



**INVESTIGATION INTO THE CITADEL'S HANDLING
OF ALLEGATIONS INVOLVING LOUIS N. "SKIP" REVILLE**

FINDINGS

MARCH 31, 2013



**THE
CITADEL**
THE MILITARY COLLEGE OF SOUTH CAROLINA



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ACKNOWLEDGMENTS

Margolis Healy & Associates acknowledges the assistance and guidance of Joseph M. McCulloch, Jr., Esq., who, as legal counsel to the Board of Visitors, managed the engagement and guided our services. We thank Lieutenant General John W. Rosa, USAF (ret.), President of The Citadel, and the Board of Visitors for their candor and commitment to this process. Our gratitude to Colonel Thomas Philipkosky, USAF (ret), Associate Vice President for Operations, for providing logistic support and coordination, and Melanie L. Mason, Paralegal, Barnwell Whaley Patterson & Helms, LLC for organizing and maintaining the required legal records. All members of The Citadel community who participated in our assessment, without exception, were welcoming and forthcoming in their opinions and thoughts. The Citadel was a gracious host.

DISCLAIMER AND DISCLOSURE

Margolis Healy & Associates, LLC conducted this assessment and prepared this report for Joseph M. McCulloch, Jr. Esq. at the request of The Military College of South Carolina (The Citadel). The name of the complainant identified herein has been changed to respect his privacy. The authors' opinions, findings, and conclusions are provided solely for the use and benefit of The Citadel. Any warranties (expressed and/or implied) are specifically disclaimed. Any opinions, findings, and conclusions in this report should not be construed as a governing policy, or decision, unless so designated by other documentation. The report is based on the most accurate data gathered and available to Margolis Healy & Associates, LLC at the time of the assessment and presentation, and therefore is subject to change without notice.

STATEMENT OF NEED

Margolis Healy & Associates, LLC was engaged by The Citadel Board of Visitors through Joseph M. McCulloch, Jr., Esq., and in coordination with Wise Results, LLC (hereafter collectively referred to as the Independent Review Team, or IRT), to conduct a thorough and objective review of the events surrounding The Citadel's institutional response to a 2007 report of sexual misconduct raised by John Doe, a former camper at the Mark Clark Summer Camp. The allegation concerned conduct from the summer of 2002, allegedly committed by Louis N. "Skip" ReVille, a camp employee and Citadel student at the time. The independent review focused on the actions taken by the institution and by particular individuals, decision-making processes, and policies and procedures in effect at the time of the receipt of the 2007 Doe complaint.

SECTION I – METHODOLOGY

In accordance with the wishes of Board of Visitors of The Citadel, Margolis Healy & Associates, LLC (Margolis Healy or MHA) reviewed the decision in 2007 not to report to law enforcement authorities allegations by John Doe that Louis N. “Skip” ReVille engaged in sexual misconduct with minor campers while he was employed as a summer camp counselor in the Mark Clark Summer Camp. Our review took into consideration, as applicable, the 2001 allegations involving USMC Captain Michael J. Arpaio for historical context, and the institution’s reporting obligations under state and federal laws, including The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC §1092(f); Clery Act). The Margolis Healy portion of the review was conducted to gain a more objective understanding of these events and The Citadel’s response.

Wise Results, LLC was charged with evaluating the policies and procedures for reported complaints of sexual misconduct at on and off campus events, including compliance with federal, state, local and internal requirements for reporting abuse and sexual misconduct with minors and sexual assault of others at College sponsored activities. Findings from the areas assigned to Wise Results, LLC are found in a separate document.

The Independent Review Team (IRT) evaluated The Citadel’s current policies and procedures in order to reinforce or develop effective practices in the investigation and response to complaints of sexual misconduct. The IRT examined relevant investigative and administrative documents, and conducted interviews with College leadership and administrative staff. We examined The Citadel’s compliance with Clery Act reporting requirements, specific to this matter.

The IRT reviewed extensive documentation and conducted research before and during its site visit(s) from January 21 – 25, 2013 and February 4 – 5, 2013. The multidisciplinary team, led by Dr. Gary J. Margolis (Managing Partner, Margolis Healy), consisted of professionals with extensive backgrounds in law enforcement and sexual violence investigations; legal affairs; student affairs; sexual and gender violence prosecution; and university public safety. During the site visit, the team reviewed the areas specified in the scope of work; conducted interviews of staff of various departments related to the review; and met with College leadership. The IRT performed the necessary background research, document review, site visit, interviews, verification and analysis to have become familiar with the issues under review and key participants. The review included the following:

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- Multiple day site visits to the campus in Charleston, SC;
 - Interviews with College administrators, faculty, and staff representing departments and demographics relevant to the various areas under review; and
 - Review and analysis of relevant procedures, protocols and policies;

We considered the following documents and information provided by the Law Offices of Joseph M. McCulloch, Jr.; the Law Offices of Barnwell Whaley Patterson & Helms, LLC; and The Citadel in forming the basis of our opinions.

1. Arpaio case documents, investigative reports and statements
2. Arpaio litigation files
3. Barnwell Whaley Patterson & Helms, LLC Billing Records
4. Brandenburg emails and notes
5. Board of Visitors Meeting Minutes (June & September 2007)
6. Colonel Joseph Trez, Work Calendar (April 2007 – September 2007)
7. Doe v. Marion (373 S.C. 390, 645 S.E.2d 245),
8. Email archives for:
 - a. William Bates
 - b. Emma Bennett-Williams
 - c. Michael Bingham
 - d. Mark C. Brandenburg
 - e. Denny Carpenter
 - f. Susan K. Danko
 - g. William A. Fletcher
 - h. Jenni Garrott
 - i. John Lackey
 - j. Wanda J. Milligan
 - k. Thomas Philipkosky
 - l. John W. Rosa

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- m. Janet Shealy
 - n. Jennifer Shiel
 - o. Robert L. Shipman
 - p. Joseph W. Trez, Sr.
 - q. William N. Ragland
9. Email responses to The Citadel's community request for information relative to this review
 10. Institutional Program Assessment Committee (IPAC) Final Report, Executive Summary, Cover Letter and Appendices
 11. John Doe July 2007 interview transcript
 12. Letter to Col. John Lackey from Charleston Police Lt. Dale Middleton
 13. Letter from Solicitor's Office to South Carolina Law Enforcement Division on decision not to prosecute
 14. Lt. General John W. Rosa, Work Calendar (April 2007 – September 2007)
 15. MDBI Organizational Plan & Time Line
 16. Media Accounts/Advisories/News Stories on ReVille (2012)
 17. ReVille case documents, investigative reports and statements (including Charleston, Mount Pleasant, Summerville, and SLED Police investigative reports & statements)
 18. ReVille litigation files
 19. The Citadel Clery Reports (Annual Security Reports), 2001-2002 and 2005-2012
 20. The Citadel Counselor Handbook (1998, 2000-2006)
 21. The Citadel Daily Crime Log (2011)
 22. The Citadel Emergency Response Plan
 23. The Citadel Organization Charts
 24. The Citadel SPRINT Cell Phone Bills, Apr-Oct 2007

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25. The Citadel Policies and Procedures:
- a. Activities Involving Children on The Citadel Campus –Memo #2
 - b. Authorized Entry – The Citadel Campus, Memo #3 and #5
 - c. At Risk College Sponsored Activities and Events
 - d. Barracks Regulations for Summer School, Memo #7
 - e. Campus Safety and Security Reporting, Memo #2-27
 - f. Children on The Citadel Campus – Memo #10
 - g. Critical Information Reports Policy
 - h. HR Sexual Harassment Training 2007
 - i. College Regulations – 1999-2000, 2003-2006
 - j. Computer/Electronic Information Security Policy Memo #3-6, 3-3, 3-2
 - k. Faculty/Staff Quarters Policy Memo #47
 - l. Faculty Manual Dec 2004
 - m. Tort Liability Insurance Policy
 - n. Serious Incidents Policy Memo # 15, 39
 - o. Sexual Harassment Memos # 2-26, 15, 20 51
 - p. Sexual Violence Prevention and Response Memo # 2-25
 - q. South Carolina Insurance General Liability
 - r. Sexual Assault Crisis Intervention Policy Memo # 4, 6, 9
 - s. Use of Citadel Facilities Policy, Memo #2-4
 - t. Visitor’s Access to Campus Policy Memo #2-19
 - u. Citadel White Book – 2001-2004
26. South Carolina Law Enforcement Division letter to The Citadel closing the case (April 4, 2012)
27. The Handbook for Campus Safety and Security Reporting (2011). The United States Department of Education.

The IRT sought to interview all who were relevant to the investigation, and most cooperated fully. Ms. Jennifer Shiels, Mark Brandenburg's former administrative assistant, and Mr. David Stuckey, from the Insurance Reserve Fund, declined our interviews. In addition, a letter and email was sent to The Citadel community in February 2013 inviting people with information to contact the Independent Review Team through the external counsel (Joseph M. McCulloch, Jr., Esq.) or via an email address established for this purpose (citadel@margolishealy.com). The following people were interviewed given their material involvement or possession of information relevant to the investigation.

BOARD OF VISITORS

- Colonel Glenn D. Addison, '79, Vice Chairman
- Major General Arthur H. Baiden III, AUS (Ret), '62
- Colonel Leonard C. Fulghum, Jr., '51
- Colonel Myron C. Harrington, Jr., USMC (Ret), '60
- Colonel William E. Jenkinson III, '68
- Lieutenant Colonel Ben W. Legare, Jr., USA (Ret), '63
- Colonel Allison Dean Love, CGC, '93
- Colonel Fred L. Price, Jr., '75
- Colonel Douglas A. Snyder, '82, Chairman

ADMINISTRATION & STAFF

- Major William Bates, Director (former), Mark Clark Summer Camp
- Mark C. Brandenburg, General Counsel
- Colonel Dennis Carpenter, Human Resources
- Colonel William Fletcher, Chief of Police, The Citadel Police Department
- Jenni Garrett, Asst. Camp Director, Mark Clark Summer Camp
- Colonel John "Tony" Lackey, Director (former), Mark Clark Summer Camp
- Wanda Milligan, Administrative Assistant to the President

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- Captain William N. Raglin, Clery Act Coordinator, The Citadel Police Department
 - Lieutenant General John W. Rosa, (USAF, ret.), President
 - Janet Shealy, Director, Office of Sexual Violence Prevention
 - Colonel Joseph Trez, Director of Center for Leadership and Ethics (formerly Executive Assistant to the President)
 - Emma Bennett Williams, Title IX Coordinator

LAW ENFORCEMENT

- Chief Gregory Mullen, Charleston Police Department
- Captain Dale Middleton, Charleston (SC) Police Department
- Captain Ryan Neill, South Carolina Law Enforcement Division (SLED)
- Agent Charles Ghent, South Carolina Law Enforcement Division (SLED)

