

## SVC RESPONSES REQUESTED BY COB 2 OCTOBER 2014

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16. Services: Regarding requests for information on behalf of your clients:

- a. What processes have you used at various stages in the courts-martial process to obtain information?
  - I have asked the Senior Trial Counsel or the trial counsel for information, such as the charge sheet, Report of Investigation, Article 32 report. Sometimes I get such information, other times I don't. Recently, the Senior Trial Counsel and trial counsel did not want me to have a copy of the Article 32 report. I strongly believe this should be made mandatory to provide to the Special Victims' Counsel or civilian victims' counsel. Many legal offices operate differently and some legal offices are incredibly anti-SVC and refuse to provide much. Others are great and provide the information that we request. Thus, due to the discrepancy and depending on what type of leader is leading a legal office (anti-SVC, pro-SVC), there should be a uniform rule that mandates that the SVC and victims' counsel get certain information, and then also makes it a dereliction of duty consequence if they don't provide that information.
  
- b. In practice, how have issues related to victim requests for information been resolved?
  - It hasn't really. See above answer. It's incredibly frustrating to do this job due to the different standards of treatment by the legal offices. The legal office and the SVC relationship tend to be treated by some offices as very adversarial, which is ridiculous. We tend to have more problems with the government than we do with defense.
  
- c. To whom have you made requests for information during each phase of the court-martial process?
  - See answer above. I once had to go to the SJA as I was getting frustrated by the lack of response. However, everyone takes everything personal and feels that you go over their head and then they get mad at you, so it is a very frustrating job to have as a lot of people don't respect your position and make it known that they are "not fans of the SVC program." Thus, we need mandatory rules that require certain information to be turned over, but not only in court-martial proceedings, **BUT ALSO IN ADMINISTRATIVE ACTION PROCEEDINGS**. If a sexual assault case is not taken to court (includes abusive sexual contact cases, and they usually are NEVER taken to court and dealt with at the lower level administratively), legal offices vary in what they actually provide to the victim in terms of information such as whether the accused made a statement or a reply, information as to what the **ACCUSED** said, information about the punishment, information about the action, etc. My clients have been incredibly frustrated with the legal process and many think it is not fair, not due

to the outcome necessarily, but due to the treatment of such requests for information from the legal offices. We need MANDATORY rules of information being shared with the SVC and victim, to make the process more transparent. We have been denied this information and there is a lack of transparency and accountability in the process. I would like for the Panel to invite my clients to speak about what is not working and why they were upset with the lack of information that occurred on the crimes that were committed against them!

e. Have you attempted any recourse if a request for information is denied? (i.e. appealing, trying another source, etc)

- See above. Appeals don't work. In one case, I asked the legal office for information and wanted to ask the Squadron Commander – I asked them to ask him if he would be willing to provide to us what the ACCUSED said in his oral presentation to the Commander. The Squadron Commander asked legal to look into it, and legal went up to the AIR FORCE MILITARY JUSTICES HEADQUARTERS DIVISION (JAJM) and they denied our request for information. My client was so upset to hear this. What is our other option? Going to the Group Commander? The Wing Commander? The NAF – which is the General Court-Martial Convening Authority's lawyer? Trust me, it doesn't work. If you do that, you will apparently “burn bridges” and be provided a veil threat of “remember, you will have to work with us in the future.” Enough is enough. We need MANDATORY rules for disclosure of information to victims, and I'm talking about in the administrative action realm, not the court-martial process, as there are real holes in the administrative action process – lack of transparency, bias from the squadron commanders of the ACCUSED who have never met the victim before making a decision on a case, etc. I'm incredibly passionate about this as I see my clients suffer when they are denied the information that they need to move on with their lives and become survivors, become resilient. But no one takes me seriously when I ask this and bring this up, instead, they complain to my leadership about what I am doing and my leadership then retaliates against me. They never ask me – why are you asking for this, why do you need to assist your client, and why is it important to the client who is asking for this information.

f. Have you sought any remedies on behalf of your client if a request for information is denied?

- See above. I'm done asking for remedies within the JAG Corps or with my leadership. We need civilian leadership, civilian SVCs that are tied to the Department of Justice, and independent oversight (independent from the JAG Corps) on the Victim Witness Assistance Program. The AF has done incredibly poorly in the almost 2 years the program has been in existence.

