HEARING TO RECEIVE TESTIMONY ON THE DEPARTMENT OF THE AIR FORCE IN REVIEW OF THE DEFENSE AUTHORIZATION REQUEST FOR FISCAL YEAR 2014 AND THE FUTURE YEARS DEFENSE PROGRAM

TUESDAY, MAY 7, 2013

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC.

The committee met, pursuant to notice, at 9:40 a.m. in room SH–216, Hart Senate Office Building, Senator Carl Levin (chairman) presiding.

Committee members present: Senators Levin, Nelson, McCaskill, Udall, Shaheen, Gillibrand, Blumenthal, Donnelly, Kaine, King, Inhofe, McCain, Sessions, Chambliss, Wicker, Ayotte, Fischer, and Lee.

Committee staff members present: Peter K. Levine, staff director; and Leah C. Brewer, nominations and hearings clerk.

Majority staff members present: Jonathan D. Clark, counsel; Gabriella E. Fahrer, counsel; Creighton Greene, professional staff member; Gerald J. Leeling, general counsel; and John H. Quirk V, professional staff member.

Minority staff members present: John A. Bonsell, minority staff director; Steven M. Barney, minority counsel; Allen M. Edwards, professional staff member; Thomas W. Goffus, professional staff member; Anthony J. Lazarski, professional staff member; and Natalie M. Nicolas, minority staff assistant.

Staff assistants present: Jennifer R. Knowles and John Principato.

Committee members' assistants present: Jason Rauch, assistant to Senator McCaskill; Casey Howard, assistant to Senator Udall; Patrick Day, assistant to Senator Shaheen; Jess Fassler and Brooke Jamison, assistants to Senator Gillibrand; Ethan Saxon, assistant to Senator Blumenthal; Marta McLellan Ross, assistant to Senator Donnelly; Nick Ikeda, assistant to Senator Hirono; Karen Courington, assistant to Senator Kaine; Steve Smith, assistant to Senator King; Jacob Heisten, assistant to Senator Inhofe; Paul C. Hutton IV, assistant to Senator McCain; T. Finch Fulton and Lenwood Landrum, assistants to Senator Sessions; Todd Harmer, assistant to Senator Chambliss; Joseph Lai, assistant to Senator Wicker; Brad Bowman, assistant to Senator Ayotte; Craig Abele, assistant to Senator Graham; Charles Prosch, assistant to Senator Blunt; and Peter Blair, assistant to Senator Lee.

OPENING STATEMENT OF SENATOR CARL LEVIN, CHAIRMAN

Chairman LEVIN. Good morning, everybody.

The committee meets this morning to discuss the plans and programs of the U.S. Air Force in our review of the fiscal year 2014 annual budget and the Future Years Defense Program.

I want to welcome Secretary Donley and General Welsh to the committee this morning. This will be General Welsh's first posture hearing as Air Force Chief of Staff and it is likely to be Secretary Donley's final posture hearing, not certainly, but probably, as Secretary. We thank you both for your long careers of leadership and your service to the Department of Defense and to our Nation. A special thanks as we also appreciate your flexibility on scheduling. This hearing has been scheduled and rescheduled a number of times because of complications from the late budget submission.

We are presented this morning with dramatic evidence of the need for the Department of Defense to act swiftly and decisively to address the plague of sexual assaults in the military. A Department of Defense report, scheduled to be issued later today, reportedly estimates that on the average there are more than 70 sexual assaults involving military personnel every day.

Just this past weekend, Air Force Lieutenant Colonel Jeff Krusinski, the branch chief of the Air Force's Sexual Assault Prevention and Response Program, was arrested in Arlington County, VA, and charged with sexual battery. While under our legal system, everyone is innocent until proven guilty, this arrest speaks volumes about the status and effectiveness of the Department of Defense's efforts to address the plague of sexual assaults in the military. We will ask our witnesses to explain in their opening statements today what actions the Air Force has taken, plans to take to address this plague.

The issue of possible changes in the Uniform Code of Military Justice relative to the power of the convening authority will be addressed at our markup of the National Defense Authorization Act next month.

Over the past 12 years, Air Force personnel and equipment have played a key role in support of our national security goals in Iraq, Afghanistan, and elsewhere around the world. Over this time period, we have relied heavily on Air Force strike aircraft to take on important ground targets, Air Force manned aircraft and unmanned aerial vehicles to provide intelligence, surveillance, and reconnaissance support, and Air Force tankers to support coalition air operations. I hope that you two will extend on behalf of our committee our gratitude to the men and women of the Air Force and their families for the many sacrifices that they have made on our behalf.

The Air Force faces a number of difficult challenges in fiscal year 2014 and the following years.

First, the Air Force faces the ongoing challenge of ensuring that it will have the right size and mix of assets and capabilities to meet our strategic needs in a manner consistent with a tight budget environment. The Air Force budget this year calls for a pause in the major restructuring of Air Force structure proposed last year, pending the results of the National Commission on the Struc-

ture of the Air Force. We will look forward to receiving the commission's report next spring.

Second, the Air Force is expected to play a key role in implementing recent defense strategic guidance calling for a shift to refocus emphasis to the Asia-Pacific region. I hope our witnesses today will help us understand how this strategic shift is reflected in the Air Force budget and in the service's future plans.

Third, the Air Force faces a continuing challenge in managing its acquisition programs, including the Joint Strike Fighter, which now stands as the most expensive acquisition program in history. This challenge is exacerbated when rising costs and tight funding lead the Air Force to stretch out production lines, which delays modernization programs and further increases unit costs. The Weapons Systems Acquisition Reform Act of 2009 requires that the Defense Department make significant changes to avoid the kind of costly delays and overruns that have hit our acquisition system in the past. While this legislation should help correct past problems, it will succeed only through concerted efforts within the executive branch to implement it.

These problems are greatly exacerbated also by the implementation of sequestration in fiscal year 2013 and the specter of further sequestration in fiscal year 2014 and beyond. Sequestration which is already required is having an adverse impact on the Air Force. General Larry Spencer, the Air Force Vice Chief of Staff, testified last month that "lost flight hours will cause unit stand-downs which will result in severe, rapid, and long-term unit combat readiness degradation. We have already ceased operations for one-third of our fighter and bomber force. Within 60 days of a stand-down, the affected units will be unable to meet emergent or operations plans requirements."

Last week, Senator Inhofe and I sent a letter to the Secretary of Defense in which we asked the Secretary to provide us with a package of reductions to the fiscal year 2014 budget that would meet the $52 billion savings requirement established by the Budget Control Act. Now, that requirement in the Budget Control Act will, hopefully, be met by Congress without a sequester. All three budgets on table—the President's budget, the House budget resolution, and the Senate budget resolution—would avoid a sequester, but none of those are likely to be adopted as proposed. And as we explained in our letter to the Secretary, we believe that the identification of specific reductions should help prepare the Department for the possibility that we will be unable to avoid another round of sequestration. But at the same time, it should help Congress avoid sequestration because sequestration is so irrational and draconian, and if the public knows how unpalatable that outcome would be, it will hopefully help us avoid the outcome. We cannot afford as a Nation to let sequestration continue for another year.

So we look forward to exploring these and other issues with our witnesses this morning.

And I now call upon Senator Inhofe.

STATEMENT OF SENATOR JAMES M. INHOFE

Senator INHOFE. Thank you, Mr. Chairman. I join you in welcoming our witnesses and the tribute you made to Secretary

Donley. I believe this probably will be your last appearance as a witness. You are a very good friend to all of us up here and we appreciate your service. I am sure you will continue to contribute to our country and to the men and women in uniform.

Today's hearing comes at not just a pivotal time but at a tragic time for our Air Force, and declining defense budgets and ongoing effects of sequestration are having a significant impact on the capabilities and readiness of our airmen.

I look to our witnesses to provide the committee with their candid assessment of what this new budget reality means to the Air Force and the risks that they are being forced to accept, as well as what is being done to manage those risks.

General Welsh, you recently stated—and I am quoting now—the need for modernization is pervasive across our Air Force. And I could not agree with you more. I just wish that that were the only problem that we are facing right now.

America's combat air assets are worn out and spread too thin after 2 decades of modernization programs being deferred and canceled. The Air Force has got to replace its aging aircraft inventory, field new tankers and fifth generation fighters, and build a new bomber and increase our long-range strike capability. We have got to maintain our space-based capabilities, enhance our ability to operate in the cyber domain, and ensure that our airmen are trained and ready to execute combat operations across the spectrum of conflict.

Sadly, these efforts are being undermined by a broken acquisition process. The way we develop and buy new weapons systems is an arcane and cumbersome process that continues to saddle the taxpayers with billions of dollars in cost overruns while delaying the delivery of much needed technology to our warfighters. Congress, the Pentagon, and the defense industry have got to come together to reform and streamline this process.

The greatest near-term threat to the readiness and capabilities of our Air Force is sequestration, as the chairman stated. In order to meet the budget caps associated with sequestration, the Air Force is raiding its readiness and modernization accounts.

We learned last month that flight hours have been cut by 94,000, and 17 combat squadrons, nearly a third of the active duty combat fleet, have been grounded. The Air Force estimates that it will take between 6 and 12 months at a minimum to return these squadrons to mission-ready status. This is unconscionable at a time when we are facing a global security environment that is as dangerous and complex as any time that certainly I can remember.

Finally, it is critical that we take care of the most important component of our Air Force. That is our airmen. We must ensure that they are properly trained for the full spectrum of operations, that they and their families receive the medical care that they are entitled to, and that their rights are protected.

Your written statement details several actions the Air Force has taken to combat sexual assaults. I agree that providing a safe, respectful, and productive work environment is the responsibility of every airmen at every level. But let me be clear: I am not satisfied with the progress to date. More must be done to eliminate this scourge and do everything possible. Sexual assault undermines mo-

rale, hurts readiness, and breaks the trust of those who have volunteered to serve our Nation.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator Inhofe.

Secretary Donley, we call on you, as Senator Inhofe said, as kind of an old friend of many of ours. I may be the only one on the committee—although I look around, there may be one other one—who was here when you were on the committee staff. You were a great staffer then and you have been a very fine Secretary of the Air Force. And we welcome you and we call upon you now for your testimony.

STATEMENT OF HON. MICHAEL B. DONLEY, SECRETARY OF THE AIR FORCE

Mr. DONLEY. Thank you, Mr. Chairman, Senator Inhofe, members of the committee. It is a pleasure to be here representing our Active Duty, Guard, Reserve, and civilian airmen.

I am also honored to be here this morning with my teammate, our 20th Chief of Staff of the Air Force, General Mark Welsh, a great partner and a great Air Force leader.

For fiscal year 2014, the Air Force requests $114.1 billion in our baseline budget. As with all budgets, our fiscal year 2014 request represents a snapshot in time, our best analysis of Air Force needs, based on available information. And especially given the budget turmoil over the past year, this morning's discussion on the fiscal year 2014 budget needs to begin with where we stand this year in fiscal year 2013.

First, I would like to highlight that throughout the current budget turmoil, our Air Force priorities remain aligned with the January 2012 defense strategic guidance. This includes supporting combatant commanders in the current fight in Afghanistan, maintaining a strong and stable presence in the Pacific and Korea, supporting nuclear and regional deterrence, counter-terror, and other operations.

There is demand for air power, and your airmen are busy around the world. Today more than 35,000 airmen are deployed. More than 57,000 airmen are stationed overseas, and more than 132,000 are providing support to combatant commanders every day.

And as the fiscal constraints get tighter, we must tighten our alignment with this new strategy and strengthen our commitment to joint interdependent solutions to the Nation's military challenges.

You have heard many times that the implications of the sequestration reductions are dire. They are. And that is why the President has put forward a balanced deficit reduction proposal that would allow Congress to repeal sequestration in fiscal year 2013 and beyond. While the Department is working full out to adapt to new fiscal realities, it was not possible, given the necessary timelines, to turn around a new fiscal year 2014 budget based upon new assumptions derived from the March 1 sequestration and from the final Defense Appropriation Act, also approved in March, nearly 6 months into the fiscal year.

We need to stipulate up front that the fiscal year 2014 budget does not provide funding to recover from the damage done by even

a partial year of fiscal year 2013 sequestration, much less the full impacts that would hit the Air Force if the President's budget proposal to replace sequestration for fiscal year 2013 and beyond is not enacted.

This morning I will summarize the state of our Air Force in three broad areas: force structure, that is, the size and composition of the Air Force; readiness, the training and preparedness of our airmen and their equipment; and third, modernization, the replacement of aging aircraft and infrastructure and our investment in future capabilities.

Last year, in our efforts to meet the requirements of the first half of the Budget Control Act, which included reductions of $487 billion over 10 years, the Air Force's fiscal year 2013 budget proposed a number of force structure changes, including aircraft transfers, retirements, and changes in unit missions, that were the subject of much controversy in our Reserve components, with the State adjutants general, and congressional delegations. Thanks to the work of this committee and others, we were able to fashion a compromise which you approved in the National Defense Authorization Act.

This year, I can report that the fiscal year 2014 budget proposes no major changes in force structure. As compared to the levels enacted in the NDAA for Fiscal Year 2013, the fiscal year 2014 proposal would reduce our active duty end strength by 1,860 airmen, reduce Air Force Reserve end strength by 480, and reduce Air National Guard end strength by 300. We retain C–130 and Global Hawk block 30 force structure as directed through the end of fiscal year 2014. Our nuclear forces remain at current levels, pending future decisions on implementation of the New START agreement, and we are on track to achieve 65 medium-altitude combat air patrols with our remotely piloted aircraft fleet. We will focus in fiscal year 2014 on implementing the retirements, transfers, and mission changes outlined in the fiscal year 2013 NDAA. And we have provided two reports to Congress outlining implementation plans for each affected unit and location.

Looking ahead, it has never been more important for the Air Force to maximize the strength of the total force. Our Active, Reserve, and Guard components are increasingly integrated, training, deploying, and conducting the full range of missions together as a total force. We must continue to ensure that our Active and Reserve component mix correctly balances the strengths of each component and meets our strategic requirements and fiscal demands.

We have made progress over the last year in our intergovernmental relationships, working with DOD and the Council of Governors to formalize the consultative process between DOD and the States to provide more transparency in planning and programming. Within the Air Force, working with our Guard and Reserve leaders, General Welsh and I have established a Total Force Task Force to provide strategic options on the appropriate mix of total force capabilities and to inform our strategic planning for fiscal year 2015 and beyond. This task force will also serve as a resource to the congressionally directed National Commission on the Structure of the Air Force, which held its first meeting on April 30.

