

**JUDICIAL PROCEEDINGS PANEL
REQUEST FOR INFORMATION SET # 6**

Please provide responses to JPP RFIs # 103- 155 by March 31, 2016

I. Implementation of the policy to withhold initial disposition authority

Withholding Policy: Monitor the implementation of the April 20, 2012, Secretary of Defense policy memorandum regarding withholding initial disposition authority under the Uniform Code of Military Justice in certain sexual assault cases. *(FY13 NDAA)*

103: DoD and Services: Please verify that the table below accurately reflects policies and guidance published about the requirement to withhold initial disposition authority under the UCMJ in certain adult sexual assault cases. If DoD or the Services issued additional guidance or updated any regulations regarding the withholding policy, please note that in the table and provide a copy of those to the JPP.

SERVICE	DoD	Air Force	Army	Navy	Marine	Coast Guard
Initial Guidance	SECDEF policy memo (Apr 20, 2012)	GCMCA Review in Certain Sexual Assault cases (Jun 17, 2013)	ALARACT 299/2013 (Nov 8, 2013)	NAVADMIN 195/12 (Jun 28, 2012)	MARADMIN 372/12 (Jul 13, 2012)	ALCOAST 308/12 (Jun 27, 2012)
Further guidance		AFGM2014-01 to AFI 51-201, Section 4E, (Sep 25, 2014)				

104: Services: Describe how the policy is implemented with interaction between the report of the alleged offense, the SARC, the MCIO, legal office, lower level commanders, and the initial disposition authority.

105: DoD and Services: Are there any mechanisms in place to track compliance with the withholding policy requirements?

- a. If yes, describe the process and information tracked and provide documentation to the JPP to verify the Services' implementation of the withholding policy.
- b. If the withholding authority requirement is not tracked, please explain how DoD and the Services monitor adherence to the withholding policy.

106: DoD and Services: Have there been problems or concerns with implementation of the withholding policy?

II. Special Victim Investigation and Prosecution Capability (SVIP)

Special Victim Investigation and Prosecution Capabilities: Monitor trends in the development, utilization and effectiveness of the special victim capabilities [renamed as the Special Victim Investigation Prosecution Capability (SVIP)] required by section 573 of this Act. (FY13 NDAA)

Please note: Questions 108 and 109 request updates, revisions, or other changes to information previously provided to RSP RFIs 50, 51, and 52 (available at <http://responsesystemspanel.whs.mil/rfis>) and JPP RFIs 13-18 (available at <http://jpp.whs.mil/index.php/meetings-2/rfi-set1>). The JPP understands that the Coast Guard is not included in the mandates in Section 573 of the FY13 NDAA. However, if the Coast Guard created resources analogous to the SVIP Capability requirements, please address the following SVIP questions.

The SVIP Capability Program, Structure, and Policies

107. (Update to JPP RFI 62) Services: Provide the FY15 SVIP Capability data by completing “Attachment 1, SVIP Capability Data.” Please note, the Excel workbook contains four separate worksheets for information about prosecutors, agent/investigators, paralegals, and victim-witness liaisons. The last tab provides detailed instructions for the information requested.

108. (Update to RSP RFI 50) DoD and Services: Provide electronic copies of all current policies and guidance concerning the SVIP capability. If new guidance is pending, what is the timeframe and process for revision of publications and training materials?

109. (Update to RSP RFIs 50, 51, 52) Services: Describe the Service’s current SVIP capability and allocation of resources:

- a. How are SVIP personnel organized to offer timely, effective worldwide capability? Are SVIP personnel assigned as part of a cohort unit/team or part of a group of SVIP qualified individuals tasked to respond on a case-by-case basis?
- b. Please provide a schematic and/or organizational chart illustrating geographic assignments for worldwide/regional SVIP coverage.
- c. Provide information about any initiatives or special teams/units/facilities that incorporate SVIP capability personnel to respond to sexual assault cases. (For example, Army SHARP Resource Centers, Navy ASAP Teams. For Navy/Marine Corps responses, please list NCIS teams on Naval bases with the Navy response, and NCIS agents located on Marine bases with the Marine response.)

