



SOLO

SENIOR OFFICER LEGAL ORIENTATION

TAKING CARE OF THE VICTIM

LT [REDACTED]

CHIEF, SPECIAL VICTIMS' COUNSEL DIVISION
AIR FORCE LEGAL OPERATIONS AGENCY



SQ/CC PLACEHOLDER



OVERVIEW

- Special Victims' Counsel Program Overview
- Secondary Trauma
- Retaliation and Ostracism
- Collateral Misconduct
- Victim Rights
- Commander Interaction and Assistance to the Victim
- VWAP
- SVIP



SVC PROGRAM BACKGROUND

- 2012 NDAA – 10 U.S.C. § 1565b
- OSD/GC Memo, Legal Assistance to Victims of Sexual Assault, 9 Nov 12
 - Agreement AF SVC Program would be a “pilot program” for DoD
- 1 Jun 13 – Independent program under AFLOA/CLSV – Special Victims’ Counsel Division
 - 24 JAGs, 10 paralegals at 22 regional and satellite offices

PURPOSE OF THE SVC PROGRAM

- Provide **advocacy**: protect the rights afforded to victims in the military justice system
- Provide **advice**: develop victims' understanding of the investigatory and military justice processes
- **Empower** victims by removing barriers to their full participation in the military justice process

Providing this service to victims will result in a more robust opportunity for victims to be heard, to retain and take advantage of their rights, and enhance the military justice system while neither causing unreasonable delay, nor infringing upon the rights of an accused.

WHAT IS THE ROLE OF THE SVC?

- First and foremost – taking care of the client’s needs
- Advocacy to military justice actors
 - May attend interviews
 - May advocate to convening authorities
- In court-representation
 - Rape shield/mental health records/privileges
- Assert Article 6(b) rights (MCVRA)
- Advocacy to AF/DoD agencies/offices
- Advocacy to civilian prosecutors/agencies
 - May NOT represent victims in civilian courts
- Collateral misconduct



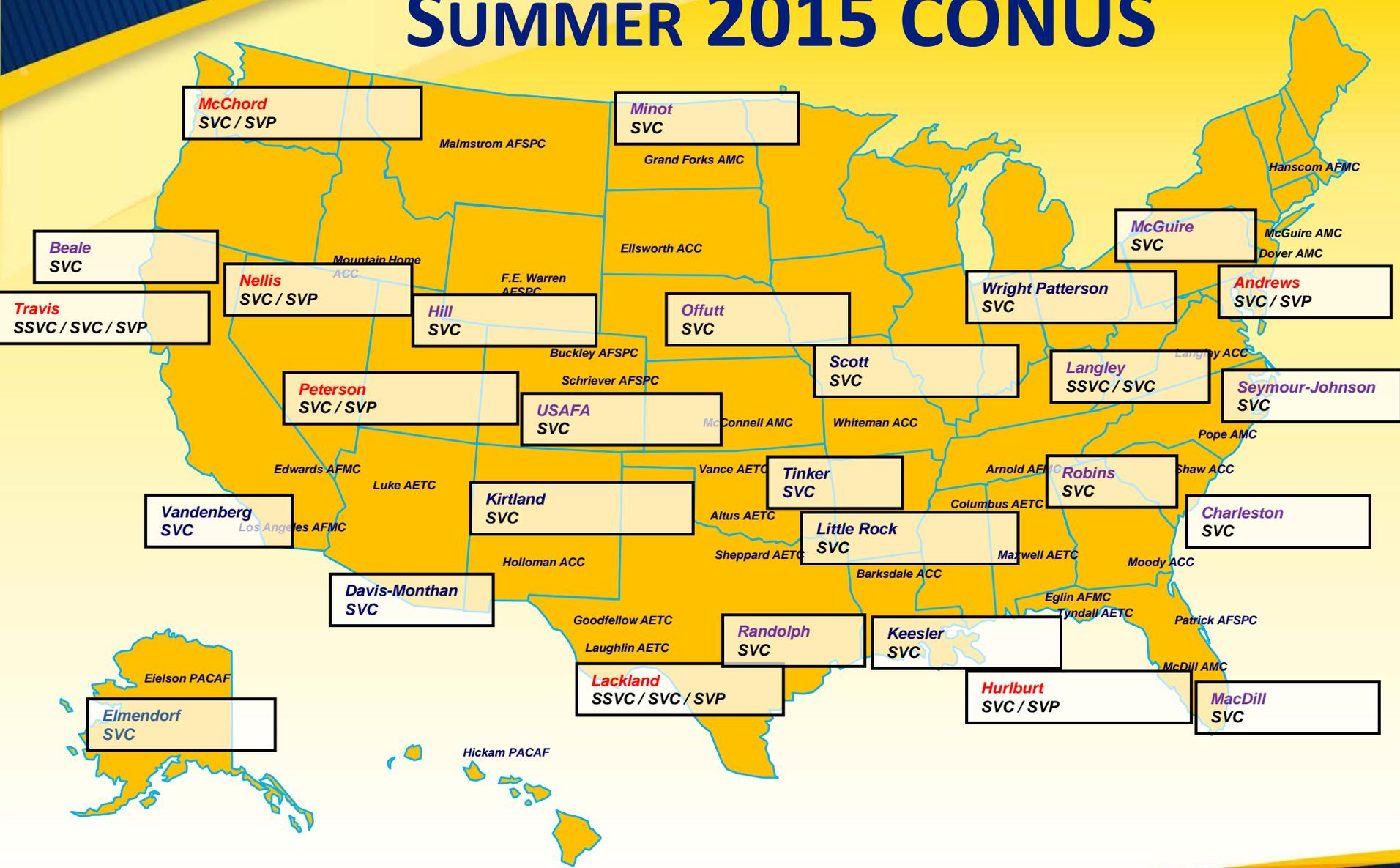
How many times
did you say what
happened to you?

BY THE NUMBERS...