In summary, our proposed force structure is relatively stable for now, but beyond fiscal year 2014, it is dependent on decisions yet

to be made and especially on achieving a balanced approach to deficit reduction to avoid further sequestration.

Turning to readiness, while the Air Force has met the demands of a high operational tempo in support of today's fight, this has taken a toll on our weapons systems and our people. Unit readiness declined significantly from 2003 onward, and despite significant investments in the past few years, only half of our combat air forces have met acceptable readiness standards.

While we rebalance to the Asia-Pacific and our continued presence in the Middle East and Africa, we expect the demand for Air Force capabilities will remain constant and perhaps even rise over the next decade. We must improve readiness to prevent a hollow force.

With respect to fiscal year 2013, the Joint Chiefs of Staff and Air Force leaders have already recounted the readiness impacts we anticipated this year as a result of sequestration. Passage of the final fiscal year 2013 continuing resolution, which included defense appropriations, was helpful to DOD overall but did not improve the active Air Force's operation and maintenance budget. It left shortages in the overseas contingency operations accounts and did not mitigate the impacts of sequestration which required approximately $10 billion in reductions to be taken in the last 7 months of fiscal year 2013.

Anticipating this challenge, at the beginning of January, we took steps to cut back normal operations, including a civilian hiring freeze for permanent, temporary, and term vacancies, canceling non-mission critical official travel and conferences, reducing major command and combatant command O&M budgets by about 10 percent, and deferring non-emergency facilities sustainment, restoration, and modernization projects. However, these steps alone are not sufficient to absorb the full impacts of sequestration without affecting readiness.

Collectively the sequestration reductions and readiness impacts are now being felt across the Air Force. Currently nine combat-coded fighter units and three combat-coded bomber units are stood down and have ceased flying operations. Seven combat-coded units are flying at basic mission capable levels and will only return to combat mission ready status if funding becomes available. Flying hour reductions will halt training for the rest of the year in many units and will take up to 6 months to restore pilot proficiency.

Other impacts include reductions in weapons systems sustainment that will delay necessary maintenance, increase costs, and take perhaps 2 to 3 years to recover from repair backlogs. And the potential furlough of our valued civilian workforce is significantly reducing civilian pay and devastating morale and slowing productivity.

Our main objective in the fiscal year 2014 budget mirrors our objective for 3 years running: to slow and reverse the erosion of Air Force readiness. To that end, the fiscal year 2014 budget request is aimed at setting the Air Force back on the course toward full spectrum readiness. The fiscal year 2014 request prioritizes funding for 1.2 million flying hours, an increase of 40,000 hours over fiscal year 2013 to ensure pilot proficiency and continue new pilot production. It funds training ranges to enhance flying training ef-

fectiveness and to restore deteriorating infrastructure. It also adds $1.5 billion across the future years defense plan, the FYDP, to weapons systems sustainment to keep our aircraft and space systems ready.

Unfortunately, fiscal year 2013 sequestration now jeopardizes the gains we had hoped to achieve next year. Even assuming this budget is approved as proposed, and even if the Congress acted sometime this summer to repeal and replace sequestration for fiscal year 2013, we would almost certainly begin fiscal year 2014 carrying forward a significantly degraded readiness posture from this year.

The Air Force is working with OSD on a fiscal year 2013 reprogramming request to cover OCO shortfalls and to address some of the worst effects of sequestration. However, the budgetary transfer authority available to DOD is not sufficient to address all our known shortfalls. Even if such transfer authority were available, we do not have sufficient internal resources to pay for these shortfalls without digging far too deeply into modernization programs, and there may not be sufficient time left in fiscal year 2013 to repair the damage now immediately ahead.

To sum up the readiness situation, we have been consuming Air Force readiness for several years and will continue to focus resources available to meet combatant commander requirements. But with the steep and late fiscal year 2013 budget reductions brought on by sequestration, the readiness hole that we have been trying to climb out of just got deeper. The full readiness and budgetary implications of this situation could not be accounted for in the fiscal year 2014 Air Force budget request and they are still under review. And we will continue to work with our DOD leadership and Congress to fashion a practical way forward.

With respect to modernization, as I have previously testified, this challenge facing the Air Force is pervasive and will, if it is unaddressed, seriously undermine our ability to accomplish the missions the Nation asks us to undertake. The average age of our fighter aircraft is now 23 years; rescue helicopters, 22 years; training aircraft, 25; bombers, 36 years; and tankers, nearly 50 years. Satellites for missile warning, navigation, secure communications, and other needs are also aging, and replacements here must be built and launched on a schedule consistent with the life expectancy of current constellations.

Our most significant Air Force priorities remain on track in fiscal year 2014: the fifth generation F–35, Joint Strike Fighter; the KC–46 tanker; the long-range strike bomber. The continued modernization of existing fleets like the B–2, the F–22, the F–15, the F–16, and C–17 to keep them operationally effective and to extend their service lives is also key.

We request funding for preferred munitions, as well as critical space satellite assets such as the GPS; the Advanced Extremely High Frequency, AEHF, satellite; the Space-Based Infrared System, SBIRS. And we intend to maintain science and technology funding in order to stay on the cutting edge of technological innovation and sustain our air power advantage.

While we often face challenges with major acquisition programs, we have recently achieved some notable success using block buys

and efficient procurement strategies to drive down the costs of our three largest space programs, the EELV, AEHF, and SBIRS, by over $2.5 billion. And the fiscal year 2014 request includes the first year of a multiyear procurement for the C–130J, which is expected to save over $500 million over the next 5 years. We will need more successes like these in the future because there is still significant pressure on our modernization programs.

Last year, in programming the Air Force share of $487 billion in defense reductions over 10 years, the cancelation or delay of modernization programs accounted for 65 percent of total Air Force reductions across the FYDP. This year, each program was reduced by more than 7 percent in sequestration. In the immediate years ahead, major programs such as the F–35, the KC–46, and the bomber are scheduled to grow as the overall DOD budget declines, and some longstanding needs such as a new trainer and a replacement for the E–8 JSTARS are unfunded.

Looking ahead, if there continues to be resistance to force structure changes, to base closures, and constraining growth and compensation, and given our current focus on improving readiness, it is very likely that out-year budget reductions through the Budget Control Act will require further disproportionate cuts to our modernization programs. As advanced technologies continue to proliferate around the globe, these cutbacks in modernization would put at risk the Air Force capabilities this Nation will need in the next decade.

The decisions ahead of us are extraordinarily difficult, but Congress has the power to help the Air Force and the Department of Defense maneuver through these unparalleled budget challenges. In recent years, Congress has placed limits on the Air Force's efforts to take tough but urgently needed actions to balance our readiness, modernization, and force structure and rejected some of DOD's proposals to help slow the growth in military compensation. As our DOD leaders have testified, these congressional actions, if sustained, will add billions to our costs over the next 5 years. We hope that in the view of the serious economic problems facing our Nation that Congress will allow us to implement these and other important changes.

And it is now all the more critical that we get your support on reductions in base infrastructure. The Air Force executed BRAC 2005 on time and under budget, and those adjustments are today generating savings estimated at $1 billion per year. We are looking at European basing requirements with our DOD partners, and we are ready to begin next steps in the continental United States. We estimate that more than 20 percent of our basing infrastructure is excess to need. BRAC authority is a tool that we urgently need to allow DOD to divest excess infrastructure and refocus resources to meet other critical needs, including readiness, modernization, and taking care of our people.

In the area of military compensation, we are committed, as you are, to taking care of our airmen, but the impact of increasing personnel costs continues to be a serious concern and can no longer be ignored. Therefore, we support DOD's efforts to slow the growth of personnel costs. We support the modest 1 percent pay raise and

the TRICARE fee and pharmacy co-pay changes included in the President's fiscal year 2014 budget.

While these are some of the broad outlines of our fiscal year budget request, there is clearly more work to do as we assess the rolling implications of sequestration in fiscal year 2013 and beyond. We will need your help to make necessary adjustments in our force structure to keep us ready and to avoid a hollow force and to equip this Air Force with the modern capabilities it needs for the future.

But perhaps one of the most helpful things Congress can do is to return to regular order and to approve annual defense authorization and appropriations measures in a timely way. Throughout our history, this Nation has effectively dealt with strategic challenges and fiscal constraints, but our recent track record of repeated delay and uncertainty, continuing resolutions that disrupt programs and budget planning, and midyear cuts that impair readiness and threaten civilian furloughs must not become the new normal. We sincerely appreciate the ongoing commitment of this committee and its professional staff to return to regular order.

Today's world is a dangerous place and it is counterproductive to generate problems of our own making when so many other serious threats beyond our control demand attention. Together we must do better for our men and women in uniform and their families, our civilian workforce, and our National security.

Mr. Chairman, the American people have the world's best airmen and the world's finest Air Force. Your Air Force leadership team remains committed to getting the most capability possible from whatever level of resources you provide. We remain grateful for the support of this committee and its unfailing support that it has provided to the Air Force and to the men and women of our Armed Forces. The Air Force stands ready to assist in any way we can, and we look forward to discussing our proposed budget.

Thank you.

Chairman LEVIN. Thank you so much, Secretary Donley, for a very, very clear and a very forceful statement.

General Welsh.

STATEMENT OF GEN. MARK A. WELSH III, USAF, CHIEF OF STAFF OF THE AIR FORCE

General WELSH. Thank you, Mr. Chairman, Ranking Member Inhofe, and members of the committee. It is always really a privilege to appear before you.

It is a special privilege for me today because I get to sit next to Secretary Donley on what is likely his last visit to this committee. For the last 5 years, he has led our Air Force with dignity and treating every airman with respect, and we have been absolutely privileged to follow him. And I would just like to take this opportunity, Chairman, with your forbearance to thank him publicly. Boss, thank you for being a remarkable lead for our Air Force.

Ladies and gentlemen, despite the budgetary turbulence in what I hope will be an atypical year, I believe that we will see a continuing demand for American air power in the future. And because of that, while our fiscal year 2014 budget request does not fully account for the necessary recovery actions from sequestration, what it does do is prioritize our effort to reverse our declining readiness

trend, recognizing that low states of readiness negate many of the strategic advantages of that air power.

Flying hours are allocated to maintain and in some cases to incrementally improve readiness across the total force. In the past, we relied on overseas contingency operations funding to partially fund those flying hour programs, and that cannot continue. So we will continue to reduce our reliance on OCO funding for our flying hour program through 2015, at which point we should meet as much as 90 percent of our peacetime flying requirement within our base budget, a level we have not reached in quite some time.

We have also restored emphasis on our training ranges and are funding about 75 percent in the 2014 budget request, up from a low of about 25 percent only a couple of years ago.

As a side note, we also hope to realize cost savings from the findings of our Total Force Task Force. This group was formed to examine the operational impacts and cost factors associated with various approaches to total force integration. By identifying and implementing the optimum mix of our Active, Reserve, and Guard components, we should be able to maximize operational effectiveness, better provide stability over time to our Reserve component missions and organizations, and better support the States as well as provide for the National defense. You can expect to see the results of this work presented in our fiscal year 2015 budget submission.

Our fiscal year 2014 budget request also strives to protect the modernization that will make our Air Force viable in the future. The KC–46, the F–35, and the long-range strike bomber remain our top three investment priorities. We need the F–35. It remains the best platform available to address the proliferation of highly capable, integrated air defenses and new air-to-air threats. The long-range strike bomber will give our Nation a flexible, credible capability to strike globally with precision on limited notice should the national interest require. The KC–46 is our highest modernization priority and will ultimately replace a third of our current tanker fleet. That tanker fleet is what puts the "global" in global vigilance, global reach, and global power. It provides strategic options for the Nation and we must modernize it.

Four of the Air Force's 10 largest modernization programs are space-based platforms. We plan to extend our streak of 58 consecutive successful launches and expand and modernize our constellations like the global positioning system, the defense meteorological satellite program, and others upon which our Nation and many of our allies and partners depend.

We will also continue to invest in our most important resources, our airmen. We will provide the training, education, and professional development opportunities they need to be the best in the world at what they do. That is all they ask of us.

On a decidedly negative note, both Secretary Donley and I were appalled at the deeply troubling sexual battery allegations against the chief of our Sexual Assault Prevention and Response Branch on the air staff just this weekend. As we have both said over and over and over again, sexual assault prevention and response efforts are critically important to us. It is unacceptable that this occurs anywhere at any time in our Air Force and we will not quit working this problem.

So you know, this case is being adjudicated by the Arlington County prosecutor. We have requested jurisdiction, which is standard practice in cases like these. The individual will be arraigned this Thursday on a single count of sexual battery, and the sexual assault prosecutor in Arlington County will make the decision on jurisdiction and we will go from there. And that is as much as I know about this case.

We remain committed to supporting victims of this crime and, consistent with the requirements of due process, to holding those who commit it accountable for their actions. We will continue to foster work environments that are safe and respectful. We will develop leaders of character who demonstrate operational effectiveness, innovation, and the selfless caring approach required to lead America's sons and daughters. We will continue to do everything in our power to care for airmen and their families, while balancing the resources required to do that, with the understanding that our primary job is to fight and win the Nation's wars.

My job is to help Secretary Donley field the most capable, credible Air Force possible. I believe our fiscal year 2014 budget request moves us in that direction. It postures the Air Force to improve readiness, to limit force structure costs, and to protect vital modernization. And Secretary Donley and I stand ready to answer your questions about it.

Thank you, Mr. Chairman.

[The prepared joint statement of Mr. Donley and General Welsh follows:]

Chairman LEVIN. Thank you very much, General.

We will have an 8-minute first round.

First, on the question of sequestration, Secretary, you gave us some specifics in your oral testimony about the impacts on unit readiness. Can you go into that in a little bit more detail? We did not have that in your written statement. So it is very important that we flesh it out here in your oral statement. Number of units that have been reduced in readiness and so forth.

Mr. DONLEY. Yes, sir. And I will ask the chief to chime in.

We have 12 units that have been stood down completely. That means that there is no flying going on. I think I referred to an additional seven units that are being held at a reduced readiness status, that is, basic mission capable. If the resources are made available, we might be able to move some of those from basic mission capable up to combat mission ready, but those funds are not yet available. We are still working on assessing whether or not that would be feasible. That may depend on the reprogramming to which I referred.

And we are concerned that, as the chief outlined—taking units to a stand-down position where they are not flying at all negates the advantages that air power brings to the joint team. So we are very concerned that this situation be only temporary and that we get back to restoring combat capability as quickly as possible.