110. Services: How do SVIP resources operate in joint and deployed environments? Are there uniform policies and procedures for joint environments? Please provide copies of or links to any guidance.

SVIP Personnel Selection and Training

111. (Update to RSP RFIs 50, 75, 132.) DoD and Services: Describe the selection criteria for assignment to the SVIP capability, to include required minimum experience, civilian education, grade/rank, training and certification:

- a. Specially trained MCIO investigators
- b. Prosecutors/trial counsel
- c. Paralegals
- d. VWL/VWAP

112. (Update to RSP RFIs 50) DoD and Services: Describe required training courses and curriculum for personnel assigned to the SVIP capability (please include information about any special training opportunities for members of the SVIP as previously reported in the *Establishment of Special Victim Capabilities within the Military Departments to Respond to Allegations of Certain Special Victim Offenses* (DoD, 2013), and any training specifically addressing male sexual assault victims):

- a. Specially trained MCIO investigators
- b. Prosecutors/trial counsel
- c. Paralegals
- d. VWL/VWAP

SVIP Issues, Oversight and Evaluation Metrics

113. Services: How do the Services provide oversight of multidisciplinary SVIP personnel to ensure appropriate coordination and collaboration on sexual assault cases?

114. DoD and Services: Are there inspections or internal reviews to ensure compliance with SVIP capability requirements? If so, what specific areas are assessed?

115. DoD and Services: How does the Service evaluate the effectiveness of the SVIP capability (i.e., victim drop-out rates, etc.)?

116. Services: Are victim satisfaction surveys regarding the SVIP capability utilized? If so, please describe the survey process and provide a sample copy of surveys and reports produced from them.

117. Services: Please provide the following information regarding independence of investigators assigned to SVIP:

- a. How does the Service ensure the independence of investigators assigned to SVIPs?
- b. Are there concerns about perceptions that investigators assigned to the SVIP capability are working for the SVP or trial counsel?

- c. Have defense counsel raised issues to convening authorities or filed any motions challenging the independence of the MCIO investigations conducted using the SVIP capability?

III. Assessment & Trends of Training and Experience of Prosecutors and Defense Counsel

Training and Experience: Building on the data compiled as a result of paragraph [RSP Tasking] (1)(D), assess the trends in the training and experience levels of military defense and trial counsel in adult sexual assault cases and the impact of those trends in the prosecution and adjudication of such cases. (FY13 NDAA)

Training and Experience of Prosecutors and Defense Counsel

Please note: Questions in this section request updates, revisions, or any other changes to information previously provided in response to RSP RFIs 75, 76, and 145-147 (available at <http://response.systemspanel.whs.mil/rfis>).

118. (Update to RSP RFI 75) Services: Selection criteria for attorneys:

- a. What are the selection criteria (education, experience, and training) for assignment as a defense attorney detailed to an adult sexual assault case?
- b. What are the selection criteria (education, experience, and training) for assignment as a prosecuting attorney detailed to an adult sexual assault case?

119. (Update to RSP RFI 75) DoD and the Services: Are there training standards or experience requirements for attorneys to prosecute or defend an adult sexual assault cases? If so, please provide a copy of any guidance.

120. Services: For prosecutors and defense counsel detailed to adult sexual assault cases, provide information about the FY14, FY15, FY16 courses (as of March 1, 2016) on the Excel workbook tabs 1-4 of “**Attachment 2, Attorney Training Courses.**” Please list any additional courses planned for the remainder of FY16, and please include non-DoD courses attended and courses attended that were taught by another Service. Please provide a syllabus for each course.

121. Services: Do the Services coordinate or collaborate on best practices used to train prosecutors or defense counsel on sexual assault training techniques? If so:

- a. How often are meetings held among the Services to discuss sexual assault case training for prosecutors or defense counsel?
- b. Who leads/manages coordination efforts and who participates?
- c. Have modifications been made to training needs/requirements as a result of this coordination and collaboration?

