

JPP RFI6 Att 3 - Victim Access to Information

Sexual Assault Case Information Necessary for Victim Representation and Protection of Article 6b Rights	What specific information or documentation is provided? Must it be requested or is it automatic?	When in the process is it available or provided?	Who is responsible for providing the information or response?	How is the information requested or provided?	Governing Service policy or other relevant Service guidance
1. Status of the investigation	Status / update of investigation. Automatic	For Trial Counsel (TC), upon NCIS providing Substantive Report of Investigation, if not sooner. NCIS follows DoDI and internal policies for providing information during investigation.	TC	Information provided telephonically, in person, or email as best determined to contact victim or per victim's election.	SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A
2. Copy of a victim's statement, interview, or video taken by investigators	Upon request. Written statements provided by TC if in TC's possession. Video statement requests are forwarded by TC to NCIS. TC make video available to victim/VLC for viewing	Pre-referral or anytime thereafter	TC for written statements. NCIS for video statements	Victim/VLC may make a verbal or written request to TC for written statements. For video statements requests, TC forward to NCIS.	CNSLC Note 5810.1; FOIA

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3. Copy of other physical or documentary evidence produced or provided by the victim	Copies of documents are provided. Must be requested. Physical evidence may be viewed upon request.	Pre-preferral or anytime thereafter	If in TC's possession, TC provides upon request. Other evidence coordinated through NCIS.	Copies are provided or access made available.	CNSLC Note 5810.1; FOIA
4. Notice of pre-trial status or change in status of the accused	Pre-trial status or change of status of the accused. Automatic	Available as soon as report is made	TC	Orally or letter/email to victim/VLC	CNSLC Note 5810.1; VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))
5. Notice of pre-trial confinement hearing	Notice of the hearing. Automatic	Prior to the hearing	TC	Orally or in writing to victim/VLC	CNSLC Note 5810.1; VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))
6. Notice of preferral of charges and nature of the charges pertaining to the victim	Charge sheet is provided. Automatic	Upon preferral of charges	TC	Orally or letter/email to victim/VLC	CNSLC Note 5810.1

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7. Notice of decision not to prefer charges and explanation of decision	Notice of whether or not charges are going to be preferred and an explanation of the decision. Automatic	Once the decision is made	TC	Orally or in writing to victim/VLC. As victim is available, TC will seek to meet with victim in-person and with VLC if assigned.	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))
8. Copy of the Article 32 IO appointment letter	Copy of the order is provided. Automatic	After the appointment letter is signed	TC	May be provided in person, email or through the mail to victim/VLC	CNSLC Note 5810.1
9. Copy of the charge sheet	Copy of the charge sheet is provided. Automatic	After charges are preferred	TC	May be delivered in person, email or through the mail to victim/VLC	CNSLC Note 5810.1
10. Notice of the scheduling, including changes and delays, of the Article 32 hearing	Automatic. Copy of Convening Authority (CA) appointing order for Article 32	If victim and/or VLC are available, TC will contact with proposed Article 32 dates. After CA signs appointing letter, copies are sent to victim/VLC. Victim/VLC are notified	TC	May be provided in person, email or through the mail to VLC if assigned	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))

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		immediately of changes in Article 32 scheduling.			
11. Notice of the scheduling, including changes and delays, of hearings or other proceedings related to MRE 412, 513, or 514 evidence that pertain to the victim (prior to referral)	Notice of the proceedings and a reasonable right to be heard, including the right to be heard through VLC. Automatic.	As soon as the information is available prior to the proceedings.	Counsel for Government or PHO.	Orally or in writing to victim/VLC if assigned.	Article 6b, UCMJ; Article 32, UCMJ; R.C.M. 405, M.R.E. 412/513/514
12. Copies of motions and responsive pleadings related to M.R.E. 412, 513, or 514 evidence that pertain to the victim (prior to referral)	Likely occurs in the context of an Article 32 Preliminary Hearing. Notice (Per R.C.M. 405 IAW M.R.E. 412/513/514), copies of any relevant filings, and an opportunity to be heard are provided. The right to be heard includes the right to be heard through counsel.	Notice requirements follow the applicable M.R.E. at issue. Generally, upon the submission of the moving party to the PHO.	Moving party, counsel for Government, or PHO.	Orally or in writing to victim/VLC if assigned.	Article 6b, UCMJ; Article 32, UCMJ; R.C.M. 405; M.R.E. 412/513/514; Article 32 Preliminary Hearing Officer's Guide.