Chairman LEVIN. And how many units are there all together? That is 12 of how many, 7 of how many?

Mr. DONLEY. This is of, I think, 31 active squadrons. Chief?

General WELSH. We have 54 fighter squadrons in the Air Force, sir. Right now, those 17 is about a third of that. There are addi-

tional squadrons the Secretary did not mention because they are not part of our combat air forces. We have also shut down, as you know, the Thunderbirds. We have shut down our weapons school squadrons. We have closed down a couple of our additional training units that we use, our aggressor squadrons who helped train in Red Flag both in Nevada and Alaska. We have taken those flying hours and we prioritized it toward units scheduled to deploy to Afghanistan or to the Pacific.

Chairman LEVIN. Thank you.

I think, Mr. Secretary, you mentioned OCO shortfalls. That was, I assume, for 2013 because the OCO request for 2014 has not yet been coming. What is the OCO shortfall for 2013 and what is the reason for it?

Mr. DONLEY. It is at least about $1.8 billion.

Chairman LEVIN. This is for the Air Force.

Mr. DONLEY. This is for the Air Force. And I believe you will see us attempting to get funding for that in the upcoming reprogramming. We simply did not get support for all of the OCO costs in the original OCO request.

Chairman LEVIN. Okay. Now, relative to BRAC, let me just make a request of you rather than question. We have made this request before. You have indicated a savings from the last BRAC round of about $1 billion. If you could furnish for the record the detail that goes into those savings, we would appreciate it.

Mr. DONLEY. I am happy to do that.

[The information referred to follows:]

[COMMITTEE INSERT]

Chairman LEVIN. In terms of the role of the chain of command in addressing sexual assaults and other crimes in the military, some propose removing the chain of command from the decision-making process for prosecuting assaults and other crimes in the military both before and after trial. And we are going to be taking up this issue, as I indicated, in markup.

Can you very briefly, both of you, tell us what your position is relative to whether or not the chain of command should be making the decision relative to prosecution? If so, why? Whether or not the chain of command should have the power to reverse a finding of fact after a finding of fact of guilt where that is the case, and whether or not the chain of command should retain the power relative to modifying the sentence where there is a finding of guilt. On those three areas, very briefly, if you could. Secretary, we will start with you.

Mr. DONLEY. Well, sir, I think maintaining good order and discipline is a commander's responsibility. So I think it is very important that the administration of the Uniform Code of Military Justice occur within the military chain of command.

With respect to the role of the convening authority, which reviews evidence and determines whether or not court martials ought to occur, I think that should stay in place.

There is the issue of article 60, which provides for the opportunity for the convening authority to review the results of court martials after they are completed and to make any change the convening authority deems appropriate.

When that article 60 was built, the U.S. military had a much less robust appeal process for court martial cases. Now that that appeal process is in place, we strongly support the Secretary's proposal for article 60 that the convening authority no longer be given carte blanche to review the results of court martial and that be cut be back and limited quite a bit.

Chairman LEVIN. General, do you have a view on that?

General WELSH. Yes, Mr. Chairman.

On the convening authority's ability to refer cases to court, I feel very strongly that that is in the commander's purview for a reason.

Number one, if over time you take the UCMJ, particularly if you move the whole caseload, not just sexual assault, away from the commander's discretion, commanders eventually will lose touch with the UCMJ, and that would be a terrible occurrence I think over time.

Second, I do not think there is an issue with commanders not agreeing with their lawyers on what cases ought to go to court. In the Air Force, we have looked back the last 3 years, and we have taken a look at over 2,500 cases. We have reviewed them manually. And in .5 percent of those cases, the commander made a decision to prefer charges or not counter to the recommendation of their JAG. So this is not a common thing that occurs. I do not know what we would be fixing by doing that.

For the commander's ability to review and make changes to findings of a court, my personal opinion is there is no need for that. We have a court. We have a military judge in the courtroom. We have an appeal process.

I do believe the commander has a role in reviewing the sentencing of a court, and I believe that we should talk very carefully about the commander's involvement in that because there are reasons to keep the commander involved in that discussion.

Chairman LEVIN. Thank you.

The administration is proposing to substantially increase enrollment fees for military retirees who enroll in the TRICARE Prime health care program to institute enrollment fees for participation in TRICARE Standard Extra and TRICARE For Life and to increase pharmacy copayments, to increase deductibles and the catastrophic cap. The Department has assumed budget savings of nearly $1 billion for all of these changes.

Let me ask you first. Well, let me ask the General first. Did you personally support these proposals?

General WELSH. I did, Mr. Chairman.

Chairman LEVIN. And do you?

General WELSH. I do.

Chairman LEVIN. And, Secretary, I assume—well, let me ask you. I will not assume anything. Secretary?

Mr. DONLEY. I do support the President's proposals.

Chairman LEVIN. Thank you.

Senator Inhofe.

Senator INHOFE. Thank you, Mr. Chairman.

General Welsh, the chairman had asked you to give us an analysis of the $1 billion on the BRAC savings over that period of time. He is referring, I am sure, to the 2005 BRAC round. I would like to have that report include the amount of loss that came from that

in the first, let us say, 3 and a half years. Would you mind doing that?

General WELSH. No, sir. We will do it.

[The information referred to follows:]

[COMMITTEE INSERT]

Senator INHOFE. All right.

General, you and I talked in my office about the reduction of the 94,000 flying hours and the grounding of about one-third of the squadrons. Now, it is my understanding that once the units have stood down for about 60 days, they are no longer able to meet the operational requirements. Is that correct?

General WELSH. Yes, Senator, or accept great risk in doing so.

Senator INHOFE. Yes, which we do not want to do.

It is my understanding that the Air Force estimates it will take—and I think the Secretary mentioned this in his opening remarks—between 6 and 12 months to return these to mission ready status.

General WELSH. Senator, that would be true, assuming you have the additional flying hour money required to requalify——

Senator INHOFE. That is my next question. Do you see that in the request of the 2014 budget?

General WELSH. No, sir. It is not there.

Senator INHOFE. And that is serious, do you not think?

General WELSH. Yes, sir. We would require additional.

Senator INHOFE. A very similar thing is true in depot maintenance and in the modernization program. We have deferred a lot of things. We have the best depot maintenance system, I think, that anyone would expect us to have. However, the maintenance has been kicked down the road, probably deferring some 60 aircraft and 35 engines from depot maintenance. So I would ask the same question. By delaying these things, we are going to have to be requiring something in the 2014 budget to make up for that. Do you see that in the 2014 budget?

General WELSH. No, sir, nor is there the capacity to surge to catch up with that bow wave within a year.

Senator INHOFE. Thank you.

When General Odierno was here, we talked a little bit about the hollow force. Nobody likes to talk about that, and I think that, Mr. Secretary, you did mention that we are going in that direction right now. I am going to read to you the quote that the CRS used back a short while ago. It was actually just last year. They said, talking about the hollow force, that although the size and composition of the force appeared adequate on paper—this is talking about in the 1970s and the 1990s—shortcomings identified when these forces were subjected to further scrutiny raised questions if these forces would be able to accomplish their assigned wartime missions.

So we have right now—some feel that we are already approaching the hollow force. We heard General Odierno talk about the hollow force insofar as the Army is concerned. We know that we have smallest size of the Air Force that we have had in history, and we are flying the oldest aircrafts. And so where do you think we are, each one of you, in terms of approaching a hollow force similar to that which we experienced in the 1970s and 1990s?

Mr. DONLEY. Well, sir, I have been very concerned about the decline in readiness since about the 2003 timeframe and our inability to get the resources necessary to keep up with the weapons systems sustainment costs, in particular, that have come with some of the new platforms that require lots of contractor logistics support to support the ongoing efforts in Afghanistan, et cetera. So I have been concerned about this. Sequestration makes the problem worse, quite simply. And standing down units again with no flying hours at all and deferring aircraft and engines, as you mentioned—and I think the numbers you quoted are correct, about 60 airframes and about 35 engines—will create a backlog that needs to be addressed down the line, and we will not be able to recover as quickly as we should. So we are right now making the problem worse, not better.

Senator INHOFE. Do you agree with the comments or the answers that General Welsh stated in terms of the fact that it is not currently in the 2014 budget to get this done?

Mr. DONLEY. That is correct.

Senator INHOFE. And it is a very serious thing.

The F–35. You commented on the significance of that, General Welsh. A lot of times people are challenging that. I know that there have been cost overruns, have been problems, and all that. Is there anything further you want to state in terms of the significance of the Joint Strike Fighter to our fleet for the future?

General WELSH. Senator, as I mentioned, we need the airplane. We have committed to it. It brings a capability that nothing else in our fleet has, and we will be able to bring it to the battle space in 2030. It is beyond our ability to upgrade legacy platforms to produce the kind capability this aircraft will bring to the battlefield. It is just the way it is.

The program for the last 2 years has been making steady progress and has stayed on track in my view since about 2011. The major issues that remain are cost-related. I believe the company now knows how much it costs to build an airplane. I think they have demonstrated stability in that cost in the production line for the last two lots. I think we have to make very clear we understand the long-term operating costs of the airplane. We are working very hard at doing that in conjunction with the company to make sure that we see the same picture.

It is important that we keep our partners involved in the program because they also affect the long-term investment that the United States makes in this program. It becomes much cheaper for us if we have partners in investing in future builds, et cetera, not just in the production value.

So we are committed to the F–35. I am pretty happy with where it is right now. We need to keep moving toward as high a production rate as we can get. Sequestration has impacted that. We have had to back off our production rates for the next couple of years, although we will still hope to hit 60 per year starting in 2018.

Senator INHOFE. Is the figure that they used initially—oh, the 1,700—I cannot find it here right now. But is that still a reality figure?

General WELSH. Sir, 1,763 remains the number in the President's budget.

Senator INHOFE. Now, you say that there were 179 that were delayed for 2 years. I have had occasion to go down to Fort Worth and talk about the significance of delays. And you talk about the out-of-country purchases that are out there. They are already—some of them—as the price does go up—and it does go up every time there is even a delay, not just a cancelation—that does drive some people out of the market. And that is something that I am concerned about because that makes it more expensive for us at the same time.

Let me ask you one last question on the C–130. It is kind of the work horse. Now, we are completely out of the E models now. Is that correct?

General WELSH. Yes, sir. The intent is to go to all C–130Hs and J models.

Senator INHOFE. But the H1 series—as we get new J models on, are we taking out of service then the H1 or the earlier H models?

General WELSH. Yes, sir. The intent is to attrit the older models as we get new J models.

Senator INHOFE. Is that not one program that has not slid on the J models?

General WELSH. The J model program is doing very well.

Senator INHOFE. That is good.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Inhofe.

Senator Blumenthal.

Senator BLUMENTHAL. Thank you, Mr. Chairman.

And I want to join my colleagues, Secretary Donley, in thanking you for your excellent service to our Nation and wishing you well in the future if this is, indeed, your last appearance before our committee.

And, General Welsh, welcome and thank you for your extraordinary service over many, many years and the men and women under your command.

I want to begin, if I may, with a question about the combat search and rescue helicopter, the CSAR HH–60, which I understand is scheduled to be replaced with a new aircraft which is necessary to perform the very challenging rescue and recovery missions that the Air Force undertakes so frequently. And if I may, let me ask—first of all, to commend the Air Force on a very well structured RFP that emphasized the best capability and the lowest operating cost for the taxpayer. Could you provide me with an update as to the status of this program and an idea as to when the decision will be reached?

Mr. DONLEY. It is funded in the President's budget, but it is currently under source selection. So we do not have much to say about the particulars of that. It is scheduled for a decision later this year.

Senator BLUMENTHAL. Will the RFP, as it was issued, be implemented?

Mr. DONLEY. Well, again, I expect that the RFP would be addressed in the source selection process and that is the process that is underway today. And again, we are looking to make a decision later this year.

Senator BLUMENTHAL. Do you have a more precise idea as to when later this year it would be made?

Mr. DONLEY. I do not at this point.

I will just offer transparently that we are also looking at the affordability of all our modernization programs going forward. This is a very important one, but as we look at the potential for sequestration over a 10-year period, if that sight picture does not change, as I suggest in my testimony, it is going to change a lot of acquisition programs. So we are taking a broad look at all of our modernization programs to make sure they will be affordable for the future.

Senator BLUMENTHAL. I understand. And if you could keep us informed about the status of that program, I would appreciate it.

General Welsh, first of all, let me commend you for being so forthcoming to many of us in your efforts to combat sexual assault in the Air Force and in particular the special victims counsel program that you have implemented since January 28, 2013. I understand that the SVC program has already represented 224 sexual assault victims. And I have joined two of my colleagues, Senators Boxer and Gillibrand, in urging that funds be made available to every service to follow the model that the Air Force is setting in this regard.

I wonder if you could give us an update on this program and the efforts that are being made because the kind of representation of victims or survivors is so critically important to enabling and encouraging them to come forward and report these predatory crimes. They are predatory, violent crimes for the most part. They should be treated as such. And in the civilian world, as I know from my experience, providing aid to victims is critically important in encouraging more reporting of a crime that in the military is so drastically under-reported. Could you give us an update, please?

General WELSH. Yes, sir, I can.

We now have 265 victims assigned to special victims counsels. Our special victims counsels are busy enough that we have taken them off of all other duties. They are now completely dedicated to this particular task. We left them regionally distributed around the country as opposed to centralizing them, which was one of the debates we had, because we think it allows victims better access to them.

Two significant statistics that we have seen so far.

One is that in the past we had about a 30 percent rate of unrestricted report victims who would decide not to continue with prosecution after they began the process of investigations, interrogations, questioning, et cetera. So far, of the 268 represented by special victims counsels, we have two, which is a huge improvement, which allows us to prosecute more cases over time which is key to moving forward in this area in my view.

The second thing I would mention to you is that our change of restricted reports to unrestricted reports in the past was about 17 percent on average. Of the victims who have special victims counsel, that number is about 55 percent. So more victims are willing to change to an unrestricted report and allow us to investigate because they are more comfortable having a legal advisor who is with them the entire process.

Just those two statistics make me feel very comfortable this program is moving in the right direction, and there is a lot of other anecdotal evidence, including victim testimony, et cetera.

Senator BLUMENTHAL. And let me ask you. You may have read, General Welsh, the Washington Post story this morning about Lieutenant General Susan Helms reversing a conviction similar to the one that General Franklin did that has aroused a great deal of interest and more than a little controversy.

I wonder if you could enlighten us as to whether that story was accurate and what action you would contemplate under these circumstances.