CITADEL ATTORNEYS

- M. Dawes Cooke, Jr., Esq., Barnwell Whaley Patterson & Helms, LLC
- Philip Federigos, Esq., Barnwell Whaley Patterson & Helms, LLC

EMAIL FORENSIC REVIEW

The Independent Review Team retained the Capsicum Group, LLC (Capsicum) to collect and process email files belonging to College employees (custodians) identified relevant to the investigation, and between April 2007 and October 2011. Capsicum facilitated remote collection and processing through the following steps:

- Capsicum shipped a computer forensics workstation (laptop) with appropriate hardware and software to The Citadel technology team (received on 3/6/2013);
- Upon receipt, Citadel Information Technology staff connected the computer to the Internet;
- Using Logmein software, Capsicum technicians connected to the computer remotely, allowing Citadel IT staff the ability to monitor or shadow remote sessions in order to monitor progress;
- The Capsicum laptop was connected to a NAS (Network Attached

Storage) device containing restored data from two (2) sources as follows:

- Recovered Microsoft Exchange mailstores;
- Exported Personal Storage Table (PST) files from The Citadel's email archive system. Citadel IT staff made the recovered, exported email from both the Exchange server, as well as the email archive server, available. NOTE: Capsicum did not perform the collection of this data; Citadel staff did it.
- Capsicum technicians received a list of custodians (email folder owners; see above for list), and performed email extraction, search and culling as follows:
 - Utilizing Paraben's Network Email Examiner (v 4.1), technicians extracted reports of all mailboxes available on the restored Exchange mailstores. These reports were used to identify the availability and location of the custodian mailboxes, which were then extracted to individual Microsoft Outlook message (.msg or MSG) email files;
 - Utilizing Aid4Mail Enterprise v1.998, technicians extracted the email archive PST files prepared by the Citadel IT staff to individual MSG files;
 - Extracted MSG files were indexed and processed using Capsicum's Metadata Ninja software in order to extract metadata from the emails whereby allowing a culling by sent date and removal of duplicates;
 - Resulting date culled, de-duplicated email MSG files were then indexed for keyword searching using DTSearch v7.66 software;

The resulting searched MSG files (approximately 23,000 culled from hundreds of thousands) were processed to PST files for final delivery to the IRT. The IRT then ran searches on the files through Microsoft Outlook and using the following keywords: brandenburg, dawes, cooke, federigos, louis, reville, skip, [complainant], porn, masturbate, summer, camp, claim, law, enforcement, sex, child, abuse, penis, mandatory, report, duty, arpaio, jessica, horton, molest, sled, police, cpd.

Our opinions in this matter will address the decisions made by The Citadel relating to the complaints of John Doe and the information

gathered on Louis N. “Skip” ReVille. Our observations and opinions are presented to a reasonable degree of professional certainty, and are based on our knowledge, education, training, and years of experience as law enforcement professionals in university and city policing and prosecution; our experience in matters of campus safety and security; the study of the above materials; the applicable Citadel policies, procedures and protocols in place at the time of the incident; and our understanding of applicable state and federal statutes, and case law.

SECTION II – ABBREVIATED STATEMENT OF THE RECORD

On Monday, April 23, 2007, at approximately 3:45 p.m., Father Doe (Citadel Class of 1972) placed a phone call to The Citadel's Office of the President asking to speak with President John W. Rosa, Lt. General USAF (ret.).¹ The president was out of the office as part of the institution's capital campaign and was not expected to return until Tuesday, April 24, 2007.² Father Doe shared with Wanda Milligan, the president's administrative assistant, that his son, John Doe, told him earlier that day that he had had problems as a camper at the Mark Clark Summer Camp. John Doe, now 18 years of age, had attended the camp starting at the age of ten and in the years that followed returned as a camp counselor. Father Doe did not share with Ms. Milligan the nature of what had been disclosed by John Doe, but did indicate that whatever had happened had been when his son was twelve, thirteen or fourteen years old. Ms. Milligan referred Father Doe to Mark Brandenburg, The Citadel's General Counsel.³

Mr. Brandenburg, during his interview with the IRT, recalled an immediate concern when he learned that this involved a camper in the Mark Clark Summer Camp, and shortly thereafter returned a phone call to Father Doe. Mr. Brandenburg's concern stemmed from his knowledge and involvement in the earlier case of USMC Captain Michael J. Arpaio. Captain Arpaio had returned to The Citadel from 1997 – 2001, after his graduation, to volunteer and work at the summer camp. On July 9, 2001, a family in Clay County, FL reported to the sheriff's office that their 10-year old son was acting strangely after he was picked up from The Citadel days earlier. The camper told his parents that he had spent nights in Captain Arpaio's bed, during which time he had been fondled, and he complained of pain and discomfort while sitting.⁴ The Clay County Sheriff's Office contacted the Charleston Police Department, and Lt. Dale Middleton (now a Captain with the Charleston Police Department) was assigned to investigate. During the course of the Charleston Police investigation, and subsequent involvement of the Naval Criminal Investigative Service (NCIS) upon a complaint to the Pentagon, Captain Arpaio was charged and later convicted of multiple counts of child sexual abuse. He was found to have plied young boys with alcohol and drugs; to have exposed them to pornography; to have sexually molested them; and to have forced them to watch as he had sex with a woman. In 2003, he pled guilty in military court to charges of providing alcohol to minors and indecent exposure, amongst others, and was sentenced during a court-martial to confinement at the Naval Consolidated Brig in Hanahan, South Carolina.⁵ The lawsuits brought by the victims and their families, in which Mr. Brandenburg

¹Wanda Milligan interview

²Joseph Trez interview; records of president's appointment schedule

³Milligan interview; Mark Brandenburg interview and his notes

⁴Police investigation and media accounts

⁵Ibid

was involved as insurance defense counsel, were settled in 2006; shortly thereafter the Mark Clark Summer Camp was officially closed.

Mr. Brandenburg learned from Father Doe that John Doe didn't want to return to the camp after his first or second year as a camper because a counselor named "Skip" had had movie nights and would invite John Doe and other campers to watch pornography. During these movie nights, Skip would masturbate in front of them and also shower with the boys. According to statements made by Father Doe to Mr. Brandenburg, John Doe's grades suffered significantly in the years that followed.⁶

This same day, April 23, 2007, Mr. Brandenburg contacted Phillip Federigos, an attorney with Barnwell Whaley Patterson & Helms, LLC (Barnwell Whaley), to report a potential claim involving a new matter unrelated to the Arpaio litigation. The length of this call, according to Barnwell Whaley billing records is less than six minutes and neither Mr. Brandenburg nor Mr. Federigos recall the details of the conversation.⁷ Mr. Brandenburg shared during his interview that it was likely that the call was to alert Barnwell Whaley to the possibility of litigation in this matter, and that it was unlikely that he called Mr. Federigos for advice given his (MB) senior experience to Mr. Federigos. Mr. Federigos confirmed the phone call and speculated that what was shared was not alarming to him as he did not recall the details of the call, nor did he ever open a new matter number for the claim. Mr. Brandenburg told us that it was possible that he spoke with M. Dawes Cooke, Jr. from Barnwell Whaley about the phone call from Father Doe, but neither he nor Mr. Cooke have any independent recollection of such a conversation at the time.⁸ There is no documentation in Mr. Brandenburg's notes or in law firm's billing records, although both Mr. Brandenburg and Mr. Cooke said that they often communicated without recording the time for the conversations. Mr. Cooke indicated during his interview that the first he heard about the ReVille matter was in October 2011.

Later on during the evening of April 23, 2007, Mr. Brandenburg spoke with John Doe by phone. John Doe corroborated the information shared by his father, and added that Mr. ReVille had been the Cadet in Charge of Quarters (CCQ) at the time of the incident(s). He also disclosed that Mr. ReVille, "engaged in this activity frequently, though, with many other campers."⁹ (Note: the point that John Doe makes about other instances and other victims is repeated during his July 2007 interview in Texas).

⁶Brandenburg interview and hand written notes

⁷Brandenburg interview; Philip Federigos interview; BWPB billing records

⁸Brandenburg interview; M. Dawes Cooke, Jr., interview

⁹Brandenburg interview and hand written notes

Mr. Brandenburg did not share this information immediately with Lt. General Rosa upon his (JR) return to the office on May 1, 2007, as it would not have been his practice to do so. Although Mr. Brandenburg did not recall the specific details of his conversation with the president, he did indicate that it would likely have been something shared informally, and not during a scheduled meeting; they had a pattern of informal discussions several times per week. Mr. Brandenburg did not have a practice of emailing Lt. General Rosa, or calling him on his mobile phone, as he (MB) preferred to walk down the hall for an in-person conversation. According to the president, “if there was a need, he could find me.”¹⁰ Mr. Brandenburg spoke deferentially to the IRT of Lt. General Rosa given the president’s military rank, and described the role he played in providing legal advice to the president. Lt. General Rosa described a good professional relationship, noting that he generally deferred to Mr. Brandenburg’s legal advice, especially in the first years of their working relationship. Lt. General Rosa confirmed during his interview that Mr. Brandenburg was not afraid to challenge him or disagree on legal matters and opinions, and that Mr. Brandenburg would keep him informed, as needed. Mr. Brandenburg indicated that Colonel Joseph Trez could also assist Lt. General Rosa with legal matters because he had prior military experience, was older than the president, and could “explain things to him that even I couldn’t.”¹¹

At the time, Mr. Brandenburg had regularly scheduled legal updates with the president, and while he did recall meeting with Mr. Brandenburg on May 9, 2007, Lt. General Rosa has no independent recollection of at that meeting, or around the time of the call to his office. Lt. General Rosa did have a specific recollection that Mr. Brandenburg had described the allegation as a single incident occurring five years prior that did not involve physical contact, unlike the Arpaio matter. Lt. General Rosa understood from Mr. Brandenburg that this was a settlement case according to the Doe family’s wishes, and that the family’s desire was for this to remain a private matter. It was Lt. General Rosa’s impression from Mr. Brandenburg that Father Doe wanted his son to attend The Citadel.¹² Lt. General Rosa’s impression, confirmed in interviews with others, was that this case was different from others that may have been reported to the authorities because: (i) it involved an adult complainant (at the time of the report) whose family was involved in the complaint and able to make their own decision to report to authorities; (ii) it occurred during a program that no longer existed; and (iii) John Doe was not a Citadel student. Mr. Brandenburg and Lt. General Rosa confirm that there were

¹⁰Brandenburg interview

¹¹Ibid

¹²Lt. General John W. Rosa interview

no discussions between them about reporting this matter to the Citadel Police Department, the Charleston Police Department, or the South Carolina Law Enforcement Division (SLED).

