

## **SVC-RELATED RECOMMENDATIONS FROM THE RESPONSE SYSTEMS PANEL**

### **Report of the Response Systems to Adult Sexual Assault Crimes Panel, 104-106 (June 27, 2014)**

- Eligibility for Services  
Many sexual assault victims may not know they may seek the advice of a special victim counsel before reporting or when choosing not to report; current policy is unclear at this point. To clarify this issue and to ensure sexual assault victims receive timely advice, *DoD should develop and implement policy providing sexual assault victims the right and ability to consult with a special victim counsel before deciding whether to make a restricted or unrestricted report, or no report at all. Communication made during this consultation would be confidential and protected under the attorney-client privilege. [RSP Recommendation 61]*
- Selection of Special Victim Counsel  
Although not expressly required in every Service, it is preferred that the counsel have experience as both defense and trial counsel before serving as special victim counsel. The length of time the individual served in a military justice position varies throughout each Service; it is unclear if actual trial experience is required across the Services. *The Services should implement additional selection criteria for their Special Victim Counsel programs that require appropriate trial experience, whenever possible, prior to being selected as a special victim counsel. [RSP Recommendation 47]*
- Assignment Length and Duration of Representation  
According to individual Service policies, the special victim counsel and victim have a privileged attorney-client relationship from their initial meeting through the final disposition of a case or transfer of the special victim counsel to another duty station. However, following final action or transfer of counsel, a right of the victim may still exist and be at issue. Therefore, *the Secretary of Defense should direct the Services to extend the opportunity for special victim counsel representation, although not necessarily with the same special victim counsel, to a victim so long as a right of the victim exists and is at issue. [RSP Recommendation 44]*
- Assessments of the Special Victim Counsel Program  
Members of the Panel had the opportunity to hear from military sexual assault victims who were assigned a special victim counsel. Each witness who had been assigned a special victim counsel testified that the special victim counsel was critical to his or her ability to understand the process and participate effectively as witnesses against their accuser. The outcome of an acquittal in some of the cases did not lessen the value the victim placed on the special victim counsel's representation.

Members of the Panel also heard testimony from trial and defense counsel, SARCs, and victim advocate personnel regarding their relationships with special victim counsel. The witnesses stated they have positive working relationships with special victim counsel, but foresee potential issues such as privilege, confidentiality, and delays which could affect the relationships. Therefore, in addition to assessing victim satisfaction with the Special Victim Counsel program, *the Service Secretaries should survey convening authorities, staff judge advocates, prosecutors, defense counsel, military judges, and investigators to assess the effects of the program on the administration of justice. [RSP Recommendation 48]*

- Standard Evaluation Mechanism and Metrics

To evaluate the cost and effectiveness of the program, the Army, Navy, and Marine Corps are developing surveys modeled on the Air Force victim impact survey; the Judge Advocate General of the Army has tasked the Army Special Victim Counsel Program manager with gathering information about the first twelve months of the Army's Special Victim Counsel Program. However, the Services have neither universally defined what "effective" means nor developed any standardized method of evaluating program effectiveness. To ensure the program remains effective, *the Service Secretaries should develop a standard evaluation mechanism, in consultation with an independent evaluator, with appropriate metrics to determine the effectiveness of the Special Victim Counsel program on an annual basis. This includes annually evaluating the effectiveness of the organizational structure of the Service Special Victim Counsel programs and assessing the individual Service policies on eligibility requirements for obtaining a special victim counsel. [RSP Recommendation 51]*

- Adequate Funding

Due to early evidence of the program's success, Congress appropriated \$25 million for the DoD in the FY14 NDAA to assist the Services with the cost of implementation, staffing, and operations for their individual Special Victim Programs. However, for the upcoming fiscal year and beyond, each Service anticipates significant operating costs and increased staffing requirements to sustain effective Special Victim Counsel Programs. Therefore, *to ensure the Services are able to sustain a robust Special Victim Counsel program, Congress should appropriate sufficient funds and personnel authorizations annually to DoD. [RSP Recommendation 49]*