General WELSH. Senator, I would be happy to.

First of all, by way of context, because I think this is such an emotional topic from every angle that context is important, in the United States military, in the Department of Defense over the last 5 years, there have been five sexual assault cases where a convening authority has reversed the decision. In three of those cases, the actual allegation of sexual assault—the subject was found not guilty at a trial but was found guilty of lesser offenses, not sexual assault charges. In those three cases, the convening authority set the court aside and punished the subject under nonjudicial punishment for the three lesser offenses.

In the two cases where a sexual assault allegation was found to be guilty in court and then set aside by the convening authority, in one of those, the case you refer to, General Helms' case, there were actually two sexual assault charges. The court found the subject innocent of one and guilty of the second. General Helms has the convening authority and, following due process of the law as written, reviewed the case, determined that in her view it did not meet a burden of reasonable doubt—the evidence presented. And she reversed the guilty decision on the second count of sexual assault. She then took the other three charges, the minor charges that had also been found guilty in court, and she punished the subject under nonjudicial punishment for those offenses. She also punished the sexual assault charge under nonjudicial punishment.

The last case and the only one where a court has been completely set aside that we can find in the Department of Defense in the last 5 years was the Aviano case that has also gotten a lot of publicity.

So we have had two cases over the last 5 years where this has occurred. It does not happen routinely. I think clearly it makes us question two things. Number one, we have to do a review of the convening authority's actions. In the Aviano case, Secretary Donley did a very thorough review of that and determined that our convening authority followed the law as written, made a decision that we expect our convening authorities to make, not right or wrong in our judgment, but just made a decision. That is their job.

And now we think the issue is is the law written correctly. Should article 60, which gives the convening authority that responsibility and designs the process—should it be reviewed and adjusted? The Secretary and I both very clearly believe it is time to do that.

Senator BLUMENTHAL. Well, I think it also undermines the credibility of the convening authority to make prosecutorial decisions in the first place. And you have defended that authority here and I

understand and respect your views. But I would just respectfully suggest that it also indicates a need to review the entire convening authority's actions and powers and credibility in light of these decisions.

General WELSH. Senator, if I might. It is clearly an issue that we need to debate openly and honestly and look at all the second and third order effects.

One practical example of why removing a convening authority's disposition authority would create a huge problem for commanders in the field. The article 15, which is one of the tools commanders use routinely, is kind of a baseline building block for enforcing military justice and discipline in their units. It almost requires the ability to compel someone to accept it. If you do not have the ability to refer that individual to court, you have no way to compel them to accept the article 15. So from a very practical perspective, we just need to think through that implication because it is significant.

Senator BLUMENTHAL. I thank you very much. My time has expired, but I look forward to exploring these questions with you further. And thank you personally for your actions, as well as Secretary Donley. Thank you.

Chairman LEVIN. Thank you, Senator Blumenthal.

Senator McCain.

Senator MCCAIN. Secretary Donley, thank you for your great service in many capacities to this country, and we thank you for that. I think I share the view of all of us in thanking you for your outstanding service.

I do not usually speak about parochial matters, but if I could just for a minute. As you know, the forest fire season is coming earlier than ever. In our defense bill that we passed, we authorized the transfer of aircraft of the C–27J to replace the very rapidly aging, very old fire fighting aircraft that we have.

Can you give us an update on that particular evolution and how soon we could expect those very aging fire fighting tankers to be replaced?

Mr. DONLEY. Yes, Senator. We are implementing the planned retirement of the C–27s using the language that the NDAA passed last year. We have had letters of interest from Special Operations Command, from the Coast Guard, from the U.S. Forest Service. It is our intent to have those aircraft off the books by the end of the fiscal year. So we will go through a process this summer of evaluating those letters of interest and negotiating out which agencies might receive the C–27s that the Department of Defense plans to divest.

Senator MCCAIN. Well, I hope you will view it with some urgency because I am told that we may have a shortfall in our ability to combat these fires. And obviously, it is not a question of whether there are going to be forest fires in the entire West, but when. So I hope you will give it some priority and make sure that we are on track to replace those aircraft that we have to retire.

Now, back again on sequestration, does your budget planning for fiscal year 2014 consider—does it assume that sequestration will be repealed?

Mr. DONLEY. No.

Senator MCCAIN. It does not.

Mr. DONLEY. Let me think this through. The President's budget does propose the repeal of sequestration. So if all the budget assumptions that go with the President's budget were passed, there would be no need for sequestration in fiscal year 2014. Therefore, the fiscal year 2014 budget, as proposed, does not anticipate sequestration. If those budget assumptions do not come to pass and sequestration occurs, it will occur from whatever level, as I understand it, Congress has enacted for fiscal year 2014.

Senator MCCAIN. But right now, you are not budgeting for sequestration remaining in effect.

Mr. DONLEY. Correct.

Senator MCCAIN. General Welsh, are you concerned about morale and retention of pilots in the U.S. Air Force as a result of the reduced flying hours and actual stand-down in some of the most important training components like the Fighter Weapons School at Nellis and others?

General WELSH. Senator, if this continues for any period of time, I am absolutely concerned about it. They did not join to sit. You know that as well as anyone. They will get frustrated and they have other options.

Senator MCCAIN. And I am told that there will be a very large exodus of airline pilots who have joined in kind of a block period and that will create a demand for pilots in the airlines that we have not seen in a long time. Are you aware of that?

General WELSH. Yes, sir, I am.

Senator MCCAIN. So you are having to, as you listed, stand down some of the most vital training regimens that we have in the United States Air Force.

General WELSH. Senator, we have stopped Fighter Weapons School classes. We have stopped Red Flag training, and we canceled the last Red Flag at least. We are looking at them one at a time as they come up on the schedule to see how much money we have to execute them. We have stopped instructor pilot upgrade programs that are dedicated to that function. These are bills that we will continue to pay for 20 years. We will never recover this training capacity. The longer we shut down, the more traumatic it is. This is a big deal to our Air Force.

Senator MCCAIN. General Odierno testified that it could take 10 to 15 years to restore the operational capability of the U.S. Army if we continue with sequestration throughout the next year. Do you agree with that assessment?

General WELSH. If we continued for another year, I am not sure it would take us 10 years to restore the operational capability. It would take us much longer than that to fill the personnel and the requirements bathtubs that we have generated in year groups now. If we do not do Weapons School instructor training for another year, our ability to create the top tier leaders of our Air Force will be affected for 20 years until those people retire.

Senator MCCAIN. And the ability of your pilots to perform at the highest level in combat will be degraded because of the lack of training.

General WELSH. Yes, absolutely, Senator. That is what makes all our services the best in the world.

Senator MCCAIN. Secretary Donley, in that context, in your retirement—and you have been around longer than most—I think one of the reasons that members of both parties are willing to allow this sequestration to proceed is a widespread belief that a profligate Department of Defense is unwilling to rein in runaway costs on under-performing programs. The most recent example, as you know, is the ECSS, expeditionary combat support system, $1 billion, JSF cost overruns, the F–22 cost overruns, the criminal Boeing tanker case. And it is damaging the Department of Defense's fiscal credibility which in turn permits elected officials to believe that haphazard cuts, which damage our readiness, are the right thing to do. And as you testified, grounding of 17 squadrons, critical operations, maintenance. What do you say to this, Secretary Donley?

Mr. DONLEY. I think our acquisition process just takes way too long and costs way too much. We have become, in many ways, risk averse I think in acquisition programs because we have seen so many different ways over the years that programs can get off track, and each time a program gets off track, we try to correct it by putting in a new law, a new regulation, a new layer of oversight to try to prevent that from happening again. And after 20 or 30 years of that, we are pretty thick on regulations and oversight in our acquisition system.

So I think there is a lot of streamlining that needs to be looked at going forward and especially as the resources come down after the fights in Iraq and Afghanistan and looking at the budget totals contemplated in the Budget Control Act, sequestration or no, whatever would take the Budget Control Act's place, we need to put more pressure on streamlining our acquisition process and getting some of the people and the processes out and get focused on more rapid introduction of technology.

I support the spiral approach where we are introducing technology more rapidly and planning for changes later, not trying to build the perfect airplane right off the bat, but spiraling that capability in 5- or 10-year increments to improve it over time.

Senator MCCAIN. Well, if you think that Congress needs to act in any way, I promise you we are more than eager to accept your recommendations as to what actions need to be taken to do exactly as you said. And I am sure you understand the frustration. We share the frustration of a lot of American taxpayers. And we need to fix it, and any recommendations that you can provide to us with the benefit of your experience we would certainly be pleased to have.

Thank you, Mr. Chairman.

Chairman LEVIN. Thank you very much, Senator McCain.

Senator Kaine.

Senator KAINE. Thank you, Mr. Chair.

Secretary Donley, General Welsh, welcome today.

Last week, we were in a recess and as I often do in recess, I travel around Virginia and go to parts of our State that touch upon our armed services mission, VA hospitals, bases, military contractors, ROTC programs. I was at an interesting one last week. Mary Baldwin College is a women's college in Staunton, VA, that has a 100-member Virginia Women Institute of Leadership in this small, pri-

vate college, and they have a commissioning percentage among these 100 women that is higher than most of the 6 senior military colleges designated in title X.

One of the young ladies was asking me a question and said do you think the military's decision to remove barriers to combat service might have a broader effect on women's opportunities in the civilian world. And that led to an interesting discussion about what happens in the military and its effect on the civilian world and the important leadership role that the military takes.

And it is in that spirit—I am just very sorry that the rescheduling has you here today in the same week when this incident in Arlington is in the news. And yet, it is. And I just worry about the effect of this. There are all kinds of today effects that this kind of event suggests when somebody charged particularly with overseeing a program to deal with victims of sexual assault is in fact charged. The chairman said that we have to presume innocence until proven guilty.

But I worry as much about the tomorrow effects. I worry about the tomorrow effects of women who are thinking about making military careers and for the young woman who asked me the question about what happens in the military has a civilian effect. I also worry about those women in the program who do not commission but got into a civilian world but maybe go in with a little more of a concern that if this happens at the top echelon in military leadership, then it could happen in the civilian world as well.

The stakes on this one are enormously high. They are enormously high. Senator McCain asked about morale questions with respect to sequester, and I am going to get to that in a minute. But we need to worry about the morale of tomorrow's military leaders, and in that context I was quite concerned.

General Welsh, you mentioned that you have sought jurisdiction in this case, which is a standard matter, and if you could just educate me for a second about the procedure. There is an arraignment that is scheduled through the Commonwealth's Attorney in Arlington County, and that is scheduled later in the week. It would be military standard to seek jurisdiction of the matter. I gather that the prosecutor has discretion as to whether to continue with the criminal case in the courts of the Commonwealth of Virginia or to put it in abeyance in some way and transfer it over to military jurisdiction. Is that correct?

General WELSH. Senator, that is exactly right. The special victims prosecutor—sexual assault prosecutor in Arlington County will make that decision. Our 11th wing assigned at Bolling Air Force Base here in D.C.—their JAG office is actually the one that is the interface with Arlington County. They have submitted the request for jurisdiction and we will let the process play out.

Senator KAINE. You have educated me on the process, so I clearly do not know. But I imagine that one of the things the prosecutor's office weighs in wrestling with a request such as that is their degree of confidence about whether a trial or proceeding, if transferred over to military jurisdiction, would in fact be a fair one.

General WELSH. Senator, I would assume that would be part of this.

Senator KAINE. Well, just the stakes are very, very high. The stakes are very high on this one.

Talking about morale in a different way and now moving to sequester, I visited Langley about a month ago, met with wonderful Air Force personnel there, both pilots but also wonderful mechanics who maintain F–22s, not just those in Virginia but maintain them from all around the country. And I talked to General Hostage about this one-third of the Air Combat Command units standing down. You know, my assumption is that in the dangerous circumstances we find ourselves in in the world, there is an awful lot of contingency planning going on about use of Air Combat Command assets in Syria possibly, with respect to North Korea, other places in the world.

If you could, just talk about what it means to stand down one-third of the Air Combat Command units and how that impacts the kinds of planning and then, God forbid, the need to actually go forward on executing any of those contingency plans in a status where we have curbed our training and our missions in that way.

General WELSH. Senator, what we have prioritized to keep units flying is the units that are either already in Afghanistan or preparing to deploy to Afghanistan or units on the Korean Peninsula or those doing the nuclear mission—everything else was affected by this either drawdown to minimal flying or standing down completely. So any new contingency activity that requires the rest of that force structure will be impacted.

As one example of the type of disconnect you can get, because we are meeting a known tasking from a combatant commander for a type of capability, an F–15C let us say, which is an air-to-air airplane—we have other units that do suppression of enemy air defenses that are not flying right now because they are not required in the current deployment cycle. In an example like a new contingency where you need to go suppress enemy air defenses, they would be the first things you need and they will not be fully ready. So we are trying manage them day to day as the world's situations change.

Senator, if I could go back to your last comment just one time on the fair trial or not. One of the issues that seems to come up routinely is this belief that the military does not prosecute as much as a local jurisdiction might. We actually took the Air Force statistics that are in a little bit of a convoluted equation that comes out of the Department of Defense because of the way we track these things. We took them to the Rape, Abuse, and Incest National Network folks. We sat down side by side with them, and we said use your model and put our data into it and tell us what our prosecution and conviction rates are. For 2012, our prosecution rate was 1 percent below the National average. Our conviction rate was 3 percent above. So the idea that we do not prosecute should not be a concern of the special prosecutor. The idea that we cannot convict relative to the local jurisdiction should not be a concern of his if we can ensure they all have the facts.

Senator KAINE. And that is certainly my hope. I am not suggesting otherwise. And yet, just the controversy over the Aviano situation, the article about the second case this morning, the fact that the individual who is charged with leading an important lead-

ership position to deal with sexual assault cases has, in fact, himself been charged, those are the kinds of things that just, again, as a prosecutor is making up a mind about where a case can be prosecuted in a way that will certainly protect victims and it will also protect the accused—Arlington is a pro-military community. So it is not going to be a hostile environment. These are the kinds of things that prosecutors wrestle with, and that goes back to my comment about the stakes being pretty high in this situation.

I wanted to follow up on Senator McCain's question because I think you each knew something that I do not know and maybe others do not. This issue about is there a cohort of civilian aviation pilots that is expected to retire or depart that would create a significant present competition that might pull out military pilots if they feel like Congress, through budgetary or other actions, is demonstrating that we are not committed to certainty in their future work and path.

