%
- Current % of SAs with over 8 years of experience is 21%(10/48); FHIRC recommended at least 20%
- Two Civilian Special Victim Investigators have been selected for hire and are pending a start date.

Current staffing processes allow for the assignment of warrant officer and enlisted agents that possess advanced training/education in crime scene processing, various forensic processes, and the investigation of all types of death and sex crimes. Additionally, agents on station are afforded the opportunity to attend advanced training at the US Army Military Police School (USAMPS), George Mason University, Federal Law Enforcement Training Centers (FLETC), FBI National Academy, National Forensic Academy, the Armed Forces Medical Examiners System, and numerous other local specialized training venues.

The following is a summary of additional 20 personnel for the Fort Hood CID Office:

- Add (1) MP CPTs
- Add (12) 1811 Criminal Investigators
 - 1 x Special Agent in Charge
 - 6 x General Crime Special Agents
 - 2 x Sexual Assault Investigators
 - 2 x Trial Counsel Special Agents
 - 1 x DST Special Agent
- Add (1) 1801 Evidence Control Specialist
- Add (2) Investigative Support Techs
- Add (3) CIV Admin, IT, Logistics
- Add (1) Civilian Digital Forensic Analyst at Battalion collocated at Fort Hood

[See page 27.]

General MARTIN. The Army PMG led an intensive five-month structural redesign to create an organization with enhanced capabilities and capacity, organized with and led by civilian and military agents, military officers and enlisted Soldiers. Based on that effort, a civilian member of the Senior Executive Service with criminal in-

vestigative experience will lead the restructured CID. While details are still being finalized, the restructured CID will initially focus on increasing civilian criminal investigators and restructuring our protective services function. As we develop, evaluate, and adjust our final design we remain committed to working with the Committee and keeping it informed of our progress and necessary resources. [See page 39.]

RESPONSE TO QUESTION SUBMITTED BY MR. BANKS

General MARTIN. CID continues to meet the FHIRC's recommendation to improve case tracking. For example, at Fort Hood investigations are reviewed during monthly CID Battalion Operations meetings to ensure accurate tracking and to abide by investigative standards furnished in CID regulation. Compliance with this standard is part of the Organizational Inspection Program (OIP) as well as periodic Inspector General (IG) inspections in accordance with Army and CID Regulations. Additionally, CID maintains an electronic automated database named the Army Law Enforcement Reporting and Tracking System (ALERTS). This database tracks all aspects of a CID case from initiation to closure. It includes, but is not limited to, entries for: initiation of a case, publication of reports, referral of a case to an attorney, publication of a final report, and when and what action is taken against an alleged offender. ALERTS documents all investigative activity related to the case and contains numerous standard reports that can be queried and ran at any time. ALERTS can produce quality assurance reports prior to the dispatch of a final report to identify issues or data that is missing or requires completion before a report can be published. It can also provide data on how long investigations remain in an open status and can provide investigative data for in-depth criminal intelligence queries and analysis. [See page 29.]

RESPONSE TO QUESTION SUBMITTED BY MS. ESCOBAR

General MARTIN. The Fort Bliss CID office continues to work their cases in a timely and thorough manner. No cases are ignored once they are opened by the investigators. Due to the nature of some cases, investigative timelines can vary. Factors outside the control of the Fort Bliss CID office have a direct impact on case timelines. These factors include, but are not limited to, the need for forensic laboratory reports, coordination with external agencies, and the delay in receiving subpoenaed documents. [See page 32.]

QUESTIONS SUBMITTED BY MEMBERS POST HEARING

MARCH 16, 2021

QUESTIONS SUBMITTED BY MS. HOULAHAN

Ms. HOULAHAN. The majority of the IRC panel at the hearing are former FBI special agents. In your review of how Army CID handled the investigation, was there an assessment of how the training for Army CID compared to the FBI for similar investigations—sexual assault, sexual harassment, and murder in this case? If so, what did you find? As the FBI has a different training program than NCIS and the Air Force, was there a comparison there? How is the training similar or different?

Mr. SWECKER. The FHIRC did not do a deep dive into the CID training program. We did note that the CID has its own training facility and 15 week new agent curriculum at FT Leonard Wood. Other federal law enforcement agencies train at the Federal Law Enforcement Training Center (FLETC) in Glynco, GA. The advantage to training at FLETC is the sharing of best practices across the federal law enforcement community and exposure to the most advanced law enforcement training methods. In addition FLETC is an interagency training center that host training for state, local, campus, tribal and international police agencies. This affords an opportunity to develop liaison and relationships with other agencies. There is continuity in the staff of professional instructors. Agencies take part in the curriculum review and develop policies and directives. The NCIS, DIA, DCIS and Airforce OSI train at FLETC. In fact 105 federal agencies conduct their training at FLETC. The FHIRC highly recommends that CID join these agencies and benefit from the shared best practices and professional environment.

Ms. HOULAHAN. The majority of the IRC panel at the hearing are former FBI special agents. In your review of how Army CID handled the investigation, was there an assessment of how the training for Army CID compared to the FBI for similar investigations—sexual assault, sexual harassment, and murder in this case? If so, what did you find? As the FBI has a different training program than NCIS and the Air Force, was there a comparison there? How is the training similar or different?

Ms. RICCI. I defer to my FBI colleagues as I am not familiar with FBI training.

Ms. HOULAHAN. The majority of the IRC panel at the hearing are former FBI special agents. In your review of how Army CID handled the investigation, was there an assessment of how the training for Army CID compared to the FBI for similar investigations—sexual assault, sexual harassment, and murder in this case? If so, what did you find? As the FBI has a different training program than NCIS and the Air Force, was there a comparison there? How is the training similar or different?

Mr. BLAND. **Background:**

From the outset, FBI Agents are fundamentally trained, enabled and deployed to assertively conduct investigations which ultimately manifest the aggregation of requisite evidence to facilitate the potential prosecution of violations of more than 200 different Federal statute categories.

Given the level of sophistication and complexity which often characterize these types of investigative matters, basic/core academic training for FBI Agent Trainees at the FBI Academy located in Quantico, VA primarily falls within the key areas of Investigative Methodologies and Procedures; Interview and Interrogation Skill Development; Sensitive Investigative Techniques; and Informant/Source Development.