Metrics to Measure the Impact of Training

122. Services: What metrics, if any, are used to measure the effectiveness of training for adult sexual assault cases for prosecutors and defense counsel?

IV. Victim's Access to Information

Victim's Rights of Access to Information: Review and clarify the extent of a victim's access information that is relevant to the assertion of a particular right. (*RSP Recommendation 45*)

Please note: Questions in this section request updates, revisions, or any other changes to information previously provided in response to JPP RFIs 13-18 (available at <http://jpp.whs.mil/index.php/meetings-2/rfi-set1>).

123. (Update to JPP RFI 14) Services: Please complete the table in the attached Word document titled, "**Attachment 3, Victim Access to Information,**" to provide information regarding victims' access to information.

124. Services: What guidance and/or training informs the following stakeholders about the Service's policies regarding victims' access to information and what measures are taken to ensure they comply with these policies?

- a. Investigators
- b. SARCs / FAP advocates
- c. Prosecutors
- d. Defense counsel
- e. Special victim's counsel
- f. Commanders

V. Special Victim's Counsel (including Navy and Marine Corps Victim's Legal Counsel)

Implementation of Effect of Special Victim's Counsel Program: An assessment of the implementation and effect of [the Special Victim's Counsel Program] section 1044e of title 10, United States Code, as added by section 1716, and make such recommendations for modification of such section as the judicial proceedings panel considers appropriate. (*FY14 NDAA*)

Please note: Questions in this section request updates, revisions, or any other changes to information previously provided in response to JPP RFIs 19-45, 47, and 61 (available at <http://jpp.whs.mil/index.php/meetings-2/rfi-set1> and <http://jpp.whs.mil/index.php/meetings-2/rfi-set2>).

The SVC Program, Framework, and Policies

125. (Update to JPP RFI 19) DoD and Services: Provide all SVC program doctrinal publications (regulations, directives, instructions, manuals, memorandums, training materials or other guidance) that have been developed or issued regarding current SVC practices and procedures (other than the *Report on the Implementation of Section 1716 of the FY14 NDAA*, dated Apr. 4, 2014). Please include those relating to:

- a. Formation and structure of the SVC program.
- b. Scope of representation of SVCs.
- c. Implementation requirements, goals, objectives of the SVC program.
- d. Program and performance assessment metrics.
- e. Reporting requirements on program status and metrics.
- f. Program evaluation standards.
- g. Training requirements for SVCs.
- h. SVC training course guidelines and standards.
- i. Oversight and coordination of the programs within and across the Services.
- j. Handbooks or other program references developed by the Services.

126. (Update to JPP RFI 20) DoD and Services: Have DoD and Service doctrinal publications (regulations, directives, instructions, manuals, and training materials) for SAPR, MCIOs, IG, officers and NCOs, been updated to reflect FY14 NDAA §1716, *Designation and availability of Special Victims' Counsel for victims of sex-related offenses*?

- If updated, please provide copies of the changes (or links to electronic copies).
- If not updated, what is the timeframe and process for revision of publications and training materials?

127. (Update to JPP RFI 21) Services: To understand the structure of each Service's SVC program:

- a. Provide organizational charts for the Service's SVC program.
- b. How are staffing decisions made for the number of SVCs and SVC offices required?
- c. How many SVC offices are there in your Service? What support staff is assigned to SVCs, and what other support is available to them?
- d. Describe the reporting structure and organization of your Service's SVC program. Please describe the rationale for the employing this structure.
- e. Who rates or evaluates the duty performance of SVCs? What criteria are used to evaluate the performance of individual SVCs?
- f. Where are SVC offices physically located (e.g., within SJA legal office, in a multi-disciplinary center, within the FAP office, etc.) on Service installations or in different environments (e.g., joint bases, deployed environments)?

128. (Update to JPP RFI 61) Services: SVC data:

- Complete **“Attachment 4, SVC Program Data,”** which is an Excel spreadsheet detailing information about FY15 SVC programs.
- The Excel workbook contains two worksheets. Please complete both spreadsheets.