General WELSH. Senator, we have been hearing for about a year now that the airline industry expects to increase their hiring rates dramatically over the next 1 to 3 years. So we do anticipate there will be opportunities and a draw, and historically we lose a much higher percentage of air crew members from all the services when the airlines hire.

Senator KAINE. Let me just say in conclusion that there were 53 votes, I think, in this body at the end of February in the Senate to not allow the sequester to go into effect. There were 50 votes to pass the Senate budget that did pass on March the 23rd that would have dramatically changed the sequester and made the cuts targeted rather than across the board, back end rather than spread evenly across 10 years, and cut in half. It is my deep hope, based on your testimony and the testimony of others who have been before us that this committee can play a lead role in trying to find a solution that does not continue to jeopardize the missions that you are promoting.

Thank you, Mr. Chair.

Chairman LEVIN. Thank you very much, Senator Kaine.

Senator Ayotte.

Senator AYOTTE. Thank you, Mr. Chairman.

And I want to thank the witnesses, both of you, for being here and for your distinguished service to our country and all that serve underneath you.

Secretary Donley and General Welsh, in your prepared statement, you talked about the KC–46 as one of the top Air Force acquisition priorities, particularly given that obviously our tankers go back to the Eisenhower era of making sure that we update our tankers. The importance of the in-flight refueling missions is certainly the linchpin for our being able to carry out almost any mission in the world, as well as supporting our allies.

I understand, General Welsh, from the discussion you and I certainly had this morning in my office that you are in the process, the Air Force is in the process of making the decision on the basing of this particularly for the Air National Guard and that will be upcoming. I just want to applaud you for the transparent and objective process you have applied thus far. I think it will not come as a surprise to both of you that both Senator Shaheen and I feel very

strongly about the performance our 157th air refueling unit at Pease and we welcome the objective nature of this process because certainly Pease has a strategic location, only 12 minutes from very important refueling tracks, and also an already existing active duty association that we are very proud of. And of course, for us just what our unit has already done in every conflict in terms of their utilization and the excellent work they have done to support essentially almost every mission that the Air Force has been involved in most recently. So I am very proud of Pease. I know that Senator Shaheen is as well. And I want to commend both of you just for the way you have conducted the process thus far.

Do we expect this process to go forward in May when you will be making final decisions?

Mr. DONLEY. Yes.

Senator AYOTTE. Okay, good. And so one of the questions I would have to you going forward, as we look at the impact of sequestration, what type of impact could that have on, for example, our acquisition of the KC–46A in terms of purchasing the numbers that we need to meet our capacity going forward?

Mr. DONLEY. As I suggested, Senator, the acquisition plan for the KC–46 remains intact. It is 179 aircraft, I think 8 aircraft by fiscal year 2017, the first development aircraft by fiscal year 2015. So the program is on track today. It is a contract which is, we think, in the best interests of the warfighter and the taxpayer, limits the Government's exposure at about $4.9 billion. And we need to make sure that those contract requirements stay funded over the next several years. So we will do our best to keep that on track and make sure that the KC–46 remains a high priority and a funded program.

Senator AYOTTE. And, of course, we also need to make sure that our pilots get the appropriate training and flying hours not just in our refuelers, but obviously our fighters as well. And that remains a significant challenge going forward with sequestration, does it not, General?

General WELSH. Senator, clearly it does. And in fact, just as a side note, if you will permit me, we have a KC–135 crew we lost in Kyrgyzstan just this past week. And this morning, we were still searching for the remains of one of those crew members.

Senator AYOTTE. Our thoughts and prayers are with their families and their loss for their sacrifice for our country. Thank you.

I wanted to discuss with you, General Welsh. Earlier you told Senator Blumenthal that the Air Force was seeing positive results by providing victims of sexual assault a special victims counsel. And I understand that that is a pilot program within the Air Force that you think is effective.

Today Senator Murray and I are introducing a bill which, in part, will provide a special victims counsel to all sexual assault victims within all branches of the military. And this is something modeled after, obviously, what is happening now in the Air Force pilot program. So I wanted to get your view on this and how important you thought having that counsel was helping the process of making sure victims have the support that they need to navigate through the system, the judicial system.

General WELSH. Senator, I believe to date the evidence in my mind is clear that it has been immensely helpful particularly to the victims, and that is who we are most interested in helping. Our intent in this program is to complete the pilot with a report that I will work with the Air Force Judge Advocate General, and I will forward that to the Secretary with my recommendations on whether the Air Force continues and recommendations on what he should forward to the Secretary of Defense for recommendations across the Department. And then the Secretary will make a decision from there.

Senator AYOTTE. Well, and I believe that this is not something that when you are within the Air Force and a victim that you should receive, but I believe that victims across the branches should be receiving this type of support. Obviously, as you can hear from the questions today from many of us, this is a very important issue that we are concerned about in terms of the readiness of our forces and also making sure that those who are victims receive the support that they need and a proper legal process to see that justice is done going forward. So I think this is an issue that we will work on on a bipartisan basis, and it is an important issue for our country.

I wanted to finally follow up on the issue of audits, which is when I look at the cancelation late last year of the expeditionary combat support system, that raised a flag for me, and I wanted to hear from both of you. Is the Air Force on track to meet the 2014 and 2017 audit deadlines?

Mr. DONLEY. The short answer is yes, but there is risk in this work and the cancelation of ECSS puts a little bit more emphasis on the need to go forward with existing systems and to modify existing systems, it is clear that our enterprise resource programs are not going to all be in place to support this work. So there is going to be a lot of manual work and a lot of work with existing systems to do that. We have had some success in getting a clean opinion on about 46 percent of Air Force inventory, on missile motors, other parts of our Air Force inventory. So we continue to work toward the fiscal year 2014 and fiscal year 2017 goals.

Senator AYOTTE. Mr. Secretary, do you think that you will today, as we sit in this hearing, meet those goals?

Mr. DONLEY. We are working very hard to get there. There is risk but we are working very hard to get there. We have been trying to use outside auditors and experts to do pre-audit work with us. Some of that work was intended to be contracted out. The contract is under protest. So that did set us back. We are looking for opportunities to regain some lost time there, but we are working very hard to get there.

Senator AYOTTE. Well, I thank you. This is, obviously, a very important issue just for us to meet those audit deadlines finally and to be able to have the right type of financial information and accountability, particularly with the fiscal challenges that we face.

So I thank you both for being here today and for your leadership.

Chairman LEVIN. Thank you, Senator Ayotte.

Senator McCaskill.

Senator MCCASKILL. Thank you, Mr. Chairman.

I know you had a back weekend, General Welsh, and I understand that this is painful for you. But I need to ask a couple of questions.

What background did Lieutenant Colonel Krusinski have that qualified him for this job?

General WELSH. He is a personnel officer by training. He has spent the last 2 and a half years working on the air staff in the personnel policy arena. He was a Force Support Squadron commander before coming to the Pentagon. The Force Support Squadron is the squadron in which things like sexual assault coordination counselors, et cetera work in our active Air Force units. He has been around the business his entire career as a personnel officer.

Senator MCCASKILL. Have you looked at his file?

General WELSH. Yes, sir. Pardon me. Yes, Senator, I have. His record is very good.

Senator MCCASKILL. And did you look at his file for any kind of problems related? I mean, clearly the accusation is that he was drunk and sexually attacked a complete stranger in a parking lot. It is hard for me to believe that someone would be accused of that behavior by a complete stranger and not have anything in their file that would indicate a problem in that regard. Have you looked at his file and determined that his file was absolutely pristine?

General WELSH. Senator, I looked at his officer record of performance, which is all I could access last night. I talked to his current supervisor. I have not talked to people who knew him or supervised him in the past. There is no indication in his professional record of performance or in his current workplace that there is any type of a problem like this.

Senator MCCASKILL. And who selected him?

General WELSH. He was selected by Brigadier General Eaton Murray who is the director of our services part in our personnel area, the office above the Sexual Assault Prevention and Response Office, and Lieutenant General Darrell Jones who runs our directorate of personnel manpower.

Senator MCCASKILL. Will those two people be responsible for selecting his replacement?

General WELSH. Yes, ma'am, they probably will be.

Senator MCCASKILL. I hope that you will evaluate the qualifications. I have spent, as you know, hours with JAG prosecutors, not just General Harding and his colleagues at the top of the military justice food chain, but with courtroom prosecutors. And you have got a wealth of people in the Air Force that understand what this job has to be. And if this allegation is proved true, this was not someone who understood what this job was about. And I will be watching very carefully who is selected to replace Lieutenant Colonel Krusinski because I think it is one of those times you are going to be able to send a message, and I think it is important you do it.

As you know, these cases turn on who is believable. In the Aviano case and in the case that General Helms overturned, in both instances you had the victim testifying to one set of facts and the accused testifying to another. In both instances, juries selected by those generals said they believed the victim. And in both of

those instances, the generals said, no, no, we believe the member of the military. That is the crux of the problem here because if a victim does not believe that the system is capable of believing her, there is no point in risking your entire career. Or as the victim in the Helms case said, how difficult it was for her to encounter the accused who had been convicted by a jury and have to salute him. Now, I cannot imagine what that would feel like to have to salute the man who had been convicted by his peers of assaulting her in the way that he did.

So I agree with you that we have to be very careful about removing the convening authority entirely, but I will look forward to visiting with General Helms about her decision.

The other point I want to make about her decision, General, is that these generals have the ability to consider anything when they make this decision. Anything and everything. She did it without meeting with the victim. She did get some email from the prosecutor about the victim's point of view. But should the victim be required to have something in the file before clemency is determined even if we decide to remove the convening authority from the ability to overturn? Should the victim's statement not be part of any clemency proceeding?

General WELSH. Senator, I would assume that every victim would want their statement to be part of a clemency proceeding. And I know in the cases you have referenced, the victim was requested to provide matters for clemency.

Senator MCCASKILL. So would you have any problem with us requiring that?

General WELSH. Senator, I personally would not have any problem with that. I have no idea if there is a legal implication of that, but from a common sense perspective, it makes eminent sense.

Senator MCCASKILL. Yes. They are all getting stacks of letters about what a great guy this is. And in this instance, they got an email from the prosecutor characterizing what the victim had said. It seems to me that that is a little weighted.

When she made this decision, we had changed 120, and I do not know how familiar you are with 120. But 120 has been a difficult part of the UCMJ dating back to 2007. We wanted to change it, to update it, and then mistakes were made in the way it was drafted. We changed it again. We had changed 120 at the time Helms made her decision. It had been signed into law. It just had not gone into effect yet. But yet, she reached back and used the old 120 instead of looking at the new 120 as she was evaluating what standard of consent was available. And I will be anxious to visit with her about that decision, if she got any legal advice about how that law had been changed.

Senator Ayotte covered also ECSS. And for both of you, I share her concerns about auditability on ECSS. But the main question I would like for both of you—and I know, Secretary Donley, you have served well and long, and I too salute your service in leading one of the most important parts of our great military in this country. What I really want to focus on—and we would like some follow-up answers to this—is what did we learn about when to cancel a system. We spent a billion with a B on ECSS before it was canceled.

At what point in time should we have canceled it, and why was it not canceled earlier? Why did we get to $1 billion before we realized this was unworkable? And if we do not do this analysis, I know this is going to happen again. I just know it. So what steps do you think we need to memorialize here that would be instructive to the future ECSSs that we could avoid wasting $1 billion of taxpayer money?

Mr. DONLEY. Senator, this is a very good question. And there are two reviews underway, one in OSD, one inside the Air Force, to get formally the lessons learned out of this experience. And in the case of the Air Force, we are treating it in terms of developing for the acquisition this process, the same kind of rigor and discipline that we put to an accident investigation process, you know, why and how did this happen, in great detail.

I will tell you that ECSS got lots of oversight and that the program was restructured at least twice over a 4- or 5-year period. That the program manager was held accountable, that the program was rescoped down to try to make it more implementable, and it got oversight not just from the Air Force but from three other offices in the Office of the Secretary of Defense.

So deciding when we have gone far enough—we have restructured it once. We have restructured it a second time, and in this case the third review was this is unrecoverable.

So I am very interested in getting the results of these two reviews to see if it can help us decide earlier when we should cancel programs such as this. But we certainly went through restructurings and it certainly had lots of oversight.

Senator MCCASKILL. Well, now with the fiscal restraints we have, it is going to be very important that we absolutely have a very clear document showing when mistakes were made and how they could have been avoided. We have good news and bad news about our military, and that is, our military is so good we think we can do anything. The bad news sometimes is our military is so good we think we can do anything. And in this instance and many other instances I can cite, a failure to give up ends up being very, very costly for the bottom line, and that is just something we cannot afford going forward.

So I will look forward to those reports. I will continue to follow up on this subject until I feel like we have got real clear guidance as to where mistakes were made and how we can avoid them in the future.

And I will continue to want to work closely with you, General Welsh, in a way that is responsible on the UCMJ on these cases, and I will look forward to any kind of information I can get about the replacement for the lieutenant colonel who was arrested over the weekend. Thank you.

Chairman LEVIN. Thank you, Senator McCaskill.

Senator Wicker.

Senator WICKER. Thank you, Mr. Chairman, and thank you, gentlemen, for your testimony.

I am going to try to squeeze three issues in to my 8 minutes. So I think on the first one, let me just make a statement for the record, and perhaps we can talk about that later.

I want to reiterate my concerns regarding the concept of the Air Force total force plan and its implementation. I remain deeply concerned about the fiscal year 2013 defense authorization conference decision made without consultation of all conferees, which enabled the Air Force to begin implementation of the total force plan without hearings or adequate deliberation by the full Senate Armed Services Committee. I am convinced that some elements of the TFP were short-sighted and may adversely impact our intra-theater airlift capability at a time when our services are evolving toward a more rotational deployment model.

And I say to my chairman and to my ranking member I look forward to working with them as well and with the Airland Subcommittee chairman, Senator Manchin, on markup initiatives to help ensure the Air Force makes its force structure decisions based on the best possible understanding of long-term global force requirements. These decisions should not be based solely on artificial or self-imposed resource constraints.

Now, having made that statement, let me move to another issue. I think what I will ask you to do is just take this series of questions for the record, but I want to get it out in public. It is concerning the Air Force's rotorcraft acquisition strategy.

I understand you are considering a common support helicopter to recap your UH–1N fleet of aircraft. I believe there are existing and affordable replacement systems available to meet global strike command's nuclear missile security mission during the decades to come. So I would appreciate it if both of you could provide this committee with written answers concerning the following.

Number one, current requirements for all UH–1N missions.