After commencing with official duties at their first FBI field office, newly-graduated Special Agents (SAs) begin to accumulate valuable insight and experience regarding the initiation of cases, conducting/documenting investigative steps and the aggregation of evidence, most often under the stewardship of a seasoned, savvy and respected SA with considerable time in the Bureau who has established a record of success, achievements and investigative prowess. Key to this crucial mentorship phase is the ongoing nurturing of those baseline skills which must be systematically employed in a conventional case, as well as assisting the new SA with developing and honing the necessary degree of inquisitiveness, curiosity, logic, analytical thinking and passion which will ultimately facilitate the identification of beneficial, substantive leads and sustain consistent progress on behalf of bringing these investigative matters to a desired conclusion.

As their body of knowledge, experience and investigative acumen continues to expand over time, these SAs are also exposed to the myriad specialized case support

resources that can be accessed and are frequently utilized to both augment and add additional precision to the skills, techniques and technology which are already in play as their investigations advance.

It should be noted that the majority of contemporary cases which fall within the auspices of the FBI's federal jurisdiction do not normally encompass crimes related to sexual harassment, sexual assault or murder. However, exceptions to this provision do include those matters which transpire within designated areas of Exclusive Federal Jurisdiction, such as U.S. military installations, federally-recognized Indian reservations, U.S. Parks and similar locations, as well as with respect to Federal Civil Rights allegations/violations. Moreover, numerous FBI-sponsored/led Violent Crimes Task Force (VCTF) investigations are focused upon heinous, high-profile violent crimes which often involve murders as a predication for major cases which are initiated in conjunction with local/state LE agencies participating in these joint/task force entities.

General Observations re U.S. Army CID investigations post-review of pertinent files:

As was previously enumerated in the FHIRC report, the overall number of interviews of relevant personnel were viewed to be insufficient in terms of scope and quality. Moreover, interviews were generally pro-forma, shallow and lacking in the degree of depth/granularity re the identification and documentation of requisite details during the initial stages of their cases that could have generated viable, tangible leads to logically pursue on behalf of achieving positive investigative outcomes.

With respect to training which should be afforded to Army CID Agents as soon as feasibly possible in order to effectively address and ameliorate the deficiencies noted above, opine that CID adopting a comprehensive training curriculum/content and post-training mentoring regimen which is consistent with the above-referenced process being administered by the FBI relative to their new Agent trainees and followed up upon when they become full-fledged SAs, would engender palpable, measurable benefit relative to significantly improving the overall quality of CID investigations.

Ms. HOULAHAN. In the Fort Hood report, you highlighted that the 2018 Annual Report on Sexual Assault in the Military reported that sexual assault occurs most often between junior enlisted acquaintances who are peers or near peers in rank. Additionally, the vast majority of sexual assaults of service members occurred between people aged 17–24 who work, train, or live in close proximity. You also said that junior enlisted showed the least amount of knowledge of the SHARP Program and the various ways to report a sexual assault. How can we work on educating the most at-risk service members?

a. What resources and tools are most helpful in making sure that service members are aware of the what is available to them if they are assaulted?

Mr. BLAND. The solution to this phenomenon is squarely rooted within what should be a top-down expectation, if not requirement, that the officers and NCOs who are both responsible and accountable for the welfare, safety and security of the soldiers whom they are privileged to command are exercising the requisite degree of effective and engaged leadership relative to personally ensuring that all of the Army's available Special Emphasis Programs, to include SHARP, are being appropriately administered, emphasized and communicated downward as a critical rating component of their end-of-tour Officer and NCO Evaluation Reports (OERs/NCOERs).

Ms. HOULAHAN. One of the problems that you recognized in your report was the lack of professionalism in the overall SHARP force. This is concerning because they are a vital contributor to military readiness.

a. It's not really possible to choose SHARP as a career and it doesn't come with advancement unlike many other qualifications. Can you discuss the resources DoD would need to professionalize SHARP including professional development, rewards for performance, in preserving institutional knowledge?

Mr. BLAND. Believe that it is imperative to reverse the unintended consequences of SHARP's being frequently perceived by commanders as a program which can be staffed by mid-level and senior NCOs who oftentimes are those soldiers who are considered to be sub-par performers who can fill these nominal/ancillary/temporary assignments in order to minimize any impact on overall unit readiness. While instituting more comprehensive SHARP training and educational opportunities tied to career-enhancing incentives and bonuses, as well as the promulgation of new policies and standard designed to address this situation, would have an immediate and long-lasting positive impact, nonetheless opine once again that any modicum of sustained improvement and ultimately, success, relative to this program is inexorably linked to measures that must be implemented on the part of senior Army leaders at the highest general officer levels to hold commanders at all subordinate levels

personally accountable by way of their OER/NCOER ratings to compel their adherence, emphasis and leadership. In doing so, any lack of compliance on the part of these individuals would be tantamount to career ruin.

Ms. HOULAHAN. The majority of the IRC panel at the hearing are former FBI special agents. In your review of how Army CID handled the investigation, was there an assessment of how the training for Army CID compared to the FBI for similar investigations—sexual assault, sexual harassment, and murder in this case? If so, what did you find? As the FBI has a different training program than NCIS and the Air Force, was there a comparison there? How is the training similar or different?

Ms. COUNTS. While investigative missions and jurisdictions may differ, there are some universal skills that every investigator should have. Integrity; professional courtesy extended to all; the ability to talk to people from all walks of life with respect and dignity; the willingness to accurately and thoroughly document every step of an investigation; and, the adherence to the core values of the investigative agency that the investigator represents.

FBI Special Agent Trainees currently undergo over 800 hours of training in a variety of web based courses in four major concentrations: academics, case exercises, firearms training, and operational skills. Currently, New Agent training lasts approximately 20 weeks; and, all trainees receive the training regardless of what they did before joining the FBI.

The general training of FBI agents is geared toward the development of investigators. For the majority of Special Agents that is their focus from day one. They continue to build on these investigative skills upon graduation from the Academy until the day they retire. Although each FBI field office may differ in investigative priorities and tenure of the Special Agent population, most field offices have a cadre of agents at the GS-10, 11, 12 and 13 levels with GS-14 or GS-15 supervisors—all with a primary focus on investigations and honing their investigative craft throughout their career. How do they get better? As they gain more experience, they begin to understand the need to foster solid working relationships with other law enforcement and investigative agencies. They begin to utilize more sophisticated techniques to include electronic surveillance and the use of intelligence and informants. And through it all, FBI Agents are expected to meet measurable and articulable standards of performance and conduct.

