

RECORD VERSION

STATEMENT BY

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

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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 SABB, 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.