Number two, whether the Air Force requirements have been reviewed and validated since those missions were separated from the combat rescue helicopter program.

Number three, the findings and recommendations of the Air Force's request for information on the UH–1N modernization with regard to the costs of the program modification versus a replacement cost.

Number four, the current operational availability of the UH–1N fleet and the Air Force's assessment of any risk regarding the maintenance and adequate availability levels.

And number five, whether the Air Force has evaluated potential replacement aircraft for any of the missions performed by the UH–1N.

[The information referred to follows:]

[COMMITTEE INSERT]

Senator WICKER. So having asked for that on the record, I will now see if I can let you gentlemen actually speak on an issue, and that is concerning the safety of our U.S. Air Force data security.

There have been numerous media articles referring to an egregious breach of U.S. computer networks when the Chinese gained access to some data from the JSF program back in 2009. The incident was part of a wave of data thefts that year, during which Beijing stole proprietary and in some cases classified information from the U.S. defense contractors.

I asked General Bogdan, the program executive officer for the JSF program, at a subcommittee hearing 2 weeks ago about these

data intrusions. And General Bogdan's testimony was this, that DOD and our allies have a robust system in place to prevent cyber theft, but the general went on to say—and I quote—I would tell you that I am not confident outside the Department. Then he went on to say—and I quote—that he is less confident about industry partners.

So let me ask you each about that, and I guess we will start with you, Mr. Secretary. How confident are you about the Air Force's ability to secure classified and sensitive data within DOD data networks and how confident are you about the ability of our industry partners to secure this very important classified and sensitive data?

Mr. DONLEY. Sir, I do believe we have the appropriate security protocols in place to protect key classified information in the department. We have protected networks to do that on, and we work very hard to maintain appropriate security levels on each of our classified and unclassified networks.

I will say that in the last 5 or 6 years, 7 years—since I have come back to the department, really 8 years now, I have seen more and more attention to this issue progressively each year. We have learned from weaknesses or errors seen and experienced from the past. We developed strong partnerships with industry partners who are what I would call our prime contractors who deal with the Joint Strike Fighter, for example, Lockheed Martin, Northrop, Boeing, other large contractors with whom we do lots of defense business.

So we have a stronger network of collaboration among key industry partners today than we had, say, 5 or 6 years ago. But it is continuing work, and there is always a concern that we are covering all that needs to be covered.

Senator WICKER. General Welsh?

General WELSH. Senator, I would tell you that internal to the Department of Defense, the one thing that we have worked very hard on over the last year and will continue to work on and refine is the way we support U.S. Cyber Command who, I believe, will be the orchestrator and the architect of the proper defense of the DOD information network. The Air Force has to be hand in glove with General Alexander and his people moving forward on this, and we are trying to identify clearly how we do that, what kind of training our people need to support him. They have been tremendously helpful in this regard, and the entire joint world is trying to move in that direction.

Senator WICKER. Are you as confident about our industry partners as you are about security within the Department itself? Or do you agree with General Bogdan that you are less confident about our industry partners?

General WELSH. Senator, first of all, I am not a technical expert on what industry is doing in every case. I believe we have some partners who are very, very reliable in this area, and there are probably some who are not as reliable. I would leave this up to the experts at U.S. Cyber Command to offer a better assessment than I can give you.

Senator WICKER. Are either of you aware of any further intrusions like the one I mentioned in 2009 into the Air Force R&D and acquisition programs since that time? Either one of you?

Mr. DONLEY. I think I would like to provide you an answer for the record on that. This is ongoing work.

Senator WICKER. And you could do that in a non-classified answer for the record.

Mr. DONLEY. We will do our best to do that.

[The information referred to follows:]

[COMMITTEE INSERT]

Senator WICKER. Thank you very much.

And thank you, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Wicker.

Senator King.

Senator KING. General, do you fellows have data on the frequency of occurrence of sexual assault in the military or in the Air Force in particular versus the general society?

General WELSH. Sir, anecdotally we do. One of the things that we have also learned in our discussions with RAINN is that that data is not easily available anywhere else. It is much better tracked inside the Department of Defense than it is in most places.

I have talked to a number of university deans of student affairs, the vice president for student affairs. There are some who estimate that as many as 50 percent or more of their students experience some type of sexual harassment or unwanted sexual contact or sexual assault during their time at their university. I hate to try and characterize this as better or worse anywhere. It is a big problem for our Nation. It may be as big or bigger elsewhere.

My view is that we can lead the pack in this. We have the ability. We have the organizational structure, the leadership, the training, the education, and a disciplinary system and a judicial process that allows us to attack every aspect of this problem. We should be the best in the world at it.

Senator KING. Well, I am delighted to hear you say that. In dealing with these kinds of problems, often it is a cultural issue. You can do all the law enforcement and all of those things, but the culture is what you have to deal with. You and I grew up at a time when drinking and driving was more or less tolerated in this country. The culture changed and that has had a really profound impact. So I hope that—and I am sure this is the case—that within the Air Force, it has to become unacceptable culturally in the pub after work that this is just not something that we do.

General WELSH. Senator, that is clearly what it has to be. You know, roughly 20 percent of our young women who come into the Department of Defense and the Air Force report that they were sexually assaulted in some way before they came into the military. So they come in from a society where this occurs. Some of it is the hook-up mentality of junior high even and high school students now, which my children can tell you about from watching their friends and being frustrated by it. The same demographic group moves into the military. We have got to change the culture once they arrive. The way they behave, the way they treat each other cannot be outside the bounds of what we consider inclusive and respectful.

Senator KING. Thank you, General. I appreciate your attention to this.

Secretary Donley, sequester. It keeps coming up. We talk about it at all of our hearings. There is a discussion around here that the real problem is flexibility and that you can take the cuts if you are given the flexibility. Now, you said something like transfer authority will not help. Can you focus this discussion for us? Because this is going to come up over the next year as we wrestle with this issue. If we gave you additional flexibility, would that substantially alleviate the impact of the sequester on the hollowing out of the force?

Mr. DONLEY. Flexibility comes in a variety of flavors and colors. So, first of all, with respect to fiscal year 2013 and the way it has to be implemented this year and what we experienced, it came almost 6 months into the fiscal year. So it forced a very mechanical spread of dollars across all the accounts, but it forced that to happen in essentially the last 6 or 7 months of the fiscal year. And so it has had devastating impacts really on our ability to execute the budget that you all approved.

Looking forward, there is no question in our minds that more flexibility is better, that being allowed to make choices about where to put emphasis in our defense planning and programming, to favor certain programs, to promote the strategic interests of the United States even as defense resources go down is an important goal. It is an important flexibility to have.

But I would also offer that in doing this work, we need time. We need time to do this right. And as you give us the flexibility, we also need to have the collaboration and the cooperation of Congress so that you understand the choices that we will be making and you will be comfortable with those as you approve our defense plans and budgets. It will not help if we make tough choices internal to the Department which the Congress does not agree with or is not ready to make and you reverse or block those changes. So it is very important that we collaborate in this work going forward regardless of what the level is. But we need time to do it right.

Senator KING. But are you suggesting then that we can go ahead with the 10-year sequester and you can manage okay if you are given—I was under the understanding that you said transfer authority will not really help. Was that only for this year or in the future? This is an important question.

Mr. DONLEY. Well, just to be clear, transfer authority for fiscal year 2013 will not help us out in this sense. What you are giving us when you give us transfer authority is the ability to move dollars from one account to another account inside the fixed constraints of sequestration. So in order to meet all our O&M requirements, for example, to fix all the OCO shortfalls and O&M shortfalls, we have to cut into modernization programs that right now we are not quite prepared to cut into yet. So we would have to start breaking contracts and doing other significant damage to modernization programs to pay operational bills for this year. That is not a good trade for fiscal year 2013. We could set up those decisions for 2014 and 2015 if we were given the time to do that.

Senator KING. But are you saying that the figures you would get in 2014 and 2015 under sequestration are adequate if you have the flexibility to plan and move the funds around?

Mr. DONLEY. No. You know, my view is that the dollars implicit in the Budget Control Act, which involve a trillion dollars in cuts over 10 years, will have a devastating impact on our security policy and programs going forward.

Senator KING. Regardless of flexibility and transfer authority.

Mr. DONLEY. You cannot take a trillion dollars out of the defense program and not have an impact.

Senator KING. And the impact you just characterized as——

Mr. DONLEY. Devastating. It will be force structure. It will be readiness. It will be modernization. To get a trillion dollars out will do significant damage to our military in my opinion.

Senator KING. Well, the phrase you used earlier was 'significantly degraded readiness posture.? Is that the characterization?

Mr. DONLEY. That is how we are going to start fiscal year 2014 most likely.

Senator KING. I am out of time, Mr. Chairman. I am going to submit some questions for the record on the long-term plans for the KC–46 and refueling, where that is going to go.

I appreciate your testimony. Thank you.

Chairman LEVIN. Thank you, Senator King.

Senator Chambliss.

Senator CHAMBLISS. Thanks, Mr. Chairman.

Let me say to Secretary Donley, this being your last hearing, again as I alluded earlier to you privately that we thank you for your service and I particularly do. As you know, I have a major Air Force presence in my State. You have been very open to dialogue with respect to all the issues that we have had with regard to not just the facilities but with weapons systems and a broader range of issues that we have had to engage on. And your service is very much appreciated and I also appreciate the friendship that we have shared during your tenure. So we are going to miss you, but we certainly wish you the best.

Gentlemen, I want to talk for a minute about Joint STARS. I am very concerned with what I see the direction in which this weapon system is going. The E–8C aircraft is the military's premier and wide-area intelligence, surveillance, and reconnaissance aircraft with ground targeting capability. And Secretary Donley, you and I have talked about this any number of times over and, General Welsh, you and I have had this conversation too, that every time I go into theater, which is often, and I mention to our combat commanders on the ground the word "Joint STARS," their eyes light up because of what this weapon system has done from the standpoint of being able to address the enemy in whatever part of the theater they exist.

The President's budget request cuts $10.7 million in R&D funding from the program and recommends the test aircraft, the T–3, be put into what I understand as preservation storage because the developmental program has concluded. However, there are multiple upgrade programs such as the National Guard's multi-agency upgrade that will require flight testing, and the Air Force is proposing in your budget request to place Joint STARS test aircraft

into preservation storage, again due to the conclusion of the development programs. But the Air National Guard continues their development programs and modernization efforts, funded and planned, which will require flight testing.

How will the Guard complete flight test requirements for these programs without the T–3?

Both the Air Force and the Guard have future plans for additional modernization programs for Joint STARS. How will these programs complete flight test requirements without the T–3?

And lastly, what are the costs associated with placing T–3 in preservation storage?

Mr. DONLEY. Senator, I would like to get back to you on the record with a comparison of what is funded in the active Air Force versus what is planned on the Guard side going forward for the E–8.

[The information referred to follows:]

[COMMITTEE INSERT]

Senator CHAMBLISS. Okay.

Any comments, General Welsh?

General WELSH. No, Senator. I do not know the details of the Guard program. I agree with the Secretary. We need to get you the right answer.

Senator CHAMBLISS. Okay. Well, I really am concerned that this program may be headed towards whatever preservation storage may be, and I am truly concerned about it.

Mr. DONLEY. Well, sir, if I might, I would just offer too that this is a concern for us in the sense that we have done an analysis of alternatives that suggests for this set of missions, the ground moving target indicator mission, going forward among varying levels of options and capabilities, the best solution is probably a business jet type aircraft with a new radar. That was the results of the analysis of alternatives a couple of years ago.

The issue for us is it is not funded. We simply do not have the resources. It is one of several programs where we know pretty much what we want to do. We pretty much understand the requirements, but the dollars are not there to fund those programs going forward. And there is even more pressure on the modernization programs ahead, as I indicated.

Senator CHAMBLISS. In your response to Senator King, you talk about readiness being impacted in a big way, and this is another one of those areas where we are not going to be ready if we do not have the resources under sequestration.

Let me move to another issue, G–222. There is a lot of conversation around the Hill these days that the Air Force has a $600 million program of airplanes that we purchased for use in Afghanistan and that those airplanes are sitting on the ground in Afghanistan not being used now and that they are going to be chopped up and thrown away versus some other more useful disposition being made. My understanding is that that is not really the case, but I want to give you an opportunity to address that issue and let us set the record straight with respect to, number one, what are the circumstances surrounding the termination of that contract, and second, what is the Air Force's intentions relative to the disposition of those aircraft that are on the ground in Afghanistan today.

Mr. DONLEY. Senator, as you suggest, the E–222 has been a troubled program for the Air Force. This was an early version of the C–27, procured on the used aircraft market to meet an urgent need for the Afghan air force. As those aircraft were delivered, they had from the very beginning sustainment problems. First it was propellers. A year later, it was supply chain issues. They faced a number of spare parts and performance-related materiel crises over several years. And again we, after working with the contractor, simply concluded that this was not recoverable. We were not delivering—the contractor was not delivering the ready aircraft required under the contract.

So we have worked with the Afghans. They have identified a C–130-like aircraft as the best option for them going forward. The G–222 was always intended as actually a bridge to a future capability, and the cancellation of the G–222 program will get us to the C–130-like capability more rapidly.

So Secretary Carter and the rest of the defense leadership has us focused on making this transition as quickly and as effectively as we can. We have no plans for the disposition of the G–222 at this point. So there is simply no good option in front of us at this point.

Senator CHAMBLISS. Well, as you proceed down the decision-making process route, I hope you will keep this committee informed of what you do intend to do there because, obviously, that was a lot of money to be spent. And I understand the problems that existed, but we just need to know what is going to happen with the resources that were used there.

Mr. DONLEY. We will keep you posted.

Senator CHAMBLISS. Thanks, Mr. Chairman.

Chairman LEVIN. Thank you, Senator Chambliss.

Senator Donnelly.

Senator DONNELLY. Thank you, Mr. Chairman.

Mr. Secretary, General, thank you for being here today.

I am a dad. I have a son and daughter, and moms and dads all over the country put their most precious resource, their most precious treasure in our hands. And we have to get this right in the area of sexual assaults and sexual harassment. We have to have zero tolerance. I believe that you will work nonstop to make sure we get this right and look forward to your efforts on that. And we will be watching closely to make sure that happens.