The same lack of professionalism and leadership found at Fort Hood overall was the same that was found at CID. In a review of Army CID files, Committee members found CID's investigative strategy was a checklist driven, one size fits all strategy, regardless of the type, or severity of the crime being investigated. Suspects were allowed to keep their cell phones during their interview and/or interrogation; in two murder cases, suspects were found to have deleted incriminating texts during their time with CID Agents. In the case of a missing soldier, later determined to be murdered, Agents failed to interview a person of interest despite other witnesses reporting that this individual may have potentially valuable information. Investigations lagged and little, if any, contact with outside agencies could be found documented in the files.

In the FBI, investigative experience is developed and gained over time, allowing for experienced agents to be assigned the more complex cases and to guide lesser experienced agents in the investigation of those cases. There are benchmarks that must be met at every step of an FBI Agent's career, beginning with New Agent training and ending with that Agent's last annual performance review.

While the FBI commits considerable resources to recruiting, training and preparing the absolute best people they can find, it is the on the job training, or OJT, that has been the primary tool for developing investigative skills. By the nature of the job it has to be. This is the area where the FBI stands head and shoulders above CID. This is the single, and strongest, argument that Army CID needs to be completely reorganized. Serious consideration should be given to converting CID's current model to a civilianized force with higher entrance standards and a focus on investigations and career paths geared to the development of investigative expertise.

Ms. HOULAHAN. What percentage of your current civilian work force is formerly active duty military? With that percentage, how do you ensure the culture can change and improve if there is a revolving door of the same mentality?

General MARTIN. As of April 1, 2021, 61% of CID's current civilian work force are former active duty military. This includes members from the Army, Navy, Marines, and Air Force. Culture change is made and sustained by committed leadership. I can assure you that both CID and Army leaders are dedicated to improving the investigative practices and processes of CID.

Ms. HOULAHAN. Do you have timelines established for criminal cases such as sexual assault investigations? If so, how often are those timelines sufficiently met and cases closed?

General MARTIN. Every crime is unique. Factors including, but not limited to the type of sexual assault, location of the occurrence, identity and status of the victim and the alleged offender, the amount of time between occurrence and reporting, presence or absence of forensic evidence, presence or absence of witnesses, and the presence or absence of electronic or digital evidence, all impact how quickly an investigation can be successfully completed. The timeliness of investigations are tracked during monthly Battalion Operations synchronization meetings with subordinate units. Investigation timeliness is part of the Battalion and Group Organizational Inspection Program (OIP), as well as reviewed as part of periodic Inspector General (IG) inspections. These updates, inspections, and leadership involvement assist our unit's ability to keep investigations from stagnating.

Ms. HOULAHAN. What are the average years of experience for your agents? Of that, I understand that your agents often have different investigative specialties such as fraud or counterintelligence, what percentage of your experienced agents focus solely on criminal investigations?

General MARTIN. As of March 10, 2021 (of 1,368 assigned Agents):

of Agents with 1 year or less: 149/11%

of Agents with 1 to 3 years: 444/32%

of Agents with 4 to 7 years: 166/12%

of Agents with 7+ years: 609/45%

Not including agents focused on criminal investigations involving fraud and cybercrime, and agents performing protective service duties for DOD senior leaders, there are approximately 900 CID agents focused solely on general criminal investigations, which include sexual assaults.

Ms. HOULAHAN. With incidents of sexual assault and sexual harassment often being unreported, can you each describe what the dynamics are between your investigative organizations and the SHARP/Victim Advocate/SARC programs? Are you looking at reviewing those relationships and potentially revamping them?

General MARTIN. CID agents work closely with representatives from SHARP/Victim Advocate/SARC programs and the victim's and subject's chains of command. CID is also active in the Army's People First Task Force that is currently looking into ways to improve relationships among Army agencies including CID and SHARP. Recently, the A/SA signed Army Directive 2021-16 which improves the Sexual Harassment/Assault Response and Prevention program by better protecting and informing victims of sexual assault and sexual harassment. The new directive immediately implements several SHARP-related findings and recommendations from the FHIRC report, including provisions improving the issuance of military protective orders, informing the Directorate of Emergency Services or Provost Marshal's Office, and the process by which sexual assault victims receive case notifications.

Ms. HOULAHAN. What percentage of your current civilian work force is formerly active duty military? With that percentage, how do you ensure the culture can change and improve if there is a revolving door of the same mentality?

General BULLARD. As of 24 Mar 21, OSI has 501 total civilian agents; this includes 26 participating in the Palace Acquire (PAQ) program, which is a centrally-funded and managed three-year program targeted at recent college graduates with exceptional academic achievement. Of the 501 total civilian agents, 201 (40.2%) have no prior military experience. Among the 300 agents with military experience (59.8%), these are split between 130 military retirees (123 prior-OSI) and 170 with some military service (96 prior-OSI). In total, 219 of OSI's civilian agents have previous OSI experience (43.72%) As this data indicates, OSI civilian agents are only slightly tilted towards those with prior military service. Former military personnel who return to OSI as civilian agents are normally selected due their possession of unique skills and experience which are in-demand among our civilian agent force (e.g. cyber, language, technical operations, etc.) Additionally, many of these former military personnel come from specialties and backgrounds not affiliated with OSI. Overall, 43.7% of OSI's civilian agent force is composed of former active duty agents, meaning more than half of our civilian agents come to us with no or differing military backgrounds. This infusion of new perspectives and experiences, coupled with the constant addition of new active duty agents, helps OSI to avoid groupthink or the perpetuation of unhelpful assumptions or viewpoints. Additionally, OSI has dedicated offices committed to diversity and inclusion, organizational development, and total force development. Taken together, OSI remains on the leading edge of cultural innovation and change, and constantly strives to identify and inculcate new and creative methodologies, ideas, and perspectives.

Ms. HOULAHAN. Do you have timelines established for criminal cases such as sexual assault investigations? If so, how often are those timelines sufficiently met and cases closed?