17. Services: Provide redacted copies of any policies, memorandums, training materials, or other guidance regarding a victim's right to access information that either you yourself have provided to or you are aware have been provided to any of the following individuals:

a. Investigators.

- None

b. SARCs/ FAP advocates.

- None.

c. Prosecutors.

- I have emails, I believe, for court hearings or this has usually been done over the phone.

d. Defense counsel.

- Emails recently to try to find out who told defense counsel about a meeting I had with SECAF as only a few people knew how long the meeting lasted (it went over the time allotted on the agenda), meaning, the disclosure of such information to defense had to come from the 4-star's staff or the lawyer of the General Court-Martial Convening Authority, which seems out-of-bounds / inappropriate for many reasons for both to be proactively providing this information to defense.

e. Special victims' counsel.

- N/A

f. Military Judges.

- I have had only one court case and the judge refuses to provide the SVC with the 412 and 513 orders, which is incredibly inappropriate for him to do that, however, what is my remedy? Ask the judge that the way he does business is wrong? You can't do that without real consequences. Thus, again, the SVC position needs to be not ranked

military members; we need to be CIVILIAN victims' rights attorneys attached with Department of Justice (completely independent body that is a SVC/VLC for all services, and that is their dedicated job).

g. Sexual assault victims.

- N/A

h. Commanders.

- Will provide with my Congressional, and my client will also be providing with her Congressional that she is filing.

18. Services: Provide redacted copies of the following documents from 1 January 2013 through 30 September 2014, related to requests for information made before, during, or after trial on behalf of an adult client:

- N/A FOR ALL AS I HAVE HAD NO COURT-MARTIAL CASES YET THAT HAVE BEEN COMPLETED.

a. Motions.

b. Responses.

c. Court-martial Rulings.

d. Writs.

e. Appellate briefs.

f. Appellate rulings.

g. Any other requests for documents or information by or on behalf of victims, particularly before referral.

23. Services: Provide redacted copies of any defense motions, government responses, or rulings that have addressed the SVC program's structure or organization. In particular, provide copies of any motions challenging the chain of command of SVCs or potential conflicts of interest due to the rating scheme or location of SVCs or their offices.

- N/A; I believe this answer would apply more to the Army SVCs.

36. Services: How do you as an SVC coordinate the services you provide to victims with the SAPR program/SARC/VA, VWAP, and FAP?

- I have good working relationships with all SARCs except one, but she is a problem SARC for a lot of people. She is not victim-centered. With my good relationships, I make sure to communicate with my clients and with the agencies specified above.
- HOWEVER, the relationship that we are seeing a big problem is the VWAP program in the military. This program is completely broken and there are violations left and right by legal offices. I believe this delegation needs to be taken away from the legal offices if you are going to keep the decision-making of sexual assault cases in the chain of command, and needs to be given back to the WING COMMANDER/CONVENING AUTHORITIES, as they are the ones who need to ensure that victims are being TIMELY notified, TIMELY provided information. I have had numerous cases where my clients or I were the last to know about the action (other people knew in the squadron), where the legal office NEVER consulted with us (legal offices think that “obtaining the views of the victim” is the same as “consulting” which is NOT), and even forgot to tell us important stuff such as that the separation authority decided to separate an Accused with a general discharge and the Airmen was separated and flew home already. There needs to be higher oversight on this program, it needs to be given back to the Commanders who are the Convening Authorities so that they could ensure that victims are treated with fairness and respect and their rights are not be violated as they have been. The VWAP program is NOT working, and Congress and the public need to UNDERSTAND THIS!
- It’s frustrating, because as a SVC, I try to then get information from other sources as legal is not doing this timely, as it is in my client’s best interests to get the information timely, and yet, if you do that, then they say you are burning bridges with them, throwing them under the bus, etc. This job is so frustrating because no matter how you do something, someone will get offended as to how you did it. Everyone wants to give you feedback, even though it is inappropriate for them to do that as they are not your leadership. Again, I have concrete examples and am very willing to talk to the panel without being censored by my leadership or the Air Force if you want to hear the “war stories” or the “boots on the ground” stories of what is really happening out there in the real world of military justice and the SVC program.

38. Services: Have you operated in a joint and deployed environment? Were you provided with policies and/or procedures in the joint environment that differed from Air Force practice?