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	Automatic.				
13. Copies of any other motion(s) and responsive pleadings that may involve a victim's Article 6b rights (prior to referral)	Similar to #12; in the context of an Article 32 Preliminary Hearing, the VLC will receive copies of any filings/notices that affect the rights of the victim. Automatic.	Generally, upon the submission of the moving party to the PHO.	Moving party, counsel for Government, or PHO.	Orally or in writing to victim/VLC if assigned.	Article 6b, UCMJ; Article 32, UCMJ; R.C.M. 405; M.R.E. 412/513/514; MCO 5800.14_ (VWAP Order); Article 32 Preliminary Hearing Officer's Guide.
14. Copy of recording or transcript of victim's testimony at the Article 32 hearing	CD of the recording and / or transcript	No later than a reasonable time following dismissal of the charges, unless charges are dismissed for the purpose of re-referral, or court-martial adjournment.	TC	May be provided in person, email or through the mail to VLC if assigned	Article 32, UCMJ; R.C.M. 405; CNSLC Note 5810.1; FY14 NDAA

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15. Copy of Article 32 report/advice	If approved by release authority: copy of Article 32 report and advice.	FOIA	Convening Authority	FOIA process	FOIA
16. Notice of referral and nature of charges	Copy of charge sheet with referred charges. Automatic	As soon as possible after referral.	TC	Victim input is provided to CA via TC or in writing directly to CA prior to referral. Upon referral, notice is made to Victim/VLC	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))
17. Notice of decision not to refer charges and explanation of decision	The decision not to refer and an explanation. Automatic	As soon as possible after decision is made	TC	To discuss a non-referral recommendation, TC will contact victim/VLC for in-person meeting or telephonic if in-person is not practical. Victim input is provided to CA via TC or in writing directly to CA prior to CA's decision. Final decision not to go forward is made orally or in writing to victim/VLC assigned.	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A, JAGINST 5800.4A; Article 6(b))

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18. Notice of the scheduling, including changes and delays, of the court-martial	Copy of Trial Management Order (TMO); motions for continuance	TC contacts victim/VLC about proposed TMO dates for input. Copy of TMO provided to victim/VLC upon signed order. Notice of other delays / continuances are made with victim/VLC comment to the Court or through TC	TC; moving party of continuance request; Military Judge/Clerk of Court	Copy of TMO. Copy of filing. Verbal notice from the Court.	CNSLC Note 5810.1; Uniform Rules of Practice for U.S. Navy-Marine Corps Trial Judiciary Rule 6
19. Notice of R.C.M. 802 conferences	Notice of the conference if there is an issue related to victim. Automatic	When the conference is scheduled	Military Judge / Clerk of Court / TC	Verbal or email	CNSLC Note 5810.1; NMCTJ Rules of Practice
20. Notice of the scheduling, including changes and delays, of hearings or other proceedings related to MRE 412, 513, or 514 evidence (after referral)	Notice of scheduling of hearings including changes and delays. Automatic	Once the TMO is prepared and when changes occur	Moving party / TC	TMO delivered to victim/VLC. Change in dates are provided by moving party/TC by email or orally	CNSLC Note 5810.1; NMCTJ Uniform Rules of Practice