I was with a group of Senators and Representatives that just got back from Afghanistan a few days ago. And while we were there, there was a discussion about the need for the Afghan troops to continue to have air cover after we are gone. And one of the discussions that took place was that there is a contract dispute right now over planes that are going to go to the Afghan air force. This dispute continues. And I am very concerned about making sure that the Afghan army, the Afghan police have the ability to have the same kind of quality air coverage that we provide to our soldiers as we step back. And I was wondering what are the plans to solve these disputes and to get this in place because the Afghan soldiers themselves said, look, we are concerned about the Medevac piece. If we are out there fighting, we need to get back. We need to have cover. So I am interested in your response.

Mr. DONLEY. Well, just a couple of points, Senator. I will ask the chief to chime in a bit.

This is the light attack support program, to which you referred, which we had a misfire on in our acquisition process over a year ago. We restarted that competition. We made a contract award earlier this year. It was protested, and that is being reviewed by the GAO currently. That usually takes about 100 days. The 100-day clock will run out in the mid-June timeframe I think on that.

In the meantime, though, we have sustained the contract award that we made earlier this year to get the program started. This was an extraordinary action on our part. Normally we would have suspended that while waiting for the GAO to rule on this matter, but we decided to go ahead because of the commitment we had made to the Afghan air force to get this capability to them next summer. We are already behind in that work, and we are dedicated to doing that.

They will not have the same kind of capability that we are exercising over Afghanistan today. I do believe they are on track to building a small but effective air force. And one of their backbones right now is the MI–17 helicopter, and they have been doing Casevac work in this regard and stepping up into that mission.

Chief?

General WELSH. Yes, Senator. I would just add that nobody anywhere has the kind of air support that we give our troops on the ground and they never will.

The Afghans will get what they need from the A–29. It will provide them the capability they need to be successful in the battlefield, I believe, if we can deliver it on time. The plan is still to deliver it by the end of calendar 2014, and that is what the Commander of ISAF, General Dunford, is expecting us to do.

Senator DONNELLY. Great.

In Syria, in regards to a no-fly zone, whether it is—20 percent has been discussed. 100 percent of the entire country has been discussed. How difficult is that to put in place? How many airmen, soldiers, marines, Navy are required to do that?

General WELSH. Well, Senator, I think the number is completely dependent on the plan itself, and I am not privy to the detailed planning that is going on for options in Syria.

I will tell you that the forces we have that are not flying right now will be likely required to maintain a no-fly zone over time. A lot depends on where you can actually base the aircraft who are enforcing the no-fly zone. You cannot do it all from carriers in the Levant. We do not have enough. You will have to do land basing. If they can base in countries nearby, you need less tanker support. If you have to move farther away, you need more tanker support. There are a lot of variables that will drive the size of this operation.

Senator DONNELLY. When you look at that, does a no-fly zone over 20 percent of the country—is that effective? Does that change the game at all?

General WELSH. Senator, I think that is completely dependent on the objectives you are trying to accomplish. And as I said, I am not in that discussion.

Senator DONNELLY. In regards to unmanned air systems, can you talk to us about the future of the unmanned air systems in the Air Force? What role in the FAA's task of integrating the unmanned aircraft systems into the National airspace system by September 2015—what role is the Air Force going to play in that, sir?

Mr. DONLEY. Well, sir, we are members of the NAS review process. We have Air Force staffers, Air Force officers assisting FAA in this work. Their choice about which locations to choose for demonstrating, I think it was, six different locations across the Nation—that is an FAA decision that we are not privy to. But they did come to us and ask for advice on how to set up that process.

RPA's, remotely piloted aircraft, have a future in our Air Force. There is no doubt about that. We have new career fields and capabilities that we did not have 10 years ago that we are going to maintain into the future.

Senator DONNELLY. One of the proposals out there is a joint proposal between the States of Indiana and Ohio to be one of those six UAS test sites.

As you look at the fiscal year 2014 budget, it requests approximately $90 million for Air Force RDT&E, human effectiveness, applied research for trusted autonomy. Do you think that that level of funding is sufficient for the study of the UAS autonomous systems?

Mr. DONLEY. Sir, I am not familiar with the details of that particular proposal, but I will get you an answer for the record on that.

[The information referred to follows:]

[COMMITTEE INSERT]

Senator DONNELLY. Thank you, Mr. Chairman.

Senator NELSON [presiding]. Senator Gillibrand?

Senator GILLIBRAND. Thank you both for your extraordinary service and for the hard work you do every single day.

I want to continue the line of questioning that was started by Senator Levin concerning sexual assaults in the military, and I want to start with you, Secretary Donley.

You said that you believe the chain of command needs to retain its authority to make determinations of whether or not a sexual assault charge should go to trial because you believe that that authority is necessary to maintain good order and discipline within the ranks.

Now, fiscal year 2011 had 19,000 cases of sexual assault and rape, 3,192 reported, 190 convictions. The fiscal year 2012 report has come up with higher numbers, 26,000 cases and barely more reported, 3,374.

Obviously, this is not good order and discipline. So are you saying that every commander in the chain of command is failing in our military today?

Mr. DONLEY. No, I am not, and I would say that the changes in the numbers that we are seeing is a matter of some debate and we are not really sure whether the numbers of increasing reporting reflect a higher incidence or they reflect more confidence in the system so we are getting more reporting of incidents that had already been taking place——

Senator GILLIBRAND. Secretary Donley, take the lower number. Let us not even take the supposed cases of 19,000. Let us just stick with the 3,000 reported cases. If that is too high for you, let us stick with 190 convictions from last year.

Mr. DONLEY. The numbers are too high. We agree with you on that. The issue that you asked about is whether or not commanders ought to be involved in this work, and I guess in my judgment—and I will defer to the chief to chime in here—commanders need to be part of the good order and discipline for their units. If they are cut out in some specific way, it is not good. It kind of separates them——

Senator GILLIBRAND. Well, they are failing in this regard, sir. This is a regard in which there is clearly insufficient training, insufficient understanding. If the man in charge for the Air Force in preventing sexual assault is being alleged to have committed a sexual assault this weekend, obviously there is a failing in training and understanding of what sexual assault is and how corrosive and damaging it is to good order and discipline and how it is undermining the credibility of the greatest military force in the world. This is not good enough.

Now, General Welsh, in answer to the same question from Senator Levin, you said you did not know what we would be fixing by removing the authority from the chain of command. And you cite as proof for that that the chain of command does not disregard the recommendations of the lawyer.

Do you have a sense as to why, if there are 19,000 or 26,000 or some unknown number of sexual assaults and rapes within the military every year, such a fraction are reported? Could you surmise that it may well be that a victim has no faith in the chain of command on this issue, on sexual assault? Because going back to the gentleman whose job it is to prevent sexual assaults was just alleged to have committed sexual assault. Do you think perhaps that a victim does not believe he or she will receive justice because the chain of command is not trained, does not have the understanding of what sexual assault and rape actually is?

So I do not think you should pat yourself on the back that your commanders have acknowledged and accepted the recommendation of their lawyers in a good percentage of cases. I am highly concerned that so few victims feel that they could ever receive justice that they will not report. And so what I would like you to consider—and I would like thoughtful consideration of this—is if we remove it from the chain of command, perhaps more people will report these cases because they are reporting them to a trained prosecutor who understands the nature of sexual assault and rape and will not discount their allegations.

Already you are willing to agree that article 60 is no longer needed because we see time and time again that after a jury's verdict, commanders are overturning that verdict. Imagine you are the assaulted victim who has just gone through a trial and because a commanding officer has said let us overturn the jury's verdict, you then have to salute the person who assaulted you. That seems to be a lack of justice.

So I would like you to think this through because I have now heard from nearly everyone that somehow removing this one judg-

ment—this one judgment—would unwind the discipline and order within the armed services. We are not taking away the commander's authority over almost everything else. I think there is a lack of understanding and training for this specific type of crime that is continuing to rise. So do you understand, General Welsh, that there is something that needs to be fixed?

General WELSH. Senator, you referred to several different things. Let me try and break them apart just a bit because I have given this a lot of thoughtful thought.

The number 800 is the one I focus on because I know there are 800 victims last year in the United States Air Force. 792 people came forward and said they were victims. And we know an awful lot about that set of victims.

I also know that in the last 3 years there has been one sexual contact case, one case out of 2,511 court cases, where a commander decided not to prefer it to court when a lawyer, well trained, educated in the law, said he should. One case. We do not have commanders routinely overturning sexual assault convictions. There are two in the Department of Defense in the last 5 years that we can find. This does not happen all the time.

The facts are critical as we try and figure out how we move forward to solve the problem because it is very easy to get distracted and derailed and focus on things that will not make this better.

My concern is ensuring, if that is ever humanly possible, that no one else suffers from this crime. And you know well, because you work this very hard, that there are lots of pieces of that. One is prosecution. I do not know if you were in the room when we had this conversation earlier, but I sat down with my JAG. We took our Air Force statistics because my concern is if we are seen as not prosecuting, people will not report.

Senator GILLIBRAND. I heard your .05 percent. That is not what I am worried about.

General WELSH. That is not the point I am making. RAINN took our data, put it in their model, and for 2012, according to their statisticians, we are 1.something percent below their prosecution rate and 3 percent above their conviction rate. So a fact on the table is that we do not have a very different problem than district attorneys' offices around the country have. It is a horrible problem, but it is the same problem. So that is not the critical issue that makes the military different.

Senator GILLIBRAND. If one in five women say they are serving in the military and they are receiving unwanted sexual contact, that is a huge problem regardless of what you are looking at in the public sector.

General WELSH. I am not comparing us to anything, Senator. What I am trying to get at is what is the problem that we have to fix. In the civil sector, there are people who can help us look at this. They have the same problem. We are reaching out to them. It is the same problem in universities, on Capitol Hill, and industry. It is the same problem. And we should be working together to identify those things that help us resolve the problem in a meaningful way. And that takes a very careful analysis of the data.

Senator GILLIBRAND. One of the reasons why I am concerned that you are so focused on retaining this authority, if it is used in

so few instances, why do you need to retain it? Because the reality is because it is in the chain of command, I believe—and this is what victims have told us time and time again—that it is why they do not report. So if you want to increase the number of reported cases, as opposed to these numbers that are unsure, vague, not sure if it is precise, whether it is 19,000 or 26,000 a year but only 3,000 approximately are reporting, you have to remove it from the chain of command. The commander is not using the authority to overturn what the lawyers are recommending in hardly any cases. You have just said so. It is only a handful of not taking the recommendations to go to trial, and it is only a handful that are overturning those cases.

But I think because it is in the chain of command, because this is what our witnesses have told us, people are not reporting. They do not feel that there is an atmosphere by which they can report safely. They are afraid of retaliation. They are afraid of being treated poorly by their commanders, being treated poorly by their colleagues. There is not a climate by which they can receive justice in the system. And that is why I want the decision not to be part of the chain of command but be done entirely by trained professionals who may not have a bias or may not have a lens that is untrained.

General WELSH. We did a survey recently in the third Air Force in Europe. 79 percent of the respondents said that they would report sexual assault if it occurred to them. That ends up not being true once they become victims. We find that 16 percent of our victims report. So what changes when you become a victim? I think we all know. The things that cause people to not report primarily are really not chain of command. It is I do not want my family to know. I do not want my spouse to know or my boyfriend or girlfriend to know. I am embarrassed that I am in this situation. It is the self-blame that comes with the crime. That is overridingly on surveys over the years the reasons that most victims do not report. I do not think it is any different in the military.

Prosecution rates in the Air Force for this crime——

Senator GILLIBRAND. I think it is very different in the military. I think you are precisely wrong about that. Everything is about the chain of command. And how you are seen by your peers and your commanders is the essence of whether you will have a successful career in the military.

General WELSH. Ma'am, I am just relating what we get on surveys from our members. I cannot attest to the veracity with which they take the survey. I will take the data at face value until we have something better to work on.

Our prosecution rate for sexual assault in the first quarter of this fiscal year—we have more cases preferred to court than were preferred in the entire year of 2011. It is 50 percent higher than any quarter last year. We are working this hard.

Senator GILLIBRAND. Thank you for your efforts, and I do appreciate what you are doing. I know every aspect in the military is trying very hard to address this scourge, and I appreciate your leadership on that.

My time has expired.

Chairman LEVIN [presiding]. Thank you, Senator Gillibrand.

Senator Nelson.

Senator NELSON. I think what you are hearing here is this is coming to the fore because a lot of people are beginning to speak out. This Senator had hearings on this not among the military but among the military contractors in Iraq, and I had these hearings 6 years ago. And we had women who had been raped come forward and explain how everything was shuffled under and swept under the rug, how rape kits were not available, how there was always the pressure not to report. And I think that what has happened is that there has been sufficient agitation now as being expressed by a number of the women Senators here on the dais that it is finally coming out. And, of course, things need to change.

And what I found was that we could not even—this is the hearing 6 years ago—that we could not even get the U.S. attorneys to prosecute because they could not get the evidence because the evidence was never there when in fact we had a number of testimonies that would just tear your heart out.

So thank you for what you are doing.

Mr. Secretary, I want to personally thank you. You have served extraordinarily well. And I remember when you were selected by Secretary Gates to come in and clean up a problem in the Air Force, and that was 5 and a half years ago and you have done that exceptionally well. And I want to thank you for your service.

Now, let me just ask a couple of quick questions. There is talk about another round of BRAC, and of course, that makes Senators nervous. But why is there not real concern about a BRAC in Europe? Why do we need the forces there that, in large part, were put there as a result of the Cold War? Why is that not a logical place to look?

Mr. DONLEY. Sir, I would offer that the U.S. Air Force footprint in Europe is much smaller than it was during the Cold War. We can possibly make it a little bit smaller yet, and those discussions are underway with our joint partners and with the Office of the Secretary of Defense. But I will let General Welsh who knows this theater like the back of his hand address this in more specifics.

But I will also offer that despite the range and speed of air power and the flexibility it provides from the continental United States to go east or west in support of combatant commanders or worldwide commitments, geography matters. Geography matters. And so the collaboration that we have, the presence that we maintain in Europe provides throughput to the Middle East and other important areas and to north Africa as well.

But I would let the chief talk about his experience in Europe.

Senator NELSON. Well, General, can you speak outside the Air Force as well?

General WELSH. Senator, I think so. You know, the United States Army did a very big reduction in Europe here a couple of years ago. The Air Force has actually come down about 75 percent of its force structure in Europe over the last 20 years. There has been a significant lowering in force structure and size.

We believe we can still streamline the footprint. We believe we can consolidate, we can realign some things and save money and close some infrastructure in Europe. And we are in the process of putting that plan together. But as the Secretary said, there are

some things that the United States will always want to have in Europe to support options for the Nation.

