



Sample Special Victims' Counsel Scope of Representation Letter

(Note: Provide briefing to victims of sexual assault during initial meeting, either over the phone or in person.)

MEMORANDUM FOR: _____ (Victim of Sexual Assault)

FROM: _____ (Special Victims' Counsel)

SUBJECT: Notification of Scope of Representation

The Air Force is concerned about the rights of sexual assault victims and wants to ensure that you receive all available assistance through the Special Victims' Counsel program and other services available throughout the Air Force. This letter will provide you with the scope of legal assistance that I can provide you, as well as the limits on my representation of you through this program.

1. My Military Duty Is To Represent You. In my capacity as a Special Victims' Counsel, I do not work for your squadron commander, your wing commander, your numbered Air Force, or your Major Command. My supervisor for my Special Victims' Counsel duties is Lt Col Dawn Hankins, Chief, Special Victims' Counsel Program. She works in Washington, DC and reports directly to the one-star general overseeing this program. This independence means that no one in your chain of command or the chain of command of your assailant will influence my representation of you.

(Initial: _____)

2. Scope of Legal Assistance Provided

a. Personal Civil Legal Affairs – I can answer your questions related to the Victim and Witness Assistance Program; the role of Victim Advocates and Victim Liaisons and the nature of your conversations with these persons; what medical and mental health services are available; the availability of protective orders from military or civilian authorities; and information concerning the differences between restricted and unrestricted reporting. I can also assist you with a host of other civil legal issues, including landlord-tenant and consumer laws that are related to your case.

b. Representation Throughout the Military Justice Process – I can advocate your interests to any actor in the military justice process, including commanders, convening authorities, Staff Judge Advocates, the accused's defense counsel, and military judges.

- i. I can attend your interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I can attend such interviews via VTC or telephonically.
- ii. I can assist you in obtaining information relevant to the sexual assault case that you have a right to, such as the status of the investigation and the status of the accused.

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- iii. You have a right to consult with the government regarding certain decisions, such as whether or not charges will be preferred and plea negotiations. I can represent you during this process.
 - iv. I will advocate, to the greatest extent possible, for your interests in any UCMJ proceeding and work with both the government and defense counsel to ensure you are afforded an opportunity to be heard by the court.
- c. Advocacy to Civilian Prosecutors and Agencies – In general, my representation of you will be more limited off base than for military justice matters on base. I will inform you if there is a matter where I cannot represent you, and you may obtain civilian counsel, at your own expense, for these purposes while still retaining me to represent you in other matters, if you so choose.
- i. I can advocate your interests to civilian prosecutors, law enforcement agencies, and other civilian and government agencies.
 - ii. I cannot represent you in civilian court.
- d. Collateral Misconduct – Covered collateral misconduct is misconduct that may have been committed by you that has a direct nexus to the sexual assault, such as underage drinking, adultery, fraternization, and violations of certain regulations or orders. If through our conversations, either you or I believe you may have committed misconduct, I will advise you of your options regarding representation.
- i. I will provide you with the name and contact information for an Area Defense Counsel, separate from that representing the Accused, who can represent you. With your consent, I can represent you as a secondary counsel for this matter.
 - ii. Once an Area Defense Counsel is detailed to represent you, you may choose to be represented solely by me, in lieu of an Area Defense Counsel.
 - iii. For misconduct that you may have committed that is not related to the sexual assault, you are eligible for representation through the Area Defense Counsel program. I cannot represent you for this matter.

(Initial: _____)

3. Attorney – Client Privilege. I am your lawyer; everything you tell me is covered by the attorney-client privilege. This means that our communications are protected and confidential. I may ask your permission to discuss confidential communications with your commander, the Legal Office, or investigators, but I will never do so without discussing with you first and obtaining your consent. There is no attorney-client privilege in a couple of specific situations:

- a. If you tell me that you are going to commit a fraud or crime in the future: For example, if you tell me that you are going to seek revenge on your assailant in a criminal manner, then that communication is not protected.
- b. If you tell me about the sexual assault in order to commit, or help anyone commit a crime or fraud, then that communication is not protected either. For example, if the only reason you claimed you were sexually assaulted was because you wanted to apply for a PCS, even

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though you believed the sexual activity was consensual, you may be using this service to commit a crime or fraud, and I might have to disclose that situation if I learn about it.

(Initial: _____)

4. Duration of Representation. In general, I will be your attorney for all matters related to the sexual assault, unless and until you release me.

a. If I am required to withdraw from representing you, I will take steps to protect your interests, such as giving you reasonable notice, allowing you time to obtain other counsel, and surrendering papers and property to which you are entitled.

b. I will represent you until case disposition is complete. For example, in a court-martial, case disposition is considered complete at action or earlier termination of charges.

(Initial: _____)

5. Please review “Tools to Cope With Stress,” included at the bottom of this memorandum.

(Initial: _____)

My initials above and signature below indicate I understand the assistance available under the Special Victims’ Counsel Program, as well as the limitations. I understand that if I seek assistance for a matter which poses a conflict of interest for my Special Victims’ Counsel, my attorney will inform me of this fact and explain other avenues of assistance. I desire to obtain legal assistance from

_____.

Date: _____

Client’s Name: _____

Client’s Signature: _____

Special Victims’ Counsel Name: _____

Special Victims’ Counsel Signature: _____

MEMORANDUM FOR SPECIAL VICTIMS' COUNSEL CLIENT

FROM:

SUBJECT: Tools to Cope with Stress

1. Being involved in the military justice process as a victim or witness is often very stressful, but there are a number of healthy ways to cope with this stress. There are a number of agencies that can help you develop the skills you may need to cope effectively. I have listed some of them below and your Sexual Assault Response Coordinator or Victim Advocate can assist you in obtaining support from these agencies.

a. **Chaplains/Clergy**, (phone number), have confidentiality (like my office) and are trained to help you with the problems you are facing, including spiritual counseling. There is an absolute privilege for all information confided in a chaplain or clergy as a formal act of conscience or faith.

b. **Military One Source (MOS)** provides telephonic, online and face to face counseling. More information can be found at:
<http://www.militaryonesource.com/MOS/About/CounselingServices.aspx>

c. **Base Mental Health**, (phone number) provides licensed psychologists, psychiatrists and social workers. In addition to you seeking services on your own initiative, if certain individuals, including your First Sergeant or me, believe you are a danger to yourself, we can recommend to your commander that you be referred for a mental health evaluation under the **Limited Privilege for Suicide Prevention (LPSP) Program**.

d. **National Suicide Prevention Lifeline (NSPL)**: If you are ever feeling desperate, alone or hopeless you can call the National Suicide Prevention Lifeline (NSPL) at 1-800-273-TALK (8255). NSPL is a free, confidential, 24-hour hotline available to anyone in suicidal crisis or emotional distress. More information can be found at:
<http://www.suicidepreventionlifeline.org/>

2. **REMEMBER: You are a valuable person and member of the Air Force Family and we are committed to providing you services and support during this stressful time.** If you have any questions concerning this information, please call me at DSN 460-3421/Commercial (229) 257-3421 or after hours via the command post.

(Name), (Rank), USAF
Special Victims' Counsel