- N/A

46. Services: How do you, your clients’ commanders and the other military justice actors preserve and protect personal information contained in evidence of prior sexual conduct

(MRE 412) and mental health records (MRE 513) of adult victims during Article 32 hearings and at trial? How have you seen Executive Order 13669 (June 13, 2014) impact or change procedures for Article 32 hearings?

- They don't. The MRE 513 and 514 rule is a joke. I provided my input already to others about this and they have shared my input and recommendations with your panel already recently.
- MRE 412 is also a joke in some cases, depending on the judge who is the IO. Certain judges, or I should say a certain judge, is allowing "romantic relationship" questions to come in and saying that evidence is not MRE 412.
- The US v. A1C Brandon T. Wright case, a high-profile case that I'm the SVC on, is a great example of how the military justice system did not protect my client's privacy rights in an Article 32, and in which the judge thereafter later found that almost all the evidence that the Investigating Officer considered in the original Art 32 would not be allowed to come in. This is a big deal because that Investigating Officer recommended that the case not go to court-martial, mostly due to the improper 412 evidence that was allowed to come into the hearing. The General Court-Martial Convening Authority (now Maj Gen Craig Franklin) also considered the same improper evidence and dismissed the charges. This case highlights why MRE 412 should NOT be allowed to come in at an Art 32 as the judge in the actual court-martial case might not allow this evidence to come in, but that evidence already came in at a public hearing. As stated above, even with the new executive order, evidence is being allowed to come in at an Art 32 under "romantic relationship" or "emotional relationships" that are ruled not to be MRE 412 evidence.

56. Services: What impacts may result from allowing a court-martial, either by court members or military judge, to direct restitution to your clients (the victims of offenses)? What mechanisms exist or would be required to enforce restitution sentences?

- N/A. No experience with this.

57. DoD and Services: What processes or services are you aware of that allow military victims to continue to receive treatment, counseling, etc., for injuries related to the crime committed against them after they have separated or retired from the Armed Forces? How are victims informed of these options?

- NONE that I know of. I have never gotten training for this or any information from my leadership about this.

60. DoD and Services: Regarding State Victim Compensation Funds:

- a. Have you notified victims of their options for seeking compensation through a State Victim Compensation Fund?

- Yes, I did last year through my own research.
- b. Have you received training regarding State Victim Compensation Funds?
  - Nope. My leadership refused to send me to any training, including at the second SVC course where they were going to go over the new NDAA requirements, lessons learned, etc. My boss disliked me, was trying to force me out of the AF as I was told by my leadership that I was “too victim-centered” and I was never provided any mandatory training that Congress required under the new NDAA. This shows not only a failure on my leadership for not setting me up for success as a SVC, but also shows that there needs to be changes to the SVC program, and it is my true belief that the SVC program needs to be changed – we cannot be ranked, we need to be truly independent from the Air Force as my leadership were only worried for their career progression/promotions and in how the Air Force looked, and did not care for my clients best interests. If the Air Force/Congress insists on keeping the SVC program in the JAG Corps, then the SVCs need to ALL be in the grade of Field Grade Officer – Major, Lieutenant Colonel, or Colonel. I’m serious when I say this, because I have been disrespected by many people involved in the justice/victim process, especially as I am just a Captain that many feel they can pick on. This needs to change so that we SVCs could provide the best representation to victims. I am willing to testify to the treatment that I received by Staff Judge Advocates, Commanders, and Investigators. Some of my clients are as well.
- c. If trained on State Victim Compensation Funds, please describe the courses attended and training material received through courses and other resources.
  - Again, my bosses never sent me to training except for 2 courses in the 16 months I was a SVC, one of those which included the initial training course. We need to take this program and put it in the hands of an independent body separate from the AF JAG Corps. Especially when my own leadership calls me “too victim-centered.” We need real leaders who want “too victim-centered” SVCs and the AF JAG Corps cannot provide that. I can attest to this, and again, I am willing to provide the panel and Congressional members my views on my retaliation and the comments that my own leadership said to me about being “too victim-centered” and “willing to fall on my sword for my clients, which is both good and bad.” How can that be bad, especially as that is my ethical duty as a zealous advocate counsel for my clients? The SVC program needs to change, as well as the leadership. It needs to be truly independent, outside of the Air Force and outside of the rank system.
  - My email is [REDACTED] if you want to contact me for questions or requests separate from my chain of command.