General BULLARD. The timeliness standard for our criminal investigations on adult sexual assault, narcotics, and general criminal offenses is 75 days from case initiation to a published report of investigation. Death and child sexual offense investigations are expected to run no more than 180 days. Fraud investigations are afforded 730 days for investigation. For adult sexual assault investigations (as specified in the question), the 75-day standard is applied to offenses ranging from sexual contact investigations to human trafficking. Based on the varied complexity of these different offenses, OSI is evaluating the merits of adjusting our timeliness goals in the very near future to maintain a 75-day standard for less-complex sexual offenses, and set a new standard of 120 days for penetrative and aggravated sexual offense investigations. In reviewing data for calendar years 2018, 2019, and 2020, OSI has averaged 114 days to completion on all adult sexual assault investigations; the median time to complete was 76 days. During that period, death and child sexual assault investigations averaged 207 days with a 175 day median. Fraud investigations ran an average of 590 days, and the median for this category was 390 days.

Ms. HOULAHAN. What are the average years of experience for your agents? Of that, I understand that your agents often have different investigative specialties such as fraud or counterintelligence, what percentage of your experienced agents focus solely on criminal investigations?

General BULLARD. Due to a variety of individual requirements and differing career tracks, the average experience level of OSI agents varies by category. At present, officer agents (total of 291 positions) average 8.8 years of experience; enlisted agents (total of 1,032 billets) average 5.8 years of experience; and civilian agents (total of 591 positions) average 14.9 years of experience. These experience levels reflect a number of realities which the OSI blended force faces, notably that enlisted agents constitute the majority of our newest personnel, and that civilian agents have greater latitude to remain in-place in to obtain greater experience and longevity without the demands of the traditional military “up-or-out” paradigm. Although OSI does offer a number of opportunities for its agent personnel to specialize in a wide range of skillsets, all OSI agents remain capable of conducting criminal investigations when and as-needed. While OSI employs a variety of funding streams in support of its investigative mission, the interoperability of OSI agents means that the command does not employ any specific individuals or positions “solely” for the conduct of criminal investigations. Indeed, many agents have criminal investigations as their primary mission focus, but remain capable of, any often do, surge to meet other requirements such as counterterrorism or counterintelligence matters. Nonetheless, each OSI subordinate wing is assigned a criminal investigations subject matter expert (SME) to assist in the oversight and management of investigations. These individuals are among our most experienced and seasoned personnel in the conduct of criminal investigations. Similarly, agents of equally strong backgrounds in criminal investigations serve as command-wide experts at OSI’s headquarters, both from an operational and policy and resourcing standpoint. OSI therefore recognizes the importance of providing our field units and agents the best possible policy, resources, and expertise to ensure the conduct of sufficient and timely investigations.

Ms. HOULAHAN. With incidents of sexual assault and sexual harassment often being unreported, can you each describe what the dynamics are between your investigative organizations and the SHARP/Victim Advocate/SARC programs? Are you looking at reviewing those relationships and potentially revamping them?

General BULLARD. Our field units maintain close relationships with Special Victim’s Counsel (SVC), SARCs, and Victim Advocates (VA). Annually, and IAW DODI 5505.18 and DODI 5505.19, OSI agents conduct joint training with the SARC. Additionally, OSI agents assist the SARC by providing training to VAs on the investigative process and the roles the VA, SARC, and SVC play in that process. When OSI agents need to speak with a victim, they coordinate this step with the victim’s SVC and/or the SARC. If the victim so desires, their SVC or VA can be present during the interview to provide support to the victim. In addition to this, OSI units provide timely updates on investigations to the Special Victims’ Investigation and Prosecution team so they can better perform their duties. Upon notifications of an Unrestricted Report from the SARC, OSI assists the SARC in completing the Sexual Assault Incident Response Oversight (SAIRO) Report. We believe our relationship with these programs is strong and effective. The roles of all entities are clearly defined and create an environment that supports the needs of the victim, while working to forward criminal investigations. OSI has not sought to review these relationships or revamp them at this time.

Ms. HOULAHAN. What percentage of your current civilian work force is formerly active duty military? With that percentage, how do you ensure the culture can change and improve if there is a revolving door of the same mentality?

Mr. LOPEZ. 40% of the NCIS civilian workforce is formerly active duty military. In regards to cultural change, NCIS has not experienced any collective issues with our former active duty personnel. Being a civilian organization, having former military members in NCIS enhances the diversity of our workforce and has had a positive impact on our workplace culture.

Ms. HOULAHAN. Do you have timelines established for criminal cases such as sexual assault investigations? If so, how often are those timelines sufficiently met and cases closed?

Mr. LOPEZ.

- NCIS must initiate a new sexual assault investigation within 3 days of being notified of a sexual assault offense.
- NCIS follows the timeline guidelines set forth in the DODI 5505.19 for 24hr and 48hr Special Victim Investigation and Prosecution (SVIP) notifications/collaborations.
- NCIS agents provide a status report every 60 days while the investigation is still active.
- NCIS averages 118 days for DON sexual assault investigations though some active investigations are completed sooner while more complex investigations take longer.
- Supervisory Special Agents review cases at a minimum every 60 days.
- Cases are closed when the commanding officer of the service member(s) who are the subject of an investigation provide NCIS, in writing, the final disposition, to include any administrative, non-judicial punishment or judicial action taken as a result of the investigation.

Ms. HOULAHAN. What are the average years of experience for your agents? Of that, I understand that your agents often have different investigative specialties such as fraud or counterintelligence, what percentage of your experienced agents focus solely on criminal investigations?

Mr. LOPEZ. NCIS tracks tenure with the agency vice years of experience. The average tenure of NCIS special agents is 10 years. The average tenure of NCIS special agents focusing on criminal investigations is 9 years. While the average tenure is 10 years, it is important to note the average years of law enforcement experience is higher, as NCIS actively recruits personnel with prior law enforcement experience for service as special agents.

Ms. HOULAHAN. With incidents of sexual assault and sexual harassment often being unreported, can you each describe what the dynamics are between your investigative organizations and the SHARP/Victim Advocate/SARC programs? Are you looking at reviewing those relationships and potentially revamping them?

Mr. LOPEZ. NCIS has a close relationship with DON Sexual Assault Prevention Response (SAPR), Navy SAPR and Marine Corps SAPR at the HQ level.

NCIS collaborated with DON SAPR in creating a sexual assault prevention video on combating sexual assault (due out later this year).