On April 24, 2007, Mr. Brandenburg and Colonel Joseph Trez, Executive Director to the President, spoke with Louis N. “Skip” ReVille, and he denied the allegations made by John Doe. Mr. ReVille also identified for Mr. Brandenburg other CCQ’s (Cadet in Charge of Quarters) at the summer camp during that timeframe. Mr. Brandenburg did not inquire about Mr. ReVille’s previous, current or other employment or activities to ascertain whether or not he had contact with or access to children.¹³ Mr. Brandenburg did not share the nature of the call or the information he gathered with The Citadel Police Department, Charleston Police, SLED or Citadel staff specializing in responding to reports of sexual and gender violence.¹⁴

Later this same day, Mr. Brandenburg spoke with Jennie Garrott, the Deputy Director of the Mark Clark Summer Camp in 2001. In this role, Ms. Garrott was responsible for daily operations and counselor supervision, and reported to Major William Bates and Colonel John “Tony” Lackey. She arrived at The Citadel in this role in October 1997, the same day that Major Bates started in his role with the summer camp. Prior to this, she was involved with an Episcopal summer camp program for two years.¹⁵ Mr. Brandenburg had significant contact with her during the Arpaio litigation. Currently, Ms. Garrott works in the Commandant’s Office. She told Mr. Brandenburg that Mr. ReVille had been asked to leave his employment with the Pinewood Preparatory School in Summerville, South Carolina. She did not, however, share with Mr. Brandenburg an incident when she had had previously reprimanded Mr. ReVille in 2002 or 2003 for being alone in his room with a junior counselor, nor was this reprimand noted in camp records reviewed, or in Mr. ReVille’s personnel file.¹⁶ Ms. Garrott told the Independent Review Team that Louis N. “Skip” ReVille was highly trusted given his leadership role as a Citadel cadet (e.g., Honor Board, CCQ), and that she did not suspect he was a child sexual predator. As mentioned, she caught Mr. ReVille alone with a camper on one occasion where he was placing ointment on the young man’s legs to alleviate soreness from a run. Ms. Garrott counseled Mr. ReVille about camp policies precluding being alone in his room with a camper or junior counselor, and he accepted responsibility and the oral reprimand.¹⁷ She could not recall if she shared the incident with Major Bates, but said that she did not document the incident pursuant to camp policies under the belief that it

¹³Brandenburg interview; Trez interview

¹⁴Interviews with law enforcement and various Citadel employees

¹⁵Jenni Garrott interview

¹⁶Review of camp personnel files; Garrott interview; Brandenburg interview

¹⁷Garrott interview

was an aberration. Ms. Garrott expressed significant remorse during our interview for not suspecting that Mr. ReVille may have been a child sexual predator.

On April 24, 2007, Mr. Brandenburg spoke with Major William “Bill” Bates, Director of the Mark Clark Summer Camp at the time of the incidents, and someone that Mr. Brandenburg knew well given Major Bates’ connection to the Arpaio litigation. Major Bates joined The Citadel staff as the Director of the Mark Clark Summer Camp in 1997 after unsuccessfully pursuing another position at the College. He left the camp program in late 2002 or early 2003 for a position outside the College, but returned in September 2003 as a Company Tactical Officer, a position he currently holds. Major Bates is responsible for the oversight of more than one hundred cadets (training, advising, mentoring and disciplining), and reports to Colonel Leo A. Mercado, Commandant of Cadets. Prior to these positions, Major Bates spent 22 years in the United States military, and upon retirement became the headmaster of an independent K-12 school in South Carolina in 1992. In the summer camp, he was responsible for administrative oversight and overall camp direction, and reported to Colonel John “Tony” Lackey and Brigadier General Emory Mace, the Commandant of Cadets at the time.¹⁸

Major Bates confirmed for the IRT a belief shared by others that Louis N. “Skip” ReVille was highly regarded as Chairman of the Honor Committee, and he remains confounded as to how Mr. ReVille went undetected as a sexual predator under his watch. He stated to the IRT that policies and procedures for interaction with campers were clearly communicated, and that he had experience reprimanding and terminating counselors who violated these directives. He had no recollection of Ms. Garrott informing him that she found Mr. ReVille alone in a room with a camper. Major Bates told us that neither he, his staff, nor counselors had had training on sexual abuse, grooming behaviors, what to look for, or similar matters.

Mr. Brandenburg conducted an investigation in order to corroborate the information he received and determine if the incident had, indeed, occurred. He looked at summer camp applications, Citadel admissions applications, and summer camp yearbooks. On May 1, 2007, he contacted former campers and counselors, by email and postal letter, whom he believed could provide important information. He received return communication from some, but not all, of those contacted, and he did not call or visit them.¹⁹ He did not write a report, and recorded incomplete notes on these communications.

¹⁸William Bates interview

¹⁹Brandenburg interview; review of emails and communications

On Wednesday, May 9, 2007, Mr. Brandenburg spoke with Colonel John “Tony” Lackey, Assistant Commandant of Students and Camp Director, at a church supper. At the time, Colonel Lackey reinforced what he believed to be Mr. ReVile’s strong character and indicated that he had personally chosen ReVile as Senior Counselor. Mr. Brandenburg spoke with individuals who had been camp counselors during the period of time that John Doe was a camper, and Mr. ReVile was a counselor, with the intent of finding corroborating information to confirm or refute John Doe’s story. Although he verified much of the information shared by Father Doe as to time frame and layout and structure of the camp at the time, Mr. Brandenburg found no information to directly corroborate John Doe’s allegations with the exception that there had been a movie/pizza party, and Mr. Brandenburg took this lack of corroborating information as good news.²⁰

In May 2007, Mr. Brandenburg contacted David Abromaitis, by phone and email, at the State of South Carolina Insurance Reserve Fund (IRF) to brief him on the possibility of a claim being filed. A letter, sent by email to the IRF, indicated that John Doe was likely 14 years old when the incident occurred, along with other details of the incident including information that Mr. ReVile engaged in similar behavior with other campers, and that John Doe had been denied admission to The Citadel Class of 2007. In the e-mail, Mr. Brandenburg described the civil statute of limitations and the Do’s statements on whether they intended to file a civil claim or retain counsel. Contacting the IRF was at that time (and remains) a typical practice for Mr. Brandenburg when The Citadel received a claim or notice of a pending claim. Mr. Abromaitis assigned the case file to David Stuckey, an IRF case manager/adjuster.

The IRF, according to its website (<http://www.irf.sc.gov/>), “functions as a governmental insurance operation with the mission to provide insurance specifically designed to meet the needs of governmental entities at the lowest possible cost. The Insurance Reserve Fund operates like an insurance company, by issuing policies, collecting premiums (based on actuarially calculated rates), and by paying claims from the accumulated premiums in accordance with the terms and conditions of the insurance policies it has issued.” The relationship between The Citadel, the Office of the General Counsel, and the IRF was described for the IRT as tripartite, where each works together with the others to form the whole when addressing civil litigation matters. Mr. Brandenburg explained that he worked closely with the IRF on a day-to-day basis during the Arpaio matter,

²⁰Brandenburg interview; John Lackey interview

and felt that he could be valuable in helping the IRF resolve this claim.

In a written communication to the IRF, Mr. Brandenburg offered to conduct a pre-suit investigation as their special investigator. He described his investigation of the Arpaio case, and stated that he had “experience in investigations of this kind” and “extensive knowledge of the camp from this time period.” In sum, Mr. Brandenburg noted that having the IRF fund his interview of John Doe would be “the most likely approach to lead to a quick and inexpensive resolution of this claim.” On June 15, 2007, Mr. Stuckey authorized Mr. Brandenburg’s status as an IRF special investigator and approved his travel to interview John Doe in Texas, where the family lived, which he did on July 1, 2007. Prior to the interview, Mr. Brandenburg spoke with Father Doe who shared that he wanted his son to attend The Citadel as a student.

At the June 16, 2007 Board of Visitors meeting, Mr. Brandenburg shared with the Board in executive session the possibility of a new claim involving the Mark Clark Summer camp and sexual misconduct.²¹ There are no notes from this meeting, and members of the Board cannot recall specific details of the briefing though several remember the discussion. Mr. Brandenburg indicated that he told the Board that the allegation involved sex (masturbation) but no touching, and that the IRF was involved. He explained to the board that he was going to Texas to interview the victim. Mr. Brandenburg indicated to the IRT that he may have told the Board that he had not found corroborating information to that point in time. According to Mr. Brandenburg and those interviewees present at this meeting, it is likely that the entire briefing took only minutes and the Board engaged in no discussion and posed no questions on the matter. Members of the Board stated that they recall believing that this was only a civil litigation matter.

According to Mr. Brandenburg, no one in the leadership of The Citadel, including the president and the Board members, expressed reservations at the time with his appointment as an IRF special investigator or that he was planning to interview the victim on an upcoming trip. He recalled for the IRT conversations with Lt. General Rosa and Colonel Trez supporting this course of action, especially given the fact that as an attorney for The Citadel, the interviews would be protected under the work product doctrine as attorney/client privilege. Lt. General Rosa shared with the IRT that he believed this course of action was a good strategy in that it provided a face-to-face meeting where The Citadel could find out “where

²¹Interviews with Brandenburg, Rosa, and members of the Board of Visitors

we are with these people and then come back and report.” He added that, “normally people come to us, so this was the only case I know of where we went to the person.” Mr. Brandenburg saw this course of action as one that would save The Citadel and the IRF money. He regularly attended a professional association conference held each year in June, and in 2007 the conference was held in California, allowing him to stop over in Texas before returning to South Carolina.

Mr. Brandenburg believed that he had the experience to interview John Doe given his involvement in the Arpaio matter. He also believed that interviewing John Doe would set a trigger date for the statute of limitations under South Carolina law (S.C. Code Ann. 15-3-555). Lt. General Rosa had no involvement in approving or consenting to decisions made by the Insurance Reserve Fund.²² M. Dawes Cooke, Jr., Esq., from Barnwell Whaley Patterson & Helms, LLC noted to the IRT that, in his opinion, Mark Brandenburg’s visit to interview John Doe was a step beyond the Insurance Reserve Fund’s normal activity at this nascent stage of a claim, implying to Mr. Cooke that the IRF felt that this was a reasonable course of action towards a quick resolution.