Senator NELSON. Mr. Secretary, I just want to echo the commentary from Senator Chambliss' concerns regarding the grounding of the test aircraft in Joint STARS, and he has already made that statement. General, I would address that to you as well.

Tell me. Replacing the A–10—would something like the A–29 help fill the gap in close air support?

Mr. DONLEY. Again, I would offer the chief the opportunity to speak in more detail.

But the F–35 is our preferred air-to-ground capability going forward. It is intended to replace the F–16. It is a multi-role aircraft, likely to replace the F–16 in numbers. I think it has the capability to replace the A–10 as well. But I will let the chief talk to this more specifically.

One problem with the A–29 is its inability to operate in a highly contested environment. But I will let the chief.

General WELSH. Senator, we have no requirement for the A–29 in the U.S. Air Force. The environments that we are training for for the future—we need an airplane that can both operate in a contested environment and then swing to an uncontested one when able because we are, as Senator Inhofe mentioned earlier, the smallest Air Force we have ever been, and I think that downsizing will continue, which means we are having to make decisions like single-capability, single-mission airplanes are not as valuable to us as multi-mission airplanes.

The F–35 can do the close air support mission. I think we will have to look at optimizing weapons for it for that mission in the future potentially, but the weapons that are currently in its projected inventory will allow it to do the job very well.

Senator NELSON. I did not have the opportunity to hear Senator McCaskill's comments. She has put a hold on a promotion of an Air Force general, and as reported in the Washington Post, this was a general that overturned a conviction of a military court. Is that what it is? Can you cite something about the history of whether or not this is something that is done frequently?

Chairman LEVIN. Let me interrupt your answer on this. I am going to run over and vote and come back. Senator Shaheen is over voting and is going to come back. There is a vote on, I should have started by saying. So when you are done, Senator Nelson, if you would recess this until either Senator Shaheen or I or other members come back.

You folks may have a 5- or 10-minute break, in which case it is purely by chance, not by design. So do not thank me for it. We are punishing you here a little bit this morning.

Anyway so, Senator Nelson, excuse the interruption.

Senator NELSON [presiding]. Thank you.

General WELSH. Senator, this was a case, one of only two in the Department of Defense in the last 5 years, where a convening authority has reversed the finding of guilt on a sexual assault charge. This was a case where there were actually two allegations of sexual assault against an individual and then some other lesser charges. The principal charge of sexual assault—the subject was found not

guilty. The second charge—he was found guilty, and he was found guilty of the lesser offenses that were not directly related.

And so the convening authority, reviewing the case in accordance with the UCMJ and our rules of court martial, made the judgment call that the evidence presented—after she considered the record of trial, the evidence presented and matters presented for clemency, which included other things, that it had not met the burden of proof in her view. And so she set aside the court conviction on the second charge of sexual assault and set aside the court on the other lesser charges and took those four charges and handled them all under nonjudicial punishment through article 15 action. So she did not set aside with no punishment, but she set aside the court finding on that case. That is the case.

It has only happened twice, that and a recent case at Aviano. That is it in all the services in the last 5 years.

Senator NELSON. Can you describe the facts in the Aviano case?

General WELSH. In that particular case, sir, there was an allegation of sexual assault by a military member on an Air Force civilian. The convening authority convened the court. The court found the subject guilty of sexual assault, sentenced him to prison. In the review process, the standard review process, again according to the UCMJ and the rules of court martial, the convening authority again reviewed all the evidence presented at trial and some additional information presented in the clemency package that was not available to the jury at trial. The convening authority decided again that they had not met the burden of proof in trial in his view, and he set aside the court martial findings.

Senator NELSON. In this instant case that Senator McCaskill was involved in, was there any additional evidence that came in such as in the Aviano case?

General WELSH. There was input from the victim through the victim's counsel included in the matter of clemency, and then I do not know exactly what was in the entire clemency package. I know roughly what it was. I have scanned through it all. But I do not remember how many letters of support, et cetera were presented. I did not review all of the evidence presented in trial on this case. It happened a couple of years ago, and so I do not know if there was other evidence that the judge in that trial had not allowed in court that was presented to the convening authority. I do not know the answer. We can find that out for you, sir.

Senator NELSON. I think this ought to be handled, but you have got a Senator, Senator McCaskill, that is concerned about the convening authority and the convening authority's ability to proceed with a promotion. And I would assume that that might be something that the Chief of Staff would want to review with regard to any additional evidence presented, as opposed to letters of support. As you just stated, in the Aviano case, there was additional evidence that had not been brought out at the trial. That would seem to me to be something that the Air Force at the highest counsel would want to know.

General WELSH. Senator, we are in very close contact with Senator McCaskill. She has the complete record of trial. She has the justification from the convening authority. She has everything we have on this case. My judge advocate general has spoken with her

staff multiple times. I believe she has all the information she needs from us on this case.

By the way, just to clarify, this is not a promotion. It is a lateral move that we have requested for this particular officer.

Senator NELSON. Well, if it is not a promotion, why does it have to come through the Senate Armed Services Committee?

General WELSH. It is another three-star position, sir. She is in a three-star position currently and moving to another one.

Senator NELSON. I see. Okay. Thank you.

The committee will stand in recess, subject to the call of the chair. [Recess.]

Senator SHAHEEN [presiding]. Thank you, everyone, for coming back in.

And to Secretary Donley and General Welsh, thank you both for your stamina this morning, for coming back so I can ask my questions as well, and especially thank you for your service to the country. And, Secretary Donley, I very much appreciate all of the time, energy, and expertise you have provided in your role as Secretary of the Air Force. I know that the country will miss you.

Gentlemen, I am going to change the subject for a minute. I know my colleague from New Hampshire, Senator Ayotte, has raised this issue, and I would be remiss if I did not begin with asking you about the KC–46A basing decision. Now, I will spare you my talking points about Pease's great location in the northeast Atlantic and the success we have had integrating our active duty and our National Guard and the competence of everyone who is stationed there. But I do want to ask you if the decision about the basing of the new tankers is still on track and when you expect that to be announced.

Mr. DONLEY. It is on track, ma'am. We do expect it later this month.

Senator SHAHEEN. Great. Thank you.

I know there have been some questions about the contract for the new tankers, but can you explain what the impact of continued sequestration might be, if there is any, and we have to renegotiate the contract for the KC–46A?

Mr. DONLEY. We think that the current program is on track, 179 aircraft, first developmental aircraft by fiscal year 2015, and I believe it is 8 aircraft by fiscal year 2017. We think the contractor is a good one both for the taxpayers and for the warfighter.

One of my favorite reports to sign to Congress, which I do on a quarterly basis I believe, is that there have been no engineering changes to the KC–46 contract and there have not been since that contract was awarded. It caps the Government's role in this development contract at $4.9 billion. There is some cost and schedule—cost risk, I would say, not schedule risk that we know of, but cost risk to the contractor at this point. And there is a minor impact from sequestration as we have to move dollars around to make sure that the KC–46 contract can be and is funded. And we will continue to do that going forward.

Senator SHAHEEN. So what would the impact be should we not address sequestration in the next fiscal year or the following fiscal year? Will we still be able to go forward with the contract?

Mr. DONLEY. It would make it more difficult to do so. Depending on the flexibility provided by Congress to move dollars around various appropriations, that could impact our ability to meet contract obligations. But we are doing our utmost not to reopen this contract.

Senator SHAHEEN. That is very good to hear. And I certainly hope that we will do our utmost in Congress to address those automatic cuts from sequestration and to come up with a long-term plan that means that not only will the military but no one within Government will have to have the impact of those cuts.

But while we are talking about contracts, can we also talk about what impact that sequestration and furloughs might have on the Joint Strike Fighter?

Mr. DONLEY. Again, the Joint Strike Fighter remains a very important priority for us. It has taken its share of reductions in sequestration. We have been able to accommodate those to some extent, but we are losing probably 3 to 5 tails out of our planned procurement for the Air Force of 19 aircraft in fiscal year 2013. So some of that will go to pay for continued development of the program which we are prioritizing. So the focus is on making sure the F–35 development program closes out before fiscal year 2018, and that is a firm commitment that the Joint Program Office is holding to, that the services are holding to. There is no more money being provided to this program. So tradeoffs between procurement and development are an annual process, and sequestration forces us to take a couple of more tails in 2019 to support development.

Senator SHAHEEN. And will that affect the long-term cost of the F–35?

Mr. DONLEY. It will. We have made adjustments to the program in the last several years where we have pushed airplanes outside of the FYDP, outside of the Future Years Defense Plan, and those would be need to be made up at the end of the program. And that does increase unit cost a little bit, extends the program out. So these are deliberate choices we are making. They do extend the life of the program a little bit longer and add cost.

Senator SHAHEEN. So that even though we may see some short-term savings, we are going to see some long-term increased cost.

Mr. DONLEY. Yes, but hopefully marginally. As long as we stick to our current procurement plans and we maintain strong partnerships with the international partners that are part of this program and we do not take any action to substantially reduce the size of the program, then the cost per aircraft increase from these delays will be smaller than if we take these other actions.

Senator SHAHEEN. Good. Thank you.

Finally, gentlemen, I do want to raise my concerns, even though I know they have been raised by many of my colleagues here, about sexual assault in the military. You know, we heard in my office last week not from a woman who had been sexually assaulted but from a man who had been sexually assaulted and not only once but over a period of time.

So, you know, General Welsh, you talked about the comparison between what is happening in the military and what is happening in the civilian world. As you pointed out, this is unacceptable regardless of where sexual assault happens. But can you talk about

how you are making use of what has been learned on the civilian side about how to address sexual assault?

This is an issue that I have worked on for probably 30-plus years in various capacities, and the things that I have learned from my experience that have worked have been opportunities to support victims of sexual assault, to make sure that they can be removed from the perpetrator, to ensure that there is a swift response on the part of law enforcement and that people understand what the punishment is going to be and that that is clear and swift and an awareness about why this is unacceptable among the general public.

So can you talk about how you are making use of some of the lessons in the civilian world as you try and address this issue?

General WELSH. Yes, Senator, I can. We have worked very hard to review both literature and to invite experts in, experts in the fields of prosecution, experts in the field of victim care, experts in the field of psychology, experts in the field of developing cultures and environments. We have been doing this for several years in the Air Force now and in the Department of Defense. We have made many, many changes.

We do not know what effect they are having, but they are not having enough of a one is the big point I would raise. We have to keep working this and we have to find a different set of things that may be game changers in battling this problem. And that is why I kind of stressed that we have to unemotionally assess this to the extent possible so that we can work together on the things that can be game changers, not the things that are not really at the source of the problem.

For example, I have a dinner at my home later this week with a group, an industry group, that actually does work on building cultures and climates. And the intent is to ask them if there is a way to put together something that we integrate into our training programs across the Air Force that helps develop focus on diversity, inclusion, respect. We will not call it sexual assault training because that might not get us the result we want. We just change the way people think from the day they walk in the door. How do we take that wide spectrum of behavior and thought in society and bring it down into what we think is an acceptable spectrum of behavior when you are serving in this business. And if we can start to make progress in that area, we can extend it throughout the course of a career.

Now, we are trying to do all those things, find the areas where we gain traction, and then exploit those. The special victims counsel in my mind is the one that has done that. Some of the things we have done different on investigative processes. We have a new OSI special investigator course that we have now run three classes through, designed curriculum approved by initial attendees from outside the Air Force who are special victims prosecutors in the civilian world. So we have counselors, psychiatrists, special victims prosecutors from the past who are helping us, and we are going to continue to do everything we can.

Senator SHAHEEN. And did Lieutenant Colonel Krusinski have the benefit of some of those education programs before he was assigned to his role?

General WELSH. Let me speak generally because I have not seen specifics of training, you know, completions that he has done. As I said, I just have not had time to look at that since we heard of this yesterday.

He has completed all the standard Air Force training. We have annual training. We have recurring training. He has been a squadron commander in our Air Force. There is training that is required in squadron commander training before you take that role where this is included. He was a Force Support Squadron commander, and sexual assault response coordinators, et cetera work under the Force Support Squadrons in our Air Force. So he is clearly familiar with the program. I do not know how far back his training record goes. Obviously, he had just completed his sexual assault response coordinator training and victim advocate training for this job last week.

Senator SHAHEEN. Thank you very much.

Thank you, Mr. Chairman.

Chairman LEVIN [presiding]. Thank you very much, Senator Shaheen.

Just one quick question. You have given us some indication of the very few number of cases where fact findings by courts martial panels have been overturned by the convening authority. Could you, for the record, tell us—those related just to sexual assault case. So if you could tell us for the record whether there are any other cases and if so, what cases in the last same number of years—I think you were going back 5 years—there were set-asides of findings.

General WELSH. It is about 1 percent, just so you know. We will get you the details.

Chairman LEVIN. If you could get us the actual numbers, that would be helpful.

[The information referred to follows:]

[COMMITTEE INSERT]

Chairman LEVIN. There will be many questions that will be sent to you about either proposed legislation or legislation that has already been introduced asking for your opinion. There has been some legislation already introduced, which I understand has already been sent to the general counsel. There have been letters that have been sent to our chiefs, but there will be some additional letters that will be sent by me, other members of the committee. And what we would ask you for is—we know we are going to get thoughtful responses, but we also need prompt responses because it is my plan and expectation that there will be legislation that will be taken up as part of the defense authorization bill's markup, which begins in June. So you could be getting letters regularly between now and then, but we would very much appreciate prompt responses to those letters.

Nothing that was said here today by any of us was intended to affect or influence any judicial proceeding. Nothing that was said by any of us here today was intended to have any effect on any either pending or future judicial proceeding. I think we were careful to make that clear. But in any event, that is the position of this committee and our members to a person that we do not intend to influence any judicial proceeding by any comment that we make

here because you have a responsibility in the military to dispense justice. We count on you to dispense justice for victims, but also for people who are accused of crime.

And we are going to do the very best that we can to see if we cannot bring our UCMJ up to date because there are some things that have happened since those provisions on the power of the convening authority were written, particularly in the area of appellate rights for defendants. And so we will be working hard on that and we will need your cooperation.

We are very, very grateful to both of you for your testimony here today. And it is very important to us that we have your views on not just the issues of sexual assault but also on the problems that you face in the Air Force, which are there in large numbers. So we are grateful for your service. Particularly, I say to you again, Secretary, you will be missed. You have been a really true friend not just of the Air Force but of our Nation and we are grateful for that. And we will see much more of you, General Welsh.

We will stand adjourned.

[Whereupon, at 12:35 p.m., the committee adjourned.]