NCIS doesn't view our relationships with the other Navy and DOD groups as needing repair. We have a very strong relationship, which is maintained via continuous communications. This includes collaborating on briefings, sharing metrics, and developing policies at both the field and the headquarters level. NCIS frequently provide briefs at their relevant trainings and they also provide briefs to support NCIS. Local NCIS offices routinely interact with SAPR/Victim Advocate (VAs), SVIP, Case Management Group for Sexual Assaults (CMG) for briefings and specific topic focused meetings.

QUESTIONS SUBMITTED BY MS. STRICKLAND

Ms. STRICKLAND. In the Fort Hood report, you highlighted that the 2018 Annual Report on Sexual Assault in the Military reported that sexual assault occurs most often between junior enlisted acquaintances who are peers or near peers in rank. Additionally, the vast majority of sexual assaults of service members occurred between people aged 17–24 who work, train, or live in close proximity. You also said that junior enlisted showed the least amount of knowledge of the SHARP Program and the various ways to report a sexual assault. How can we work on educating the most at-risk service members?

a. What resources and tools are most helpful in making sure that service members are aware of the what is available to them if they are assaulted?

Mr. SWECKER. The FHIRC recommended that a strong centralized Corps level SHARP Program Manager Office be established that reports to an SES or general officer at the DA level while also functioning in direct support of the CORPS Commander. This PM would centralize, implement and track all SHARP training. The

perfunctory nature of SHARP training was pointed out as the greatest weakness of SHARP training at the Unit level. The inherent weakness was that NCOs were tasked with delivering a powerpoint or other very rote and non participatory training that simply did not sink in with the key population of E-1 through E-5 levels. The training should be delivered at the PM training center and attended by both officers and enlisted. Strong emphasis should come from the command level concerning the critical nature of the training and soldiers should be tested on their knowledge of the essential elements of the SHARP Program. Substandard grades should place the soldier into a remedial track until proficiency is gained.

Ms. STRICKLAND. One of the problems that you recognized in your report was the lack of professionalism in the overall SHARP force. This is concerning because they are a vital contributor to military readiness.

a. It's not really possible to choose SHARP as a career and it doesn't come with advancement unlike many other qualifications. Can you discuss the resources DOD would need to professionalize SHARP including professional development, rewards for performance, in preserving institutional knowledge?

Mr. SWECKER. Per the FHIRC Report SHARP duties should be a recognized Army MOS and the career track should be modeled after the Army EO, IG and similar programs. The Army should eliminate collateral duties and consolidate those duties into positions with the CORPS level SHARP Program office. Serving in the The SHARP program should be career enhancing and part of a defined career track.

Ms. STRICKLAND. In the Fort Hood report, you highlighted that the 2018 Annual Report on Sexual Assault in the Military reported that sexual assault occurs most often between junior enlisted acquaintances who are peers or near peers in rank. Additionally, the vast majority of sexual assaults of service members occurred between people aged 17-24 who work, train, or live in close proximity. You also said that junior enlisted showed the least amount of knowledge of the SHARP Program and the various ways to report a sexual assault. How can we work on educating the most at-risk service members?

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Ms. RICCI. Numerous soldiers identified "SHARP 360" training as very impactful and the best SHARP training they received. I visited the SHARP 360 facility on Fort Hood, which consists of a large trailer housing several different rooms that are furnished to allow soldiers to role play given scenarios. This interactive training leaves a lasting impression and equips soldiers with critical SHARP knowledge, as well as trains soldiers to identify risky situations and possible methods of intervention and assistance to prevent or react to incidents of sexual assault. SHARP training can be integrated into newcomer orientations and must be championed as a priority for every unit by unit commanders.

Ms. STRICKLAND. One of the problems that you recognized in your report was the lack of professionalism in the overall SHARP force. This is concerning because they are a vital contributor to military readiness.

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Ms. RICCI. The FHIRC review was of Fort Hood and to some extent the Army, and not of the DOD program. With this in mind, as described in the FHIRC Report (pp. 127-128) SHARP Military Professionals (SARCs and VAs) should be selected, trained and assigned at the Department of the Army level, which will ensure they are appointed, credentialed, trained and ready to perform their duties when they hit the ground. Additionally, SHARP should be established as a Special Qualifications Identifier (SQI) and the program should be fully funded, in order to: (i) enable interdisciplinary development of SHARP Military Professionals across Military Occupational Specialties, (ii) encourage the best to aspire to become SHARP Military Professionals, (iii) reward these professionals for their service, and (iv) preserve institutional knowledge through professional development.

Ms. STRICKLAND. In the Fort Hood report, you highlighted that the 2018 Annual Report on Sexual Assault in the Military reported that sexual assault occurs most often between junior enlisted acquaintances who are peers or near peers in rank. Additionally, the vast majority of sexual assaults of service members occurred between people aged 17-24 who work, train, or live in close proximity. You also said that junior enlisted showed the least amount of knowledge of the SHARP Program and the various ways to report a sexual assault. How can we work on educating the most at-risk service members?

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Mr. BLAND. The solution to this phenomenon is squarely rooted within what should be a top-down expectation, if not requirement, that the officers and NCOs who are both responsible and accountable for the welfare, safety and security of the soldiers whom they are privileged to command are exercising the requisite degree of effective and engaged leadership relative to personally ensuring that all of the Army's available Special Emphasis Programs, to include SHARP, are being appropriately administered, emphasized and communicated downward as a critical rating component of their end-of-tour Officer and NCO Evaluation Reports (OERs/NCOERs).

Ms. STRICKLAND. One of the problems that you recognized in your report was the lack of professionalism in the overall SHARP force. This is concerning because they are a vital contributor to military readiness.

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Mr. BLAND. Believe that it is imperative to reverse the unintended consequences of SHARP's being frequently perceived by commanders as a program which can be staffed by mid-level and senior NCOs who oftentimes are those soldiers who are considered to be sub-par performers who can fill these nominal/ancillary/temporary assignments in order to minimize any impact on overall unit readiness. While instituting more comprehensive SHARP training and educational opportunities tied to career-enhancing incentives and bonuses, as well as the promulgation of new policies and standard designed to address this situation, would have an immediate and long-lasting positive impact, nonetheless opine once again that any modicum of sustained improvement and ultimately, success, relative to this program is inexorably linked to measures that must be implemented on the part of senior Army leaders at the highest general officer levels to hold commanders at all subordinate levels personally accountable by way of their OER/NCOER ratings to compel their adherence, emphasis and leadership. In doing so, any lack of compliance on the part of these individuals would be tantamount to career ruination.

