

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

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?

USA	SHARP: Training has already been updated to reflect this requirement and AR 600-20 will include this update
USAF	The Air Force SAPR office has provided information via newsletter and training to SARCs on the notice requirement. The training educates SARCs that they must inform all victims that they may be entitled to an SVC, regardless if the report is restricted or unrestricted. In addition, the training has been incorporated into the formal SARC course, which all SARCs must attend annually. The next course will be held in June 2016. Additionally, if a SARC is taking the initial report from a victim, the SARC provides the victim with the DD Form 2701. In March 2016, the DD Form 2701 was amended and re-published to include information on SVC services. The DD Form 2701 now includes a section that informs victims of the right to speak with a legal assistance attorney at no cost. It also informs victims that if they are the victim of sexual assault and certain related offenses, they may also be entitled to the assistance of a SVC in addition to services provided by the SARC and Victim Advocate.
USN	Currently, victims are informed of their eligibility for a Victims' Legal Counsel on the Victim Reporting Preference Statement, DD Form 2910 before electing to make a restricted or an unrestricted report. Change 1 of the Navy's Sexual Assault Prevention and Response Instruction (OPNAVINST 1752.1C) will also incorporate the language from section 534 to ensure program compliance.
USMC	<u>SAPRO.</u> Victims are referred to VLC consultation upon initial meeting with the SAPR VA/SARC as it is included on the DD2910. Should the victim decline a VLC at the initial meeting with SAPR personnel, they will be referred again throughout the process; a victim may elect VLC at any stage. Tracking VLC referral and representation is a protocol at the monthly CMG. <u>FAP.</u> For cases involving intimate partner assault or abuse, FAP VAs inform victims of confidentiality, rights, and options upon initial contact. Provision of notice of availability of VLC representation is being included in the draft FAP Marine Corps Order. Training and evaluation will be part of the implementation process, which will include procedures to address lack of notice.
USCG	The SARC is trained to inform each eligible victim of the availability of SVC upon receiving a restricted or unrestricted report of a sexual offense. The SARC verbally notifies eligible victims of their right to SVC and will annotate this notification in the DSAID database once that option is added into DSAID by DOD SAPRO.

b. MCIO organizations?

USA	CID: See attached policy. ENCLOSURE:
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	CID Regulation 195-1 Excerpt (15.6)
USAF	<p>DoD/IG is currently revising DODI 5505.18, <i>Investigation of Adult Victim Sexual Assault in the Department of Defense</i>. The revised regulation will direct MCIO investigators, including AFOSI agents, to provide notice of the availability of an SVC before an MCIO investigator interviews or requests a statement from the alleged victim regarding the sexual assault unless exigent circumstances apply. AFOSI will modify its policy to comply with the revised DoD instruction.</p> <p>Currently, AFOSI agents are being trained at the local level and at formal training courses, such as SCITP, that, before any victim interview, they must provide the victim notice of the availability of SVC services. The notice requirement is already incorporated in AFOSI course curricula, including the blocks of instruction taught by the Chief STC and SVIP special agent. Additionally, AFOSI has ensured that all regional commanders were briefed on § 534 during AFOSI's policy update via VTC in December 2015 and March 2016.</p>
USN	Current NCIS policy requires victims to be notified of their right to a VLC. Policy is currently being updated to coincide with FY16 NDAA Section 534 and will reflect that a victim will be notified of his/her right to a VLC prior to being interviewed.
USMC	Current NCIS policy requires victims to be notified of their right to a VLC. The policy is being updated to coincide with FY16 NDAA Section 534 and will reflect that a victim will be notified of his/her right to a VLC prior to being interviewed.
USCG	CGIS intends to verbally inform all eligible victims of their right to SVC.

c. Trial counsel?