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21. Notice of the scheduling, including changes and delays, of any other hearings or other proceedings that may pertain to the Article 6b rights of a victim (after referral)	Notice of scheduling of hearings including changes and delays. Automatic	Once the TMO is prepared and when changes occur	Moving party / TC	TMO may be provided in person, email or through the mail to victim/VLC	CNSLC Note 5810.1; NMCTJ Uniform Rules of Practice
22. Copies of motions and responses related to M.R.E. 412, 513, or 514 evidence that pertain to the victim (after referral)	Copies of motions and responses	Once the motions or responses are submitted to TC	Moving party / TC	Copies served upon victim/VLC by moving party/TC	CNSLC Note 5810.1; NMCTJ Uniform Rules of Practice
23. Copies of other motion(s) and responses in the case that may involve a victim's Article 6b rights (after referral)	Copies of motions and responses. Automatic	Upon filing with court	Moving party / TC	Copies served upon victim/VLC by moving party/TC	CNSLC Note 5810.1; NMCTJ Uniform Rules of Practice
24. Notice of negotiation of a pre-trial agreement	Victim input secured prior to acceptance Automatic	Prior to acceptance	TC	Notice is provided orally or in writing to Victim/VLC	CNSLC Note 5810.1;
25. Notice of the acceptance of a pre-trial agreement	Orally or in writing. Automatic	Once the agreement is accepted	TC	Notice is provided orally or in writing to victim/VLC	CNSLC Note 5810.1;
26. Notice of the acceptance of a guilty plea or announcement of findings	Notice that the plea has been accepted or findings announced Automatic	Once the plea has been accepted or findings have been announced	TC	If victim is not present in court, then they are notified orally or in writing through VLC if assigned	CNSLC Note 5810.1;

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27. Notice of the sentence imposed, including the date on which the accused becomes eligible for release from confinement, or parole, if applicable.	Notice of the sentence. The rest of the information is provided by the brig. Automatic	Once the sentence has been announced	TC / Brig	Part of completion of DD 2704. Brig contacts victim IAW their procedures	CNSLC Note 5810.1;
28. Notice when the accused is released from confinement or is transferred to a different location.	Victim notified of clemency/parole, transfer of the inmate, any form of release, death of inmate, or change of release date of more than 30 days from last notification. Info automatically provided, unless the victim has declined to elect to be notified on DD Form 2704.	Transfer: within 14 days of inmate's arrival at new facility. Release: as soon as release is scheduled, at least 45 days prior.	Brig	At the conclusion of every court-martial in which confinement is adjudged, TC prepares a DD 2704 wherein the victim may elect to be notified of changes in the offender's status in confinement. Brig then sends victim DD 2705 for them to ensure brig has proper contact information. DD 2705 is then used to provide victims with confinement status changes.	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A; BUPERSINST 5800.3A); DD 2704/5.
29. Copy of record of trial if victim testified	Record of trial. Upon request. Note: R.C.M. 1103 does not require that the victim testify to receive a	No later than authentication of the record, the TC shall notify the victim of the right to the	TC / Post-Trial Processing Unit / CA	Notice is provided orally or in writing to victim/VLC. Victims may decline a copy of the record of trial in writing, and any	Article 54(e)

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	copy of the ROT.	ROT.		written declination shall be attached to the original record of trial.	
30. Notice of any public proceeding of the clemency and parole board	Notice of clemency/parole hearing, right to request personal appearance, and right to submit matters. Automatic.	At least 45 days in advance, or as soon as is known.	Brig/Clem and Parole Board	Certified mail, return receipt requested. If any mail does not reach the recipient, the confinement facility VWAC shall attempt to contact the victim via phone.	VWAP (DODD 1030.1, DODI 1040.2, SECNAVINST 5800.11B, OPNAVINST 5800.7A; BUPERSINST 5800.3A)
31. Notice of any appellate review of the case	In applicable cases, TC or designee must provide victims basic information about the appeals process. If victim wants information and updates about appeals, the TC shall forward the victim's contact information and DD 2704 to Code 46, OJAG.	Information is generally provided after the sentence and findings have been approved. Subsequent notifications occur as soon as possible after docketing.	A new DoDI is pending that will formalize this process; however, currently it is common practice for appellate government counsel to notify the VLC. In the absence of a VLC, appellate government counsel will	Orally or in writing to victim/VLC if assigned.	Pending DoDI;

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			contact either the SJA or TC to complete victim notifications.		