Ms. STRICKLAND. In the Fort Hood report, you highlighted that the 2018 Annual Report on Sexual Assault in the Military reported that sexual assault occurs most often between junior enlisted acquaintances who are peers or near peers in rank. Additionally, the vast majority of sexual assaults of service members occurred between people aged 17–24 who work, train, or live in close proximity. You also said that junior enlisted showed the least amount of knowledge of the SHARP Program and the various ways to report a sexual assault. How can we work on educating the most at-risk service members?

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Ms. COUNTS. The lack of discipline, institutional control, and professionalism by the Command of Fort Hood is well documented in the Fort Hood Independent Review Committee (FHIRC) report. With a laser focus on the mission, the leadership at Fort Hood allowed all other aspects of soldier life to suffer, to include the health, safety and welfare of those charged with carrying out the mission. And, female service members were expendable as long as the mission moved forward.

At Fort Hood, the Committee found little to no evidence of educating service members who are most at risk for sexual assault/harassment. Female service members reported that during their exit briefings at other Army installations, they were told that they should be aware and take some measures to protect themselves, as they "could expect and probably would be" sexually harassed and or assaulted shortly after reporting to Fort Hood. While a handful of service members made reference to a Newcomers Brief and a Sponsorship Program for service members upon their arrival at Fort Hood, these service members characterized both the Brief and the Program as not being fully implemented and never followed through.

Of the 308 E-1 to E-4 junior enlisted female service members interviewed by the FHIRC, 183, or 59%, reported NOT feeling safe on post. Female service members within this group, identified as the most at risk, reported being attacked in their rooms; in laundry and storage areas within their barracks, and in certain areas on post that were not well lit. Many of these attacks were committed by their NCOs or by their peers. Reports of NCOs "requiring" new female service members to attend off post parties soon after their arrival to Fort Hood, only for these female soldiers to wake up disoriented, naked and alone the next morning, were commonplace. In a number of these cases, it was reported that the NCOs were the ones who transported the female service member to the off post party. Of this E-1 to E-4 group, 167, or 54%, reported they were NOT confident in their commanders to take a report of sexual assault and/or harassment seriously. And, 119, or 38% of this group,

reported they had seen or heard of someone who had been retaliated against for “raising a concern” of sexual assault and/or harassment. Add to these numbers the staggering response to an online survey given to all units assigned to Fort Hood as part of the Independent Review, when 1,339 service members responded “yes” to whether they had “observed a situation I believe was sexual assault” in the past twelve months.

The Review Committee heard all too many times that the lines between junior enlisted and the higher ranks are blurred at Fort Hood to the point that in some units these lines no longer exist. Fraternization is the norm and not the exception. In one unit, there were several reports of Sergeants fathering children with junior enlisted service members; “everyone knows, but everyone is afraid to say anything.”

Attitude is reflected in leadership. At every turn, the FHIRC found a cavalier attitude and a total lack of leadership regarding sexual assault and harassment. Fort Hood soldiers who had been assigned to other Army Posts talked about zero tolerance policies regarding sexual assault and harassment. Every one of these service members said the zero tolerance installations had a visible and higher quality of command and soldier than any they found at Fort Hood. Some of these more experienced soldiers began to hold off duty meetings with the younger female service members to educate them in “what was ok behavior and what was not.” Two sergeants reported in their respective units, several male service members asked to attend the meetings as they were deeply disturbed as to how their female counterparts were being treated. These initiatives were few and far between and the women leading the groups readily acknowledged they were not “high enough up” to make a difference.

The lack of confidence in leadership; the lack of confidentiality, and the stigma attached to victims reporting and seeking help on post, all work to ensure the victim remains a victim. Victims of sexual assault who utilize on post resources following an assault found it difficult to regain their sense of self as they continued to be victimized through various forms of reprisal and retaliation.

In interviews with Carl A. Darnall Medical Center staff and credentialed Victim’s Advocates at Fort Hood, a number of resources are available to service members who are victims of sexual assault and are in place both on and off post. These off post resources meet monthly and share a cohesive and cooperative approach to helping victims. Off post resources allow for the victim to regain their sense of self once rank and the uniform are not factors to deal with. The Committee found little to no evidence of any Fort Hood SHARP personnel or Fort Hood CID participating in these monthly meetings.

Ms. STRICKLAND. One of the problems that you recognized in your report was the lack of professionalism in the overall SHARP force. This is concerning because they are a vital contributor to military readiness.

a. It’s not really possible to choose SHARP as a career and it doesn’t come with advancement unlike many other qualifications. Can you discuss the resources DOD would need to professionalize SHARP including professional development, rewards for performance, in preserving institutional knowledge?

Ms. COUNTS. Of the thirty SHARP personnel I personally interviewed as part of the Fort Hood Independent Review, 27, or 90%, had an unfavorable opinion of the overall program. Some cited training as lacking; some thought adequate training resources were available; but, the training itself needed fine tuning. Many thought the overall program was understaffed and not viewed as a priority. All agreed that a more thorough vetting process is needed for SHARP personnel. One Fort Hood Sexual Assault Response Coordinator (SARC) was arrested for running a prostitution ring. In 2014, a Fort Hood Victim’s Advocate (VA) was accused of sexually assaulting multiple intoxicated victims while the unit was deployed to Korea. In 2019, this individual was allowed to **reenter** the SHARP Program as a VA after going five years without an alcohol related incident. The service members reporting this information summed it up succinctly by saying “after seeing this, how can anyone have faith in this program?”

Victims of sexual assault have two options to report assaults through the Army Sexual Harassment and Assault Response Program, or SHARP: the restricted report or the unrestricted report. A restricted report allows SHARP personnel to provide a host of immediate, in person, victim support services, including counseling, mental health services and medical care follow up. This reporting option does not initiate an investigation, unless there is a need to prevent or mitigate a serious and imminent threat to the health and safety of the victim or another. A restricted report can be “converted” to an unrestricted report by the initial reporting victim. There have also been some cases where the victim’s identity has been compromised, causing the reporting option to be converted. Of the 308 E-1 to E-4 female service members interviewed, (the group identified as the most at risk), 256, or 83%, stated they

were aware of the differences between restricted and unrestricted reporting. However, a number of these service members who were victims of sexual assaults were unclear and upset as to why or how their initial restricted reporting option became unrestricted. Many of the victims interviewed were not aware that this conversion could occur.