129. (Update to JPP RFI 22) Services: Sustainment of the SVC program:
- a. How many SVC billets were authorized for your FY15 SVC program?
 - b. How many SVC billets are authorized in FY16?
 - c. How many SVC billets will be authorized in FY17?
 - d. What is the long-term plan for sustaining personnel and funding requirements for the SVC program?
 - e. How is SVC program funding allocated in POM planning or other resource management planning?
 - f. Are there plans to expand or narrow the scope of the SVC program from FY16 to FY17? If so, please explain.

SVC Selection, Training, and Certification

130. (Update to JPP RFI 25) Services: How are SVCs selected? Among currently serving SVCs, how many (or what percentage) requested assignment to the program?
131. (Update to JPP RFI 28) Services: Does your Service require certification of SVCs? If so, what is required to be certified? If not, what training and/or experience are required to be eligible to serve as an SVC?
- a. Are there practice limitations or oversight requirements for SVCs who serve clients prior to SVC training or certification?
 - b. Are there Service rules or other guidance for how long an SVC may take clients prior to receiving SVC training or certification?
132. (Update to JPP RFI 26) Services: What happens if a judge advocate is assigned to serve as an SVC and does not want to do the job or isn't a good fit for the position? How often has this happened?
133. (Update to JPP RFI 29) Services: Provide information about FY15 and FY16 courses (including non-DoD courses) for SVCs and VLCs tasked to handle sexual assault cases on the Excel workbook tabs 5 and 6 of "**Attachment 2, Attorney Training Courses.**" Please provide a course syllabus for each course.
134. (Update to JPP RFI 30) Services: How many SVC courses does your Service plan to host each year? Are SVC courses coordinated among the Services?
135. (Update to JPP RFI 31) Services: Have counsel from your Service received SVC training from another Service? If so, how many?
136. (Update to JPP RFI 33) Services: Have counsel from the other Services attended your SVC training courses? If so, please indicate how many JAGs from each Service participated in each of your SVC courses.

137. (Update to JPP RFI 34) Services: How many military judges in your Service have received formal SVC training to date? What percentage of currently serving military judges has received such training? Please provide a course syllabus for each course.

138. (Update to JPP RFI 35) DoD and Services: Are the Services coordinating on SVC program training, best practices, and/or procedures? If so:

- a. How often are coordination meetings held?
- b. Who participates in coordination efforts?
- c. How are coordinated decisions reached?
- d. Are there standards for training and procedures across the Services? If so, where are these requirements found?
- e. Does DoD oversee operation of, or standards for, Service SVC programs?

139. DoD: How will FY16 NDAA § 535(a), requiring the SecDef to develop a standardized time period for SVC training and baseline training requirements for SVC, be implemented by DoD?

Expansion of SVC Representation

140. (Update to JPP RFI 24) Services: Since the implementation of the FY14 NDAA §1701, which requires designation of a representative for certain victims (such as a child or incapacitated victim):

- a. What impact has this requirement had on the role or effectiveness of SVCs to be able to provide assistance to their all of their clients?
- b. Provide any guidance that addresses the representation of those victims now covered by FY14 NDAA §1701.
- c. How many clients have SVCs represented who were not adult sexual assault victims? Please provide the numbers based on the type of client (child, incapacitated victim, or other categories which SVCs are now representing).
- d. What are the greatest challenges SVCs experience in representing child victims?

141. Services: Please provide information about implementation and the status for extending SVC representation to DoD civilian employees, upon waiver by the SecDef or Service Secretary, as directed by FY16 NDAA § 532?

- a. What policies and procedures have been established for making such requests?
- b. How many such requests have been made since the enactment of FY16 NDAA, by whom, and how many were approved?
- c. How are DoD civilian employees educated about the availability of SVC services and the process to request them?

142. Services: FY16 NDAA § 533 extends authority to SVCs and VLCs to provide legal consultation and assistance with any complaint against the Government, IG, EO or Congressional complaints, and FOIA requests.