On July 1, 2007, upon return from a trip to the National Association of College & University Attorney (NACUA) Annual Conference in San Diego, California, Mr. Brandenburg stopped in Texas to meet with John Doe and his parents, Father and Mother Doe, in Dallas. He retained the services of a court reporter, who transcribed the interview. In an email to the IRF sent on August 8, 2007, Mr. Brandenburg summarized his findings and opinions stemming from the interview, “In short... I found [John Doe] to be believable. His story remained the same as the one he related to me over the phone some time ago.” Mr. Brandenburg clarified this statement to the Independent Review Team by explaining that he was referring to his projection of what a jury would believe, but that he, himself, did not believe John Doe’s report to be credible. During that interview, John Doe, consistent with his earlier account, confirmed that he had not been touched by Mr. ReVille but that he felt “dirty and ashamed,” as a result of the group masturbation and situation writ large. During the interview, John Doe identified Louis N. “Skip” ReVille from a photograph as the responsible camp counselor. In this same email to the Insurance Reserve Fund, Mr. Brandenburg called attention to Mr. ReVille’s emphatic denial of responsibility in this matter, and likens it to statements made by Arpaio in the 2002 sexual abuse investigation. Mother Doe, according to Mr. Brandenburg, was the most emotional of the three and “... feels significant

²²Rosa interview

animosity towards the school.” Father Doe, according to the August 8, 2007 email, believed that The Citadel could be part of the solution and Mr. Brandenburg surmised that Father Doe would be pleased to see his son attend the College, a hope shared by many graduates for their children. In the weeks that followed, Mr. Brandenburg had further communications with Father Doe and related discussions with Citadel admissions staff concerning John Doe’s qualifications for admission to the institution. John Doe lacked pre-requisite coursework, and an offer was made for The Citadel to help finance classes through a technical college so that he would be prepared to apply for admission in 2008. Per instructions from the IRF and a desire for assistance confirmed by Father Doe, Mr. Brandenburg summarized his impressions in an email/letter to David Stuckey (dated August 8, 2007) so that the IRF could authorize a payment for John Doe’s technical college courses.

The regularly scheduled legal update between Mr. Brandenburg and Lt. General Rosa did not occur on July 30, 2007 because the president was attending a funeral. Per Mr. Brandenburg’s typed “Topics for Meeting with Lt. Gen. Rosa,” the Doe matter was on the list of issues to discuss that day. Their next meeting was on August 6, 2007, and Lt. General Rosa indicated that Mr. Brandenburg would have provided an update on the interview with John Doe and the settlement discussions. Lt. General Rosa told the IRT that he did not realize (or recall) at the time that there was a transcript of the interview, and did not read this document until 2011.

On November 16, 2007, Mr. Brandenburg emailed David Stuckey to update the IRF on a lack of further activity on the matter, and to request reimbursement for \$1,090.55 of out-of-pocket expenses that amounted to his hotel and flight charges. He shared that Father Doe had not provided documentation for his son’s coursework, and therefore no disbursement had been made. Mr. Brandenburg speculated as to why they had not heard from Father Doe, and indicated his intention, absent communication from the Dos to defer the matter until the spring of 2008. He offered, again, to provide the IRF with a copy of the transcript of the interview. Mr. Brandenburg also noted that the July 1, 2007 interview provided an “unequivocal trigger of the statute of limitations,” and that John Doe had until February 2, 2015 to file a lawsuit. He concluded, “I’m sorry we were not able to close it with a release, but I feel confident that we are well armed if John Doe should ever decide to pursue a case against The Citadel.”²³ On August 20, 2008, David Stuckey wrote a letter to Mr. Brandenburg in which he said, “Per our meeting on August 15, 2008, we will be closing our file in

²³Email to Stuckey/IRF from M. Brandenburg

this matter due to a lack of pursuit by John Doe.” Mr. Brandenburg did not consider requirements found in The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 U.S.C. § 1092(f)) because, he explained to the IRT, the allegations did not include touching and were therefore not a violation of the Act’s definitions of sexual offenses.

The Doe matter was on the list of topics for subsequent legal update meetings between Mr. Brandenburg and Lt. General Rosa on September 3, 2007 and October 3, 2007. Lt. General Rosa told the IRT that recalls being briefed on the status of the settlement, including the Insurance Reserve Fund’s offer. Mr. Brandenburg’s handwritten notes for the October 3, 2007 meeting show a comment that indicates “no action” and Lt. General Rosa thought he may have seen a letter in 2008 indicating that the matter was closed. Aside from a small number of handwritten notes, emails to the IRF and campers and counselors, and the John Doe interview transcript, there is no written report of Mr. Brandenburg’s investigation.

In 2011, allegations of Mr. ReVille’s sexual misconduct at a private preparatory school and subsequent police investigation by the Mount Pleasant (SC) Police Department, the Summerville (SC) Police Department, and the South Carolina Law Enforcement Division (SLED) brought attention to the incident involving John Doe in 2002. Louis N. “Skip” ReVille was arrested on Friday, October 28, 2011, entered a plea of guilty, and was sentenced in June 2012 to 50 years in prison for the sexual molestation and abuse of 23 boys, including John Doe.²⁴

²⁴Police records and media accounts

SECTION III – FACTS & OBSERVATIONS

As part of this review of The Citadel’s decisions and response to the information of sexual misconduct by Louis N. “Skip” ReVille, the Independent Review Team (IRT) explored the various related reports and their findings. According to information gathered in the police investigation conducted by the South Carolina Law Enforcement Division (SLED) and supported by the Mount Pleasant and Summerville Police Departments, Mr. ReVille is a preferential child molester who targeted adolescent boys. He was skilled at manipulating, grooming and coercing them into situations where he could take advantage of, and sexually molest them. Mr. ReVille’s ability to manipulate these young boys through power and control prevented them from disclosing the acts of abuse, and therefore allowed him to avoid detection for years. He used his public persona and stellar reputation to his advantage, and was able to avoid detection, even by his wife. He served as a summer camp counselor; a tutor; a youth coach in numerous community and school settings; a youth ministry/bible study director and teacher, and as a foster parent, school teacher and administrator.

ReVille was a Citadel cadet from 1998 – 2002, where he won the respect and trust of his peers, professors, staff and College leaders. He was selected to serve as the Human Affairs Corporal; Squad Sergeant; Bulldog & Bullpup Cadet Leader (a youth mentoring program); and, in his senior year, Chairman of the Honor Committee, arguably one of the most highly regarded positions a cadet can hold at The Citadel. Not only was Mr. ReVille well regarded, but given his status on the Honor Court, he was connected with members of the senior administration. His studies included a course in adolescent growth and development. He used his history and degree at The Citadel and his religious faith to bolster his position of trusted adult, allowing him unsupervised access to children.²⁵

In 2001, Colonel Lackey was the Assistant Commandant of Administration & Director of the Mark Clark Summer Camp, and he recommended Mr. ReVille to his camp staff for employment as a counselor.²⁶ According to former Camp Director Major William “Bill” Bates and Assistant Director Jenni Garrott, following the Arpaio child sexual abuse scandal in 2001, Mr. ReVille was specifically selected in 2002 for a Senior Counselor position at the camp because he was a cadet of high honor who could be trusted with oversight of children, and who could assist in an effort to restore honor to the camp program.

²⁵ReVille files and interviews with Citadel staff

²⁶Lackey interview

Colonel Lackey, Major Bates and Ms. Garrott each said to the Independent Review Team that they were on high alert following the Arpaio matter and made changes in how the camp was run to avoid child sexual abuse. During the IRT investigation all three reported that they saw no indications that Mr. ReVille was a sexual predator. According to Major Bates, “I just don’t know why it happened again. I’m not sure if I was naïve and just didn’t know what to look for. At the time I had no training about sex abuse, offender behavior, grooming behavior and what to look for. No training for Counselors either. We watched out for the safety of children as it relates to injury prevention during camp activities and sports – not thinking about child abuse. All of us recognize it is a different world today. I often wonder if the structure and culture of Citadel has not changed to keep up with the changing times. Citadel tends to have a culture of tradition ‘you can’t do that because we have never done that.’”

It was only after skilled law enforcement investigators trained to investigate these crimes confronted Mr. ReVille that he was identified as a predator. Mr. ReVille provided law enforcement investigators with the names of 23 male campers at the Citadel Summer Camp between 2001 - 2003 to whom he showed pornography and with whom he engaged in incidents of child sexual abuse, including masturbation, exposing his genitals, and touching their penises. He admitted to hundreds of acts of child sexual abuse on dozens of underage boys between 2001 and 2011, at The Citadel and elsewhere.²⁷

THE RELATIONSHIP BETWEEN MARK BRANDENBURG AND BARNWELL WHALEY

Mark C. Brandenburg is a 1990 graduate of The Citadel who then attended the Duke University Law School before returning to South Carolina to begin a clerkship for the Honorable William L. Howard in the 9th Judicial Circuit (1993 – 1995). Like so many others, his father and many members of the extended Brandenburg family are also Citadel graduates. Mr. Brandenburg was in private practice until joining Barnwell Whaley Patterson & Helms, LLC (Barnwell Whaley) in October 1999 where he then focused on civil defense and construction litigation for The Citadel, in addition to other clients.

According to their website, Barnwell Whaley was established in Charleston, SC in 1938, and their attorneys serve and counsel businesses and professionals throughout the state and beyond. The firm's seventeen

²⁷Mount Pleasant, SLED and Summerville (SC) Police investigation records

member and associate attorneys focus on intellectual property protection, civil litigation defense, professional malpractice defense, construction law, business law and products liability defense in both state and federal courts. “One of the central practice areas for Barnwell Whaley is its insurance defense practice, which represents numerous insurance carriers and self-insured businesses in the state. The firm is frequently retained to defend insured individuals and businesses who have been sued in various types of negligence actions, including professional liability and malpractice, products liability, construction defects, vehicular accidents, premises liability and other insured risks.” The firm does not handle criminal matters.

M. Dawes Cooke, Jr. is a senior attorney with the firm and has a long history of service to The Citadel, having been involved in numerous litigation matters including the Shannon Faulkner lawsuit to integrate women into the College.²⁸ Mr. Cooke is a well-respected, trusted advisor to the Board of Visitors and senior leadership team, and is a recipient of an honorary degree from The Citadel. Mr. Brandenburg told the IRT that he has known Mr. Cooke since he was a cadet when Mr. Cooke was a guest lecturer in his legal writing class. Likewise, Mr. Cooke remembered Mr. Brandenburg from years earlier given Mr. Brandenburg’s testimony as a witness in the Shannon Faulkner lawsuit.

At Barnwell Whaley, Mr. Cooke was the senior attorney assigned to The Citadel and Mr. Brandenburg served in a supporting role performing all the “grunt work.” The Arpaio litigation had begun less than two years after Mr. Brandenburg joined Barnwell Whaley, and Mr. Brandenburg became intimately involved in the pre-claim investigation and subsequent litigation. Mr. Brandenburg kept Mr. Cooke apprised of case developments and issues for the Arpaio litigation, who would then make any significant decisions. Once Mr. Brandenburg transitioned to his role as General Counsel to The Citadel, he described Mr. Cooke’s involvement with the College as more background. Mr. Cooke shared that Mr. Brandenburg was the ideal candidate to become the General Counsel at the College, a process that was in motion before Lt. General Rosa became president. According to Mr. Cooke, “for many reasons, it seemed like Mark was born and bred to be The Citadel attorney.”