An unrestricted report of sexual assault is the only type of reporting that requires Command notification and the initiation of an investigation by a military criminal investigative organization, such as Army CID. An unrestricted report cannot be converted back to a restricted report.

In late August of 2020, when the Fort Hood Independent Review commenced on site, the installation reported 103 unrestricted reports and 16 restricted reports. Of the 507 face to face interviews of female soldiers conducted by the Review Team, 93 credible accounts of sexual assault were identified. This number was based on victim reporting, witnesses to the assault or individuals having significant details of the assault. Of those 93 accounts, only 59 had been reported, either using the restricted or unrestricted option.

The fact that a victim has to give up her identity and become victimized over and over again in order to **initiate** an investigation of sexual assault against her attacker is unacceptable. Conversely, it is unacceptable that a victim is told **no** investigation will be conducted UNLESS she chooses to have her identity revealed to her command.

In their interviews, two veteran service members, both close to retirement and both serving in senior positions within SHARP, stated that there is a total lack of respect for women by leadership at Fort Hood. One of the service members who has been in a senior SHARP position at the Brigade Level for several years noted “leaders turn a blind eye or they themselves are the offenders.” Both service members cited a one in three victimization rate of junior enlisted female service members within the first eight months at Fort Hood; however, both noted they suspected this rate was in fact much higher due to the reluctance of victims to report. And, while both agreed SHARP could only work if victims reported, both stated with the way the current program is configured, coupled with the lack of leadership, they would not encourage a victim who came to them to report the assault.

Training and indoctrination as to what is expected of soldiers needs to occur on the very first day of service in order to begin building a culture that has absolutely no tolerance for abuse among soldiers—particularly any abuse of the most vulnerable soldiers. It should be instilled in each soldier that in order to defend their country they must first defend and support each other. This must be reinforced every day.

Junior enlisted personnel look to their NCOs and superior officers to determine how they should behave toward one another. They pay very close attention to them; and, they behave accordingly. Any training received by junior enlisted personnel will be undone if not exemplified and supported on a daily basis by their NCOs and superior officers.

At Fort Hood, junior enlisted personnel “learn” from their fellow soldiers, NCOs and superior officers that the weakest among them are not to be valued. These “weaker” soldiers are not supported; and, they can be abused at will. Moreover, this abuse would be tolerated and accepted and in some units, encouraged by the higher ups; and, depending on the rank of the abuser, the abuse would not only go unpunished, but the abuser would often be rewarded.

One of the issues the FHIRC observed regarding SHARP was that it was not highly regarded nor vigorously supported by the command structure at Fort Hood. The Army did not make it a priority for the command staff; there was neither reward for putting their best people in SHARP, nor was there any penalty for “just filling a slot.” The Command failed to commit whatever resources were necessary for its most efficient and effective operation. Thus, the Command staff responded accordingly and committed their resources and best people to support the priorities the Army told them to support. Generals are like everyone else; if you tell them what they have to do and back that up with rewards and punishments; they will respond accordingly. At Fort Hood—the command staff and even CID, were rewarded for their overall performance while they were failing DAILY in their responsibilities to SHARP, sexual assault prevention and investigations, simply because their performance in these areas were not identified as priorities by the Army and not directly tied to their evaluations and promotions.

By stating that “It’s not really possible to choose SHARP as a career and it doesn’t come with advancement unlike many other qualifications,” sums the problem up in a nutshell. If the Army cannot or will not make service and/or leadership in SHARP career enhancing for its NCOs and officers, then it needs to turn the program over to **professional** civilian army employees.

Ms. STRICKLAND. Sexual assault and harassment are a traumatic experience and is unacceptable. While a lot of attention, rightly so, is focused on sexual assault between members of the uniformed services or committed by service members on civilians, I want to focus on what resources are available for civilian military spouses. According to the CDC about 1 in 4 women and nearly 1 in 10 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime and reported some form of Intimate Partner Violence (IPV)-related impact. I am aware that domestic violence cases around the country, including at Joint Base Lewis-McCord, have increased and have been exacerbated by the coronavirus pandemic. I am also aware that the Family Advocacy Program has victim advocates available across JBLM for active duty service members, their current or former spouses, those with whom they share a child in common or have lived together as intimate partners. Military families make enormous sacrifices for this country, leaving support networks when the service member gets new orders and moving to unfamiliar environments. Can you tell expand on what resources exist for civilian spouses of service members who are experiencing domestic violence?

a. Do you think you have enough resources to support those are experiencing domestic violence?

b. How are you proactively educating family members of their rights?

c. Can you identify some challenges that exist for protecting civilian spouses of service members?

General MARTIN. The Army is deeply committed to preventing and responding to all acts of domestic violence and child abuse and neglect regardless of whether the victim is military or civilian. The Army Family Advocacy Program is resourced with healthcare professionals who provide immediate and ongoing services to victims of domestic abuse, specially trained and certified domestic abuse victim advocates at each installation to support the victim and help coordinate services. The installation Family Advocacy Program Manager ensures services are available and coordinated for all beneficiaries.

Spouses of service members who experience domestic violence may consult with an Army Legal Assistance attorney to discuss concerns related to safety, financial support, and child custody and are assigned a Special Victim Counsel (SVC) when the suspect's case is postured towards an administrative or court-martial proceeding.

The Army recognizes that civilian spouses who live off-post may experience added challenges accessing or even knowing about the Family Advocacy Program. During the COVID-19 pandemic there were no service interruptions as the installations shifted to virtual services until health protection conditions allowed for a return to in-person support. The Army has also initiated a study with the RAND Corporation in order to better understand this challenge and develop solutions to improve outreach with a study completion in 2022. Active prevention and rapid response to domestic violence is critical for readiness and aligns with the Army's number one priority—People.