- a. How are those responsibilities being implemented into SVC policies and procedures?
- b. What training is being done to expand SVCs expertise on these various types of requests and the related legal issues?
- c. How are the Services ensuring that this representation right is incorporated into EO and IG policy, procedure and training?
- d. How and when will availability of this assistance be communicated to Service members?

SVC Operations and Issues

143. (Update to JPP RFI 36) Services: How do the members of the SAPR program, VWAP, FAP, legal assistance attorneys, and SVCs coordinate the services provided to victims?

144. (Update to JPP RFI 37) Services: In your Service, are there plans or intent to merge or co-locate any of the victim assistance programs? If so, please describe. If not, why not?

145. (Update to JPP RFI 38) Services: How do SVC programs operate in joint and deployed environments? Are there uniform policies and procedures for SVCs in joint environments?

146. Services: How will FY16 NDAA § 534, requiring that victims be provided notice of the availability of SVC/VLC representation before any military criminal investigator or trial counsel interviews or requests a statement from such individual regarding the alleged sexual assault, be implemented by the:

- a. SAPR/SHARP programs?
- b. MCIO organizations?
- c. Trial counsel?
- d. SVC program? Particularly, what are the procedures for SVCs to follow if they learn their client was not provided notice?

147. Services: Article 32 hearings.

- a. What is the SVC's role regarding Article 32 hearings?
- b. How many victims who were represented by SVCs clients chose to participate in the Article 32 hearing? How many victims declined to participate in the hearing?
- c. Are investigating officers allowing the SVCs to participate in the proceedings?
- d. (Update to JPP RFI 47) In addition to Executive Order 13669, what guidance and/or procedures address whether and how investigating officers hear and review MRE 412 or MRE 513 evidence before determining admissibility?

148. Services: What issues have SVCs raised and/or filed motions during:

- a. discovery and pre-trial hearings?
- b. during the court-martial?
- c. during the appellate process?

149. Services: What guidance has been developed for SVCs who have a client that expresses concerns of social or professional retaliation? Is there guidance for SVCs that specifically addresses social ostracism issues or retaliation on social media?

150. (Update to JPP RFI 27) DoD and Services: Please address the following concerns of retaliation or adverse consequences for serving as an SVC. Please note the JPP's use of the term "Retaliation" refers to social retaliation or reprisal/professional retaliation.

- a. Have any SVCs in your Service filed a complaint (with the IG, BCMR, JAG Corps, or any other channel) expressing concern that they experienced retaliation or suffered adverse personal or professional consequences due to their service as an SVC? If so, how many such complaints were filed in FY 14, 15, and FY16 (to date).
- b. Is there a policy that protects SVCs from retaliation or adverse career impact related to their SVC service?
- c. What guidance is provided to an SVC if they believe they experience retaliation either while an SVC or after serving as an SVC?
- d. How will FY16 NDAA § 544, which prohibits giving less favorable ratings or evaluations to an SVC/VLC because of the "zeal" with which they represented a client, be implemented by the Services?

Data and Metrics

151. (Update to JPP RFI 40) DoD and Services: Provide copies of any reports, data, or presentations that have been created to assess the SVC program in FY15. Indicate the purpose and frequency of reports or assessments and who received them. For recurring or routine reports, please provide a representative sample.

152. (Update to JPP RFI 41) DoD and Services: What metrics are currently tracked by DoD and each Service for the SVC program? Who reviews SVC metrics, and how frequently are reviews conducted?

153. (Update to JPP RFI 44) DoD and Services: Are SVCs required to complete any forms or reports for each case or client? (For example, intake forms, surveys, memorandums for record, representation letters, etc.) If so, provide sample copies.

154. (Update to JPP RFI 45) Services: Are victim satisfaction surveys utilized? If so, please describe the survey process and provide copies of surveys and reports produced from them.

155. DoD and Services: What plans or efforts have DoD and the Services undertaken to implement FY16 NDAA § 535(b), which requires the Secretary of Defense, in collaboration with the Service Secretaries, to establish guiding principles for the SVC program, program performance measures and standards, and evaluation processes?