By the time Mr. Brandenburg joined The Citadel as its General Counsel in October 2005, his practice at Barnwell Whaley was almost entirely focused on The Citadel’s legal needs, including litigation defense

²⁸M. Dawes Cooke, Jr., interview

for the Arpaio cases. When Mr. Brandenburg described being hired by The Citadel as General Counsel, he said that he “felt like I was always going to come here.”²⁹

He and Mr. Cooke continued to discuss the Arpaio litigation from time to time, but Mr. Brandenburg felt that he understood, and was comfortable with, his role. During his early months and years as general counsel, conversations with Mr. Cooke were occasional but not described as regular or weekly. Mr. Brandenburg expressed deference and respect for Mr. Cooke’s expertise, history and reputation and shared that he knew he had an open line of access to Mr. Cooke by phone and email.³⁰ Mr. Cooke and Mr. Brandenburg each acknowledged that after Mr. Brandenburg became General Counsel, from time to time they would have conversations that were not documented and did not appear on law firm’s billing records. Mr. Cooke generally did not bill for incidental calls or emails. At times, and depending on the matter at hand, the Insurance Reserve Fund (IRF) would request that Mr. Cooke be contacted or placed on “standby” for a pending or possible litigation, and Mr. Cooke acknowledged that Mr. Brandenburg would do this. It was clear during our interviews that Mr. Brandenburg considers Mr. Cooke a mentor, and Mr. Cooke recognized that Mr. Brandenburg looks up to him. According to Mr. Cooke, Mr. Brandenburg was adept at keeping him “in the loop” and informed of legal matters that could or would impact the College.

According to some the IRT interviewed, Mark Brandenburg has a reputation of being “by the book.” One interviewee shared that, “many times I wanted to take heavy hands [in disciplinary matters], and Mark would make me do the right thing when I wanted to do the heavy thing. I sometimes tried to go around Mark to Dawes, but I guess I learned not to do that, both because it wasn’t fair to Mark, but also because Dawes always supported him.” Mr. Cooke told the IRT that he trusted Mr. Brandenburg’s judgment without limitation. At the time of Father Doe’s report, Lt. General Rosa was recently appointed as president and had no independent relationship with Mr. Cooke or Barnwell Whaley. The president believed that Mark Brandenburg was doing his “level headed best,” and he expected that Mr. Brandenburg would rely on Mr. Cooke and Barnwell Whaley for advice, as needed.³¹

With respect to the Doe allegation, neither Mr. Cooke nor Mr. Brandenburg recalls specific conversations about the details, and no interviews or documentation, including law firm billing, cell phone and

²⁹Brandenburg interview

³⁰Ibid

³¹Rosa interview

email records reveal such consultation. According to Mr. Brandenburg, it's likely to have happened but he can't recall. Mr. Brandenburg did contact Philip Federigos at Barnwell Whaley after he spoke to the Doe's in April 2007 in order to alert him to a potential claim, but neither Mr. Brandenburg nor Mr. Federigos can recall the detail short conversation (less than 6 minutes according to billing records).³²

Even if Mr. Brandenburg and Mr. Cooke had conferred, we are not confident that a referral to law enforcement or the involvement of other College resources would have occurred given Mr. Cooke's professional background in insurance defense litigation and his similar perspective to Mr. Brandenburg's. He possessed comparable professional instincts learned as an insurance defense attorney, and shared a similar understanding as Mr. Brandenburg into the nature and dynamics of sexual abuse (e.g., preferential child molestation).³³

THE DECISION-MAKING PROCESS

The allegation in the Arpaio case involved a report of sexual touching that had initially been investigated by the Charleston Police Department, and then subsequently by the United States Marine Corp. Captain Michael J. Arpaio was found guilty of crimes of sexual violence, and sentenced to prison. In the spring 2003, Mr. Brandenburg became involved in handling the civil defense case and even attended Michael Arpaio's guilty plea at the court martial at Parris Island in June of that year. The first civil suits were filed against The Citadel shortly after the plea, and Mr. Brandenburg conducted the depositions of multiple victims. He told us that he was deeply affected by their emotional demeanor and pain.³⁴

Mr. Brandenburg believed that his experience with the Arpaio litigation prepared him to address the allegations raised by John Doe. He did not interpret the information he received as requiring consultation from other members of The Citadel community who would likely have experience with matters of sexual and gender violence (e.g., Citadel Police, Title IX Coordinator or Citadel Counseling Center). "I would not have considered getting advice from the Citadel Police. We were talking about an event from five or six years before, a person who was now nineteen years old at the time of the report, who didn't live anywhere near the school, about an activity (summer camp) that didn't exist any longer, and the accused³⁵ was not employed in a situation where he had any kind of contact with minors." Furthermore, "What we learned was that it is the

³²Brandenburg interview; Federigos interview; BWPB billing records

³³Cooke interview

³⁴Brandenburg interview; Arpaio case files

³⁵Brandenburg interview

victim who makes the call on contacting law enforcement, even according to the [April 4, 2011, Department of Education's Officer for Civil Rights communication to all educational institutions now known colloquially as the Dear Colleague Letter]. At this point, we have a 19-year old victim who is not contacting the police, the family's focus was on putting John Doe in The Citadel, that John Doe said he deserved some compensation, that the family did not want to go to the police. The family certainly could have called the police – their phones dial 911. I remember the dad not wanting the case to be the front page of the news." Mr. Brandenburg felt that the school could not control whether or not the Doses chose to make a report to law enforcement. Moreover, at the time, there was no discussion by anyone at The Citadel as to any possible implication such a report could have for the College's reputation should the Doses decide to report. According to all witnesses we interviewed, no Citadel employee discussed the possibility that the Doe family might make a report or that the school might have an independent basis to do so without the family's consent.

Regarding the proposed agreement involving the Doe family, The Citadel and the Insurance Reserve Fund for \$20,000 in tuition payments, Mr. Brandenburg felt that he had negotiated a "win/win solution." He said, "they get what they want, we don't pay any money, we don't bend the rules, there is no claim... it cost the Citadel \$37 in legal bills!" He told us that, "From my perspective, I talked to the Insurance Reserve Fund, to Philip Federigos, probably to Dawes Cooke, to General Rosa, to Colonel Trez, to Bob Williamson, the Citadel's Risk Manager, and I sent a letter to the Insurance Reserve Fund." Mr. Brandenburg didn't regard the response by the Doe family as credible, "I didn't see it. The Doses didn't do anything to prove their case, they didn't follow up, they never knew his last name, he went back to camp as a camper for the next year, and two more years as a counselor. This was just behavior that wasn't consistent with somebody who had been permanently scarred by some act of sexual abuse. It didn't compare to the [Arpaio] cases at all... We get this questionable claim with a clear financial motive behind it from the very beginning, which has persisted to this day. Did I have doubt about it? Yeah, absolutely, but that did not factor into whether we called the police or not. Did it factor into how we handled the case? No, we were still planning to pay out...."

According to Mr. Cooke, Mr. Brandenburg analyzed the problem as a civil insurance defense claim and he appropriately handled the allegation in a way that was for the most part, "text book" as to how to handle a civil insurance defense claim. Mr. Cooke noted, "What is your fondest desire

in a civil claim? To make it go away. Is that a cover up? To an outsider, it may look like that.” With a civil claim, Mr. Cooke explained that, “you try to corral it, control it, and settle it if you can - not to save reputation, but because that’s how you handle an insurance case.... civil litigation is a lot of triage in identifying risks. It is very different from a criminal investigation where you want to tie down every loose end.” Mr. Cooke also notes a strong element of misdirection during the fact gathering, given fundamental differences between investigation of Mr. Arpaio and Mr. ReVille. As Mr. Brandenburg conducted discovery in the Arpaio litigation, the “gloss came off” as he dug deeper and learned Mr. Arpaio's true nature. In contrast, Mr. ReVille “managed to fool everybody.”³⁶

Mr. Brandenburg struggled with 20/20 hindsight about how to assess the appropriate course of action by The Citadel at the time, “I have a 19 year old who doesn’t want to talk to you, with a five year old report, and no corroboration, no last name, and he [ReVille] was the chair of the Honor Board, and now we’re going to go out and report this to the police? Even the allegation against ReVille would have been life-altering, and in my view it just wasn’t there.” He saw the potential impact on Mr. ReVille the same as he did the impact of the allegations on the lacrosse players at Duke University, and clergy in the Catholic Church for unfounded cases. He told us, “Whether he was believable or not, did not affect the decision to call the police. If this was a touching, I would have called the police, but this didn’t involve touching or mandatory reporting because it was a 19 year old.”

Mr. Cooke confirmed for the IRT Mr. Brandenburg’s assessment, noting, “It was an older complaint, five years older, the summer camp was not in force, there was no suggestion of any remedial action that needed to be taken regarding staffing, and there was no corroboration.” Further, “[John Doe] was an adult, his parents were right there with him, and Mark [Brandenburg] had directly addressed law enforcement with the family and come away with the impression that they did not want to do it.”

The Citadel did not have a policy for reporting crimes against the wishes of the victim, whether it involved sexual assault or hazing. At no time did it occur to Mr. Brandenburg that he should consult the College’s Counseling Center, Title IX Coordinator, or Police Department for advice.

Colonel Joseph Trez, Executive Director to the President at the time of the call from Father Doe, participated in the Arpaio litigation and sat through the depositions of victims. During those interviews, he heard the

³⁶Brandenburg interview

“disgusting acts... of rape and sodomy,” and he learned that most victims of sexual abuse don’t want to report to the authorities. He told the IRT that if the victim doesn’t want to come forward, let them have control of that decision and don’t force it. Colonel Trez believed, based on his discussions with Mr. Brandenburg, that this was a matter of a father trying to get his son admitted to The Citadel, and that this was a negotiation settlement of sexual abuse much like the Arpaio case(s), but not as bad because there was no touching. He believed that Mr. Brandenburg had the necessary experience to conduct an investigation because of the Arpaio cases. He said that they never contacted The Citadel’s Title IX Coordinator at the time because the complaint was an informal one. From Colonel Trez’s perspective, Father Doe’s allegation was handled as a matter of civil liability, and supported in this way by Lt. General Rosa and the Board of Visitors.³⁷

Colonel Trez told the IRT that, in hindsight, he is of the personal opinion that they should have called the police. He didn’t believe, however, that law enforcement authorities could have made a case against Mr. ReVille because the Charleston Police Department had been unable to provide the Solicitor’s Office with adequate information to generate a criminal charge during the first Arpaio investigation, and in that case The Citadel reported it immediately. The Doe allegation was already five years old, and the Arpaio case was only solved because Naval Criminal Investigative Services (NCIS) arrived with all its resources.³⁸

Prior to becoming the General Counsel for The Citadel, Mr. Brandenburg had limited experience in higher education law, including working knowledge of The Clery Act, or with the application of Title IX in the college setting beyond a basic familiarity of its applicability to athletics. Title IX is a portion of the Education Amendments Act of 1972, Public Law No. 92 318, 86 Stat. 235 (June 23, 1972), codified at 20 U.S.C. sections 1681 through 1688. Title IX states, in part, “that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.” Under Title IX, discrimination on the basis of sex includes sexual harassment and sexual violence. Mr. Brandenburg also came to the College with no criminal or family law experience, and possessed no formal training or experience in the dynamics of sexual abuse or sexual predators. His training was largely focused on insurance defense, and he brought with him a considerable background in this area of the law.