Ms. STRICKLAND. Sexual assault and harassment are a traumatic experience and is unacceptable. While a lot of attention, rightly so, is focused on sexual assault between members of the uniformed services or committed by service members on civilians, I want to focus on what resources are available for civilian military spouses. According to the CDC about 1 in 4 women and nearly 1 in 10 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime and reported some form of Intimate Partner Violence (IPV)-related impact. I am aware that domestic violence cases around the country, including at Joint Base Lewis-McCord, have increased and have been exacerbated by the coronavirus pandemic. I am also aware that the Family Advocacy Program has victim advocates available across JBLM for active duty service members, their current or former spouses, those with whom they share a child in common or have lived together as intimate partners. Military families make enormous sacrifices for this country, leaving support networks when the service member gets new orders and moving to unfamiliar environments. Can you tell expand on what resources exist for civilian spouses of service members who are experiencing domestic violence?

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b. How are you proactively educating family members of their rights?

c. Can you identify some challenges that exist for protecting civilian spouses of service members?

General BULLARD. The Family Advocacy Program (FAP) is the DOD's designated social services entity independent of command and law enforcement actions, to address domestic abuse and their services are available to civilians as well as active duty members, to include military spouses and their children, who are experiencing

domestic violence. Military dependents who are victims of sexual assault committed by a non-intimate partner Service member are eligible for the full range of advocacy resources provided by SAPR. All victims regardless of affiliation to the military are eligible for assistance through each installation's Victim Witness Assistance Program (VWAP) team. Finally, all Airmen, Guardians and dependents who are victims of sexual assault, stalking, or domestic violence are eligible for representation from a military Special Victims' Counsel (SVC) attorney. SVC staff are trained to advocate for the victim's rights and advise them on the complexities of the military justice system. OSI works closely with FAP to ensure available services are offered, and informs victims of services available (both verbally and via a written brochure); however, OSI does not itself provide these specific services to victims of domestic violence.

a. Do you think you have enough resources to support those are experiencing domestic violence? From an OSI investigative perspective the answer is assessed to be yes, and OSI works closely with a number of entities in our investigations, at every installation, to ensure domestic abuse victim advocates (DAVAs) and SVCs are able to meet with and support anyone reporting domestic violence. However, the FAP, DAVA, and VWAP programs may be able to provide different, more involved perspectives as that is their area of expertise.

b. How are you proactively educating family members of their rights? Upon initial contact with any victim or witness reporting an offense, OSI agents are trained to thoroughly inform them of their rights regarding access to a SVC, and provide them the DD Form 2701.

c. Can you identify some challenges that exist for protecting civilian spouses of service members? OSI would defer to representatives of the DOD Family Advocacy Program, the OSJA's VWAP team, and the respective services' Special Victim Counsel or Victim's Legal Counsel Programs for their perspectives. Additional language if needed: OSI does not provide victim services to service members and their dependents; however, OSI does work closely with the Family Advocacy Programs on base through close coordination in ongoing investigations and monthly meetings to share relevant updates. Victims of domestic violence are advised to contact their local Family Advocacy office which can provide a myriad of services; OSI agents are trained to provide that information to any victims of domestic violence and other crimes so that victims may receive proper care. The Family Advocacy Program clinicians as well as, the DAVA program provides a broad range of services to military-affiliated victims of partner maltreatment. Advocacy services are provided with the goal of increasing victim safety and autonomy. Services include responding to victims' emergency and ongoing safety concerns and needs; providing information on programs and services available to victims and their children in both civilian and military communities; and providing victims with ongoing support and referrals. With the exception of mandatory state, federal, and military reporting requirements (i.e. domestic violence, child abuse, and duty to warn situations) the DAVA provides a private and confidential service to encourage victims in seeking assistance.

Ms. STRICKLAND. Sexual assault and harassment are a traumatic experience and is unacceptable. While a lot of attention, rightly so, is focused on sexual assault between members of the uniformed services or committed by service members on civilians, I want to focus on what resources are available for civilian military spouses. According to the CDC about 1 in 4 women and nearly 1 in 10 men have experienced contact sexual violence, physical violence, and/or stalking by an intimate partner during their lifetime and reported some form of Intimate Partner Violence (IPV)-related impact. I am aware that domestic violence cases around the country, including at Joint Base Lewis-McCord, have increased and have been exacerbated by the coronavirus pandemic. I am also aware that the Family Advocacy Program has victim advocates available across JBLM for active duty service members, their current or former spouses, those with whom they share a child in common or have lived together as intimate partners. Military families make enormous sacrifices for this country, leaving support networks when the service member gets new orders and moving to unfamiliar environments. Can you tell expand on what resources exist for civilian spouses of service members who are experiencing domestic violence?

a. Do you think you have enough resources to support those are experiencing domestic violence?

b. How are you proactively educating family members of their rights?

c. Can you identify some challenges that exist for protecting civilian spouses of service members?

Mr. LOPEZ. *Can you expand on what resources exist for civilian spouses of service members who are experiencing domestic violence?*

NCIS works closely with Commands and civilian authorities who are responsible for furnishing resources beyond an investigative response to allegations of domestic violence.

a. Do you think you have enough resources to support those who are experiencing domestic violence?

NCIS has submitted funding requests to enhance its capacity to work family and sexual violence cases, which includes domestic violence. Currently, NCIS is in the process of expanding its training program for domestic violence, specifically on the topic of strangulation and interpersonal violence (IPV). At present, domestic violence training comes from NCIS' internal budget offsets. The DON PB22 submission includes additional sexual assault resources focused on prevention and response efforts across the DON, including critical shortfalls within NCIS.

b. How are you proactively educating family members of their rights?

NCIS conducts Crime Reduction Campaign briefing, which is also done in coordination with DON SAPR. At the installations, NCIS participates in joint briefs/campaigns with Family Advocacy Program (FAP). NCIS also briefs Victim Witness Assistance Program (VWAP) to victims in NCIS cases.

c. Can you identify some challenges that exist for protecting civilian spouses of service members?

The involvement of Domestic Abuse Victim Advocates (DAVA) are imperative in cases involving interpersonal violence (IPV). Victims of IPV are less likely to follow through with the investigative/judicial process, this is due to several reasons such as the psychology of the cycle of violence, pressure from family/friends to "drop the charges," uncertainty related to finances, support for children, access to facilities, and an overall lack of information of services and support available to them from the FAP office. This is why DAVA involvement is so important. Through our strong relationships with Special SVIP and various local law enforcement we have relationships with many local domestic violence shelters throughout the United States.