USA	TCAP: The trial counsel, prior to meeting with a victim, will coordinate with the local Special Victim Witness Liaison (SVWL) or Special Victim Non-Commissioned Officer (SVNCO). The SVWL and/or SVNCO will ensure that the victim has been informed of his or her right to an SVC/VLC prior to meeting with the trial counsel.
USAF	AFLOA/JAJM has issued guidance to legal offices about the notice requirement and is covering it in military justice courses, such as the Military Justice Administration Course (MJAC), and military justice blocks of instruction, such as at the Horizons conference. The requirement is also discussed in AFI 51-201, <i>Administration of Military Justice</i> , which has been revised and is pending approval by TJAG.
USN	<p>Trial counsel will advise victims who are eligible for VLC that they have the right to be represented by VLC before an interview is conducted or a statement is requested. Finally, the Navy-Marine Corps Trial Judiciary issued updated Uniform Rules of Practice that established notice rules for victims and Victim's Legal Counsel on relevant scheduling and filings. Those rules may be found at:</p> <p>http://www.jag.navy.mil/trial_judiciary.htm.</p>
USMC	The Marine Corps notified its trial counsel of the requirements of the FY16 NDAA via Practice Advisory 10-15, enclosure (18). Additionally, the requirements will be promulgated in a forthcoming Marine Corps Bulletin containing updated guidance and requirements relating to Military Justice. This requirement for trial counsel to notify victims of the availability of SVC/VLC will be implemented through Marine Corps Order when the Marine Corps publishes its Legal Support and Administration Manual to replace MCO 5800.16A. Finally, the Navy-Marine Corps Trial Judiciary issued updated

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	<p>Uniform Rules of Practice that established notice rules for victims and Victim’s Legal Counsel on relevant scheduling and filings. Available at: http://www.jag.navy.mil/trial_judiciary.htm.</p> <p>ENCLOSURE:</p> <p>FY16 NDAA via Practice Advisory 10-15, dated 5 December 2015</p>
USCG	<p>Trial counsel are trained to inform each eligible victim of availability of SVC prior to any interview, regardless of whether a CGIS agent has previously provided notifications.</p>

d. SVC program? Particularly, what are the procedures for SVCs to follow if they learn their client was not provided notice?

USA	<p>SVC: Army Special Victims’ Counsel indicate that notification to victims of their right to SVC has not been an issue. However, if this scenario presented itself, the SVC would inform the CID Special Victim Team or Division SHARP office of the failure and request that they establish and follow proper notification procedures.</p>
USAF	<p>Shortly after the attorney-client relationship is formed, SVCs send “Notice of Representation” letters to AFOSI, trial counsel/the legal office, the victim’s commander, and, if applicable, defense counsel and the court. These notifications are provided in order to ensure SVCs are contacted prior to further contact with the client. If a client is contacted after an attorney-client relationship with an SVC is formed without notifying the SVC, the SVC follows up directly with anyone who has contacted the client to request they refrain from doing so again without prior coordination with the SVC. If an SVC meets with a client who was not provided timely notice of the availability of SVC services, the SVC engages the relevant agencies for training and education on the notice requirement. Ultimately and pursuant to DoD policy, concerns about the protection of victims’ rights may be reported through the SARC.</p>
USN	<p>If a VLC is informed that a MCIO or Trial Counsel did not provide a victim with the notice required by § 534, VLC notify their OIC. Following this notice, OICs raise the issue with the appropriate Supervisory MCIO or Senior Trial Counsel (STC). If the Supervisory MCIO or STC does not provide an adequate explanation for the failure to abide by the requirement, VLC Deputy Chief of Staff will be notified immediately and the issue is addressed by VLCP leadership.</p>
USMC	<p>The draft USMC VLC Manual provides that VLC representation of a sexual assault victim includes representation and advocacy at any military law enforcement interview or military investigation. Each VLC office is responsible for outreach to the NCIS agents and Trial Counsel assigned in their region to ensure that they are aware of this and to build professional relationships that will facilitate victims in obtaining VLC services prior to an interview.</p>
USCG	<p>Currently, when an SVC learns their client was not provided notice, the SVC notifies the SVC Program Manager. The SVC Program Manager involves that entity’s leadership and informs them of the issue. The leadership then deals individually with the problem and, in most cases, promises to continue to provide training to that organization.</p> <p>The SVC Program is working with CGIS, SARC and the Military Justice office to develop some means of ensuring each victim is notified of their right to SVC. Right now, only the SARCs have a written memorialization of the victim’s choice regarding an</p>

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