³⁷Trez interview

³⁸Ibid

Mr. Brandenburg told the IRT that he did not believe John Doe because of his flat, emotionless demeanor, “I looked at John Doe. I was waiting to see the emotion that I had seen with everyone else, but it wasn’t there, it absolutely wasn’t there.” His prior experience with the Arpaio litigation colored Mr. Brandenburg’s evaluation of John Doe as a credible victim because he expected certain stereotypical behaviors from sexual molestation victims given his interviews with Arpaio victims. By his own admission, Mr. Brandenburg was looking at the Doe complaint from the perspective of a civil defense attorney, “I handled this like a civil claim, like this was a potential lawsuit, that was the direction of my actions... from the beginning, we were looking at this like a civil claim.” Furthermore, his experience with the Arpaio litigation colored his evaluation of Mr. ReVille because he expected to find the same kind of information (“dirt”) as he did with Arpaio. He lacked a sufficient understanding of victim trauma and child sexual predators to bring the appropriately nuanced view to each new and unique set of facts.

Given the content of John Doe’s disclosure, Mr. Brandenburg was not adequately prepared to conduct his own investigation. He incorrectly identified the disclosure as a single civil claim, and despite his experience in the Arpaio matter, he failed to listen to John Doe. He did not hear the possibility of multiple victims, and the need for law enforcement involvement or, at the very least, more experienced counsel, legal or otherwise, given the potential of a child predator with multiple victims.

At the time of the disclosure/report, Mr. Brandenburg had no training on conducting child sexual abuse investigations. He was not equipped to understand the complexities and dynamics of child sexual abuse and offenders who target, exploit and sexually abuse children. He lacked training on both conducting forensic interviews of victims and on obtaining corroborative details from victims, both as evidenced throughout the interview with John Doe.

Mr. Brandenburg was not equipped or resourced to identify, locate and conduct interviews with multiple victims and witnesses, and lacked an understanding or appreciation of a victim or witness’ reluctance to be involved in reporting child sexual abuse. He failed to understand or appreciate sexual abuse victims’ embarrassment, fear and reluctance to disclose sexual abuse. These limitations were evident in his sending emails to possible witnesses seeking information as to their involvement.

Mr. Brandenburg lacked investigative procedural skills as evidenced by his initial approach to, and alerting of, Mr. ReVile to the nature of the allegation and before fully understanding or appreciating the facts and scope of the allegations from the victim(s). He did not develop an investigative and interview plan consistent with what we would expect for such an allegation. He was not prepared to conduct an interview and interrogation of a child sexual abuse suspect, and did not appear to fully understand the behavior and course of conduct of a preferential child molester.

THE INFLUENCE OF LEADERSHIP

Lt. General John W. Rosa (USAF, ret.) served as the Superintendent of the United States Air Force Academy (2003 – 2005) before becoming the 19th president of The Citadel on January 3, 2006. Lt. General Rosa is known for his efforts to ensure that the process of reporting sexual and gender violence at the US Air Force Academy was trusted and respected by victims and people who came forward to disclose. Upon arriving at The Citadel, he began a similar process to ensure that when victims came forward, expressing his belief that “[they] really [have] the stick on where they want to go.” He shared a belief that mandating reporting to the police can have a chilling effect on victims coming forward to share or report their experiences.³⁹

Lt. General Rosa explained to the IRT that he understood the matter involving John Doe to be a civil claim at the time it was presented to him in 2007. He was not aware of the details in the interview transcript at the time, and did not read the transcript of the interview with John Doe until the fall 2011 when the news reports into Mr. ReVile’s arrest were made. When he did read it, it was done so “with almost disbelief.” He explained, “When you read that transcript, with my experience in the sexual assault world, there was much more going on than what we were led to believe (by Mark Brandenburg).” In hindsight, upon reading the transcript Lt. General Rosa believes that it was much more complex and that many more kids were involved, and he thought it should have gone to the police.⁴⁰ When asked to clarify what additional actions should have been taken, Lt. General Rosa told the IRT that he would have gone back to the family to encourage them to report to law enforcement. Yet, even with 20/20 hindsight, he said that he may not have reported the incident without the family’s consent given the potential impact doing so would have had on the victim. “You’re damned if you do, you’re damned if you don’t,” he stated.

³⁹Rosa interview

⁴⁰Rosa interview

The IRT interviewed members of the Board of Visitors present at the June and September 2007 board meetings, during which Mr. Brandenburg provided his first and second legal briefing on the concerns raised by the Doe family. These legal briefings given during executive session were not recorded, per usual practice. Those interviewed who remembered hearing about the incident at the June 2007 meeting shared mixed recollections as to the level of detail, but uniformly believed that this was a civil litigation matter and not a sexual assault or harassment case. They recall Mr. Brandenburg drawing inferences to the Arpaio matter and stating that a former camper in the Mark Clark Summer Camp had made an allegation of inappropriate behavior against a counselor. Several members of the Board of Visitors shared with the IRT that they were relieved to hear from Mr. Brandenburg that there was no indication of touching or physical contact. Mr. Brandenburg told them he was going to investigate the allegations and report back at the regularly scheduled September 2007 board meeting. His plan was to meet with the family. Members of the board also shared their belief with the IRT that this was presented as a matter of a father and Citadel alumnus displeased with his son's rejection of admission, as a tactic to gain him entry into the College. Some recalled hearing at the June meeting of the involvement of the Insurance Reserve Fund, and that they deferred to Mark Brandenburg as the Citadel's attorney to guide the process. There was no recollection with the IRT that Mr. Brandenburg shared the allegation made by John Doe that Mr. ReVille engaged in this behavior with other campers, and most believed the entire briefing lasted only minutes. IRT interviews revealed a lack of consensus and clarity amongst board members on the scope and direction of Mr. Brandenburg's investigation. Several told the IRT that if they knew in 2007 that the scope of Doe's allegations included the possibility of other child victims that they would have wanted a criminal investigation, but there is nothing the IRT found to indicate that the board members inquired more deeply into the facts at the time, or that they even raised the question of whether or not additional children were involved.

During the September 2007 board meeting, Mark Brandenburg reported on his interview with Mr. ReVille, and his trip to Texas where he met with John Doe and his family. Some recalled to the IRT that they remembered him starting the briefing in executive session with a conversation on the statute of limitations and the desire for a settlement, and that he (Brandenburg) believed the case was about a father who wanted his son to become a Citadel cadet. Mr. Brandenburg told the

board that he had been unable to corroborate the allegations based on interviews with Mr. ReVille, witnesses and other possible victims. In fact, Mr. ReVille denied the allegations leveled by John Doe. He shared with the Board that The Citadel had no legal obligation to contact law enforcement, and that he had been authorized by the Insurance Reserve Fund to offer the Does \$20,000 to help John Doe prepare academically for re-admission. He was seeking Board of Visitor approval to accept this course of action.⁴¹ There is a mixed belief amongst interviewees expressed to the IRT that Mr. Brandenburg would have involved M. Dawes Cooke, Jr. and Barnwell Whaley in deliberations and strategic decision-making. The majority of interviewees the IRT spoke with believed that this would have happened. Lastly, many felt that by not contacting law enforcement, they were following the wishes of the Doe family.

Although Lt. General Rosa, Mr. Brandenburg and many board members remember Mr. Brandenburg specifically identifying the claim as one involving masturbation, the more specific details of the allegations by John Doe from the July 2007 interview transcript were unknown to Lt. General Rosa and the members of the Board of Visitors the IRT spoke with until the fall of 2011. At that point news coverage began in Mount Pleasant and Summerville of sexual molestation allegations against Louis N.

“Skip” ReVille. Some board members indicated that they learned the details through these newspaper accounts, and not from The Citadel. Some interviewees believe there was nothing to do in terms of involving law enforcement authorities, which they believe would have been unable to act given the scarcity of corroborating information. Others strongly believe that The Citadel should have notified law enforcement agencies, and that this is what the Board of Visitors would have directed be done if its members had read the Doe interview transcript shortly after it was taken in 2007.

THE CLERY ACT

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092 (f)) requires that all postsecondary institutions participating in the Higher Education Act of 1965 (HEA) Title IV student financial assistance programs to disclose campus crime statistics and security information. It requires that postsecondary institutions (universities and colleges) to provide the campus community with information necessary to make informed decisions about their safety

⁴¹Brandenburg interview; Board member interviews

by, in part, providing a “timely warning” of any Clery Act crime that might represent an ongoing threat to the safety of students or employees (34 CFR 668.46(e)). In addition to being timely, the intent is that the warning aid in the prevention of similar crimes. A timely warning must be issued for all Clery Act crimes:

1. Reported to campus security authority or local police agencies;
2. Occur on property defined in the Act;
3. Are considered by the institution to represent a serious or continuing threat to students and employees;

First, the sexual misconduct reported by John Doe in April 2007 does not meet the definition of a Sex Offense in the Clery Act, and therefore does not trigger Clery Act requirements. According to the United States Department of Education’s Handbook for Campus Safety and Security Reporting (2011) (The Handbook), The Clery Act (34 CFR 668.46(c)(7)) defines sex offenses in two categories: forcible and non-forcible.

A. **Sex Offenses—Forcible** is defined as any sexual act directed against another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent. There are four types of Forcible Sex Offenses:

- **Forcible Rape** is the carnal knowledge of a person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth). This offense includes the forcible rape of both males and females... The ability of the victim to give consent must be a professional determination by a law enforcement agency.
- **Forcible Sodomy** is oral or anal sexual intercourse with another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental or physical incapacity.
- **Sexual Assault With an Object** is the use of an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, forcibly and/or against that person’s will; or not forcibly or against the person’s will where the victim is incapable of giving consent because of his/her youth

or because of his/her temporary or permanent mental or physical incapacity. An object or instrument is anything used by the offender other than the offender's genitalia. Examples are a finger, bottle, handgun, stick, etc.

- **Forcible Fondling** *is the touching of the private body parts of another person for the purpose of sexual gratification, forcibly and/or against that person's will; or, not forcibly or against the person's will where the victim is incapable of giving consent because of his/her youth or because of his/her temporary or permanent mental incapacity.*

B. Sex Offenses—Non-forcible is defined as unlawful, non-forcible sexual intercourse. There are two types of Non-forcible Sex Offenses:

- **Incest** *is non-forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law. Count one offense per victim.*
- **Statutory Rape** *is non-forcible sexual intercourse with a person who is under the statutory age of consent... The statutory age of consent differs by state... The ability of the victim to give consent must be a professional determination by a law enforcement agency.*

Second, according to the Handbook (2011), the issuing of a timely warning must be decided on a case-by-case basis in light of all the facts surrounding a crime, including its nature, on-going danger to the campus community, and possible risk of compromising law enforcement efforts. The incident was reported to have occurred five years before the report, and therefore could reasonably be construed to not pose an ongoing threat to The Citadel community.

Third, the Act requires postsecondary institutions with a police or security department to maintain and make available a daily crime log, the purpose of which is to record criminal incidents and alleged criminal incidents that are reported to the campus police or security departments. Crime log entries include all crimes reported to the campus police or security department for the required geographic locations, not just Clery Act crimes. The Citadel does maintain a police department, but the alleged criminal act was reported to the president's office, initially, and not the campus police. The incident was not reported to The Citadel Police Department, and therefore, there was no requirement to list the report in the College's daily crime log.

SECTION IV – OPINIONS

COVER UP OR CONFLUENCE OF FACTORS?

The IRT found no evidence or indication of a cover up or an intentional decision by any individual or individuals in collusion with one another to refrain from sharing the allegations made by John Doe with law enforcement authorities, or other College resources. To the contrary, it appears that there was no discussion among key individuals involved either with each other or between them and the College's experts on sexual and gender violence, and law enforcement. The failure to share the report with law enforcement seems not to be the result of a coordinated decision. Many of the people interviewed by the IRT expressed emotional, heartfelt regret and sorrow for Mr. ReVille's victims and blamed themselves for not being able to see him for what he was. As a master manipulator and child sexual predator, Mr. ReVille outmatched them.

With the benefit of hindsight, one can conclude that the remaining questions, therefore, are (1) whether The Citadel had a moral or other legal obligation to share John Doe's allegation with law enforcement and relevant campus and community resources; and if so, (2) whether The Citadel's failure to do so was reasonable under the circumstances.

Upon review of applicable local, state and federal laws and pertinent case law, the IRT found no legal obligation for The Citadel to have reported John Doe's allegations to law enforcement or child protective services at the time that it was received on April 23, 2007. In *Doe v. Marion* (373 S.C. 390, 645 S.E.2d 245), the South Carolina Supreme Court affirmed the decision of the Court of Appeals that, in part, there is no common law duty to warn future foreseeable victims of the predilection for child molestation. Furthermore, the March 29, 2012 letter from Solicitor Scarlett Wilson concludes, according to the law, that John Doe was not a child at the time of the report, and Mr. ReVille was not a caregiver. Moreover, it is not clear that, at that time, a college attorney or president of an institution of higher learning is a mandatory reporter under South Carolina law of child sexual abuse or neglect. Similarly, while on its face, the Jessica Horton Act, effective June 6, 2007, appears to have created a legal obligation to share a report of criminal sexual conduct with the South Carolina Law Enforcement Division (SLED), the acts described by John Doe do not fall with the statutory definition of criminal sexual conduct. Having said this, it is reasonable to have assumed that there were other victims and the likelihood of additional offenses given John Doe's statement to Mr. Brandenburg that Mr. ReVille, "engaged in this activity frequently, though, with many other campers."

Retrospectively, it is easy to conclude that the most protective action for The Citadel would have been to make an external report to law enforcement or child protective services upon learning of the allegations. Even though Doe was now an adult, the alleged conduct involved at least two minors, was sexual in nature, was reported to have been an ongoing practice involving other victims, and was allegedly committed by an individual who operated in a position of authority over minors --- all of which are circumstances that bear careful assessment of the full scope of the misconduct and the potential risk of harm to other minors regardless of when the actual event is reported to have occurred. A report to, or consult with, law enforcement and other College/community resources is an open and transparent approach to sexual and gender violence (child abuse) that provides information to those who are in the best position to evaluate the conduct and the potential risk of harm to any others (children) by the perpetrator. Ultimately, such a report to law enforcement in Mount Pleasant, SC provided the means to identify Mr. ReVille for what he was. However, having said this, speculation that contacting The Citadel Police Department, the Charleston Police Department or the South Carolina Law Enforcement Division (SLED) at the time would have definitively resulted in the identification and apprehension of Mr. ReVille as a child sexual predator is academic. There are too many factors, including reluctance of victims (complainants) and witnesses to participate in such investigations, to know what would actually have happened.

A central point for discussion arising throughout the IRT interviews is the definition of what it meant to “report” to law enforcement? By way of misunderstanding, ignorance or both, a significant number of those interviewed felt that reporting would not have amounted to much given the facts, as they understood them, and the Doe family’s wishes to keep this a private matter. There was no sense of what services law enforcement could provide, and in some instances, a belief that law enforcement was initially ineffective given prior experiences and perceptions with the Arpaio investigation when much more was initially known. The erroneous perception that law enforcement agencies, in general, would move forward with stereotypical disregard for the needs of the victim(s), in pursuit of justice at all costs, was pervasive. It was often used to explain the decision.

We sensed a lack of awareness, recognition or appreciation for campus services that might have provided invaluable insight for this decision-making process. At no point did the people who were initially aware of John Doe’s general and specific concerns seek input from the Counseling

Center, Title IX Coordinator, Chief of Police or others on campus (e.g., communications office) that could have provided different perspectives on how the College may want to address the allegations. The lack of triage within a multidisciplinary team at The Citadel is as concerning as a lack of contact with outside services (e.g., local or state law enforcement). This approach, however, was not within the contemplation of key individuals who received John Doe's allegation. Even in 2013, key individuals still seemed uncertain as to whether or not contacting external law enforcement would have been the more effective course of action, and there remains little recognition in the value of sharing with other College officials, as identified.

The College's decision to not report to outside authorities cannot be assigned to any particular individual. Here, the College's General Counsel, Mark Brandenburg, took the initial report and spoke with the complainant, his father, and the respondent (ReVille). Mr. Brandenburg contacted the College's outside counsel, Barnwell Whaley, and within a reasonable time frame, notified the president, Lt. General John Rosa, and the Board of Visitors. Mr. Brandenburg also notified the College's risk manager, Bob Williamson, and its insurance company, the Insurance Reserve Fund. Thus, with the exception of The Citadel Title IX Coordinator, Counseling Center, Communication's Office, and The Citadel Police Department, all relevant parties were notified of the allegation, and importantly, of the action Mr. Brandenburg planned to take in response. There is no evidence found by the IRT that any of these individuals raised the issue of involving other College resources or contacting law enforcement, or that they directed Mr. Brandenburg to do so. The IRT found no information to suggest discussions at the highest levels that it might have been prudent for normal channels or ad-hoc resources to conduct the investigation given the important oversight role that in-house counsel might need to play. The lack of such direction may be attributed to a lack of details shared; the way in which the matter was presented (civil claim); a lack of appreciation for the complexity and richness of law enforcement response to crimes of sexual violence; an agreed upon understanding of the role of in-house counsel in such matters; and individual biases in understanding the nature of the crime, its victims and predators.

Seven factors contributed to the College's failure to make an external report:

- 1) The lack of clear policy and protocol governing such a report covering, among other matters, the role of The Citadel Police Department, Counseling Center, and its Title IX Coordinator;
- 2) Insufficient understanding by key individuals of the Clery Act, Title IX and the dynamics of child sexual abuse;
- 3) The lack of integration or connection to College resources and community agencies responsible for child protection and response to sexual and gender violence;
- 4) The unique personal lens and prior experience each key individual with decision making responsibility or leadership brought to bear upon the institution's response, including members of the Board of Visitors;
- 5) The suspension of belief in the possibility of the offense given Mr. ReVille's accomplishments and standing in community;
- 6) The context of the allegation (e.g., time lag between report and incident(s); fact that the camp was closed; age of the victim at the time of the report; family's desire for privacy, etc.); and
- 7) Reliance on Mark Brandenburg's prior experiences.

The accompanying report by Wise Results, LLC addresses some of these matters in greater detail.

MARK C. BRANDENBURG, ESQ.

While the IRT review is focused on more than any particular individual, Mark Brandenburg has been at the center of the matter since the fall 2011 when Mr. ReVille was arrested. As such, it's important that the IRT address his role and involvement more directly. Mr. Brandenburg has a deep, proud, and passionate connection to The Citadel, as a child, through his family, as a graduate, as outside counsel and later, as the College's in-house counsel. He considers his current role to be his "dream job." We do not believe that his loyalty to The Citadel played any part in implicit or explicit decisions to not report the allegation he received to the proper governmental authorities. To the contrary, Mr. Brandenburg was portrayed to the IRT as a "by the books" individual incapable of an intentional cover up.

He has been internally and externally vilified for his role in responding to the allegations, but approached this matter through the only lens he knew, civil insurance defense. Mr. Brandenburg's professional career and experience has focused almost exclusively on this area of the law. Indeed, he handled the College's civil defense in the Arpaio cases, both as outside counsel and later as general counsel. Consistent with his worldview, when he became aware of John Doe's allegation, he approached the matter as a potential claim against The Citadel, and not as a reportable, or even criminal, event in need of investigation or review according to applicable state and federal laws, including Title IX and the Clery Act.

Using that lens, Mr. Brandenburg conducted an investigation based on his experience but not informed by contemporary practices in child sexual abuse investigations. The IRT found inadequate follow-up with potential victims and witnesses in light of the possibility of multiple victims and the lack of reply from those contacted. Furthermore, Mr. Brandenburg did not document his investigation and, as such, there are inadequate notes and no written investigation plan or strategy. Using terms consistent with Title IX language, but generally unknown to him in the context of institutional compliance with the Act and the later US Department of Education, Office of Civil Rights (OCR) Dear Colleague Letter (dated April 4, 2011), he interviewed the complainant, his parents, and the respondent (Mr. ReVille). He spoke with former Mark Clark Summer Camp administrators, reviewed relevant documents, and attempted to interview former campers and counselors. Indeed, several witnesses observed that Brandenburg's investigation was greater in scope than a typical pre-claim assessment the Insurance Reserve Fund (IRF) would have pursued. The difference here is that Mr. Brandenburg's investigation was designed to serve as a triage, to vet the scope of potential litigation. It was not designed to run all leads to ground in an exhaustive search for the truth, as in a traditional law enforcement investigation. He lacked a robust understanding of Title IX and the Clery Act, and the College's obligations in each. He was a relatively young, inexperienced college general counsel, working with a president new to a civilian institution of higher education.

Mr. Brandenburg incorrectly identified John Doe's report as a single civil claim and repeatedly neglected to recognize the fact that multiple victims were, or could be, involved. He did not recognize the need for a criminal investigation because like Arpaio, the allegations against Mr.

ReVille suggested a child predator with multiple victims. He had no specific training in the dynamics of child sexual abuse, predatory behaviors of offenders, or in how to investigate an allegation of sexual abuse. As stated, he believed that he was competent to investigate this allegation on behalf of the College through the lens of insurance defense, and others concurred, because of his experience in the Arpaio matter. Mr. Brandenburg's extrapolation of the dynamics of sexual misconduct based on the Arpaio case, however, did him a disservice. Given his limited experience with the dynamics of sexual misconduct, he was left to inappropriately use the Arpaio matter as a benchmark with which to compare and assess John Doe's allegations and credibility. As such, he failed to recognize the difference between the Arpaio and ReVille matters, the former that unfolded after law enforcement was involved.

His lack of awareness of The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 USC § 1092 (f)) failed to alert him to the possibility of other Clery Act related crimes, and did not trigger, in part, a disclosure to The Citadel Police Department as the responsible party for Clery Act compliance at the College.

The goals of his investigation were, in essence and consistent with civil litigation defense, to make the claim dissolve with minimal exposure, expense or damage to The Citadel. Mr. Brandenburg was doing exactly what he had done during a successful career in insurance defense litigation prior to joining The Citadel's administration. Given this and his deeper lack of awareness of the dynamics of child sexual abuse, he was unable to see the bigger picture, that John Doe's behaviors may have been consistent with those of a survivor of child sexual abuse, and appropriate given the nature of Mr. ReVille's conduct. He was unable to see that Mr. ReVille could be capable of widespread predatory behavior, and that any allegation of child abuse, even with delayed reporting, should have involved other College resources and be reported to the authorities for criminal investigation. During interviews with the IRT, Mr. Brandenburg shared the following, "I've been part of this school, I have missed one homecoming since 1982, and to say that I tried to cover something up, what would the motive be? This doesn't affect me, ReVille wasn't my classmate, I wasn't part of the camp, I didn't have any reason to hide this and neither did General Rosa." The statement is reasonable in light of the results of this investigation.

The role of in-house counsel (general counsel) in the modern university and college is to provide legal advice and representation to the institution

through its president, governing board, and administration on a broad array of legal issues. The General Counsel, Vice President for Legal Affairs, or Legal Counsel's office finds itself delivering advice on all matters that have legal significance for the institution. The term "general" is not lost given the complexity of higher education, and the need to provide advice, and access to advice, on topics that include academic affairs, accreditation, benefits, civil rights, compliance, construction, computer/internet law, employment matters, contracts, endowments, freedom of information, general liability, housing, immigration, information security, intellectual property, licensing, labor unions, leases, media rights, online education, public safety, publishing, real estate, sexual harassment, student affairs, student loans, student records (FERPA), study abroad, taxes, tenure, use of logos, and utilities.

The prudence of having the College's general, or in-house counsel conduct an investigation such as this one deserves consideration. An important role of the in-house counsel is to think broadly and more holistically about an institution's response to such allegations. The general counsel needs to keep a variety of considerations in mind; including reputational risk to the institution and ensuring that an independence of the investigation is achieved and maintained. In this case, it might have been prudent to allow the normal investigative channels to conduct the inquiry for these reasons, and if they didn't exist, to make decisions on an ad-hoc basis in order to determine a process with the most credibility. When the in-house counsel loses their objectivity and independence relative to such an investigation, it becomes difficult to distinguish the in-house attorney from a fact witness. When the in-house counsel interviews potential victims and witnesses, it becomes unclear who the client is? What is the impact on attorney client privilege in such instances? Beyond the concern that Mr. Brandenburg could become a fact witness, in this case his familiarity with Mr. ReVille created the potential for an acquaintance bias that may have blinded him to what Mr. ReVille was. The need existed for a dispassionate, objective and independent review of the allegations made by John Doe; one with a different analytical framework than found in civil litigation defense.

LT. GENERAL JOHN W. ROSA (USAF, ret.), PRESIDENT OF THE CITADEL

Lt. General John W. Rosa arrived at The Citadel in January 2006 following his retirement from a successful career in the United States Air Force, and as Superintendent of the United States Air Force Academy. Lt.

General Rosa led the Academy through a transformative period in the institution's response to sexual misconduct, and he understood as a result that the autonomy of an adult sexual assault victim should be respected. Lt. General Rosa believed that an external report to law enforcement should be carefully considered absent an adult victim's consent, and he applied this thinking to the limited information he received from Mr. Brandenburg. In his view, John Doe was an adult, and neither he nor his parents wanted law enforcement involved. Even in January 2013, Lt. General Rosa indicated that the only action he would have taken in hindsight was to encourage the family to make a report, but that he did not believe that he would have made the report over the objection of John Doe.⁴² Furthermore, Lt. General Rosa's perception was that Mr. ReVille was a poster child for The Citadel, "I had never met him, everybody put this guy up on a pedestal and he lied to us. Were we wrong to believe him? Were we wrong to not pursue that more? You always look back after an airplane crash, after a tragedy, and it becomes clear as bell." Like most everyone else, he was no match for the lies that Mr. ReVille told and lived.

Lt. General Rosa indicated to the IRT that the details of what he read in the John Doe interview transcript in the fall 2011 would likely have changed his thinking and the College's response in 2007 had he seen it then. He reasonably relied on his advisors to inform his decision-making and understanding of applicable laws at the time. Of Mr. Brandenburg, he said, "I believe Mark was doing his job. He might have made some different decisions, maybe I would have, it's clear now... I never had a reason to question Brandenburg. I thought he gave us good advice."

BOARD OF VISITORS

It is beyond the scope of this report or the Independent Review Team's expertise to evaluate the operations of the Board of Visitors outside of this matter. It appears that the lack of a formalized litigation review process, absence of policies and procedures for investigating these types of allegations, and the Board's reliance on legal counsel in this matter may have contributed to the minimal level of their involvement. Governing boards of higher education institutions strive to find a balance in their oversight responsibilities that appropriately weights a strategic leadership role with a more hands-on, day-to-day one, and they must reasonably select people who will manage the institution's daily functions and tasks.

⁴²Rosa interview

At the time of the executive session legal briefing in June 2007, the Board of Visitors seemed to exhibit a passive level of engagement with what they were told. Mr. Brandenburg presented the information as an insurance defense matter (civil claim) and shared a course of action approved by Lt. General Rosa and endorsed by the Insurance Reserve Fund (IRF). Board members, who, during their interviews, actually recalled the briefing, remember nothing remarkable about it. They trusted that Mark Brandenburg knew what he was doing given his involvement in the Arpaio litigation. Many, but not all, assumed he was conferencing with Barnwell Whaley, specifically M. Dawes Cooke, Jr., to craft the institutional response and course of action.

In spite of The Citadel's experience years earlier with revelations of USMC Captain Michael J. Arpaio's sexual abuse of summer campers, and his subsequent arrest and conviction, no member of the Board of Visitors present at the June or September 2007 executive briefing raised questions, concerns or inquiries into what they were told by Mr. Brandenburg about another report of sexual misconduct at the summer camp. Of note, several Visitors served on the board at the time of the Arpaio revelations. They assumed, based on what they were told, that it was an insurance defense and civil claim matter, and believed from what they were told that this was the case of a father displeased with his son's unsuccessful application for admission to the College. Several commented that, in retrospect, they wouldn't have understood what, if any, decisions were needed to be made. It was presented as an informational briefing. Their combined lack of educational orientation and understanding of sex crimes, coupled with an absence of the facts in this case and a lack of appreciation for the involvement of law enforcement and College resources, allowed them to remain silent instead of voicing an important leadership perspective.

CONCLUSION

In our review of the information available to us for the matter under consideration, it is our opinion that The Citadel's failure to report John Doe's allegations to law enforcement, or to seek advice from law enforcement or internal campus resources (e.g., campus police, counseling center, communication's office, and Title IX coordinator) is the result of a cascade of unfortunate circumstances, not a deliberate conspiracy of silence to hide information. The familiarity of many of the key individuals in this matter with Louis N. "Skip" ReVelle, who evaluated the allegation in the context of his prominence and their professional responsibilities,

did a disservice to the opportunity for an objective, dispassionate and independent investigation. It is difficult to look back a decade or more through today's lens, and given recent events that shape perceptions on sexual and gender violence on campus, and to advocate the retrospective adoption of practices and tools that we know today are effective in prevention and responding to these issues. Having said this, we are obligated to explore the prudence of decisions made by all involved.

Our opinions are expressed to a reasonable degree of certainty within our areas of expertise in campus safety and security, sex crimes investigation and prosecution, student affairs, legal affairs, and police administration. We reserve the right to supplement this report as new information becomes available.

SECTION V – FIRM'S BACKGROUND

Margolis Healy & Associates, LLC, is a professional services firm specializing in higher education safety and security. Our focus includes, but is not limited to, special investigations; campus safety and security assessments; emergency management; public safety management studies; litigation consultation; security technology audits; Title IX and Clery Act assessments; and public safety arming studies & deployment strategy. In January 2008, after more than fifteen years each of providing consulting services to clients in the education, public and private sectors, Dr. Gary J. Margolis and Mr. Steven J. Healy merged their practices, Margolis & Associates, LLC and Strategic Security Consulting, LLC, into Margolis Healy & Associates, LLC. Their combined experience quickly catapulted Margolis Healy into one of the leading professional services firms for safety and security needs at universities, colleges and K-12 school systems in North America.

Our team of professionals brings a diverse set of skills and expertise to client institutions ranging from large public universities to private institutions, community colleges and K-12 school districts.

Mr. Healy and Dr. Margolis have been intimately involved in the national discussion on behavioral threat assessment; crime prevention in higher education; study abroad safety and security; and mass notification systems for college campuses. Each has testified before the United States Congress on matters of campus and public safety and security.

Dr. Margolis, Mr. Healy and their team have personally managed or been intimately involved with scores of critical incidents on college campuses ranging from violent crime to natural disasters (including the 9/11 tragedy and its impact on the schools in NYC). We have first-hand experience in crisis response and recovery planning and operations at institutions of higher education. In 2008, Dr. Margolis was contracted to review the next iteration of the Federal Emergency Management Department's *Incident Action Guides* to assure their relevancy to the higher education environment.

Mr. Healy and Dr. Margolis are the lead authors of the International Association of Campus Law Enforcement Administrator's *Blueprint for Safer Campuses: An Overview of the Virginia Tech Tragedy and Implications for Campus Safety*. This document, unveiled at a press conference sponsored by the Woodrow Wilson School at Princeton University on April 18, 2008, is a roadmap for campus safety and security. In 2006, Mr. Healy was selected to serve as a faculty member for the first-ever comprehensive, collaborative

Clery Act training sessions funded by a U.S. Department of Justice grant. As a certified instructor for this program, he has provided training at several programs delivered across the country.

Shortly after the Virginia Tech incident, the President of The National Association of Attorneys General (NAAG), Georgia Attorney General Thurbert Baker, determined to establish an ad hoc Task Force on School and Campus Safety (Task Force) to consider what had transpired since the issuance of the previous NAAG report in 1999, including the incident at Virginia Tech, and issue a report making updated recommendations regarding the prevention of, and response to, violence in schools and on college campuses. Mr. Healy participated in the development of this report, *The National Association of Attorneys General Task Force on School and Campus Safety*.

Margolis Healy manages competitive grants from the U.S. Department of Justice (Community Oriented Policing Services Office and Bureau of Justice Assistance) on topics ranging from behavioral threat assessment to crime prevention and study abroad safety.



**THE
CITADEL**
THE MILITARY COLLEGE OF SOUTH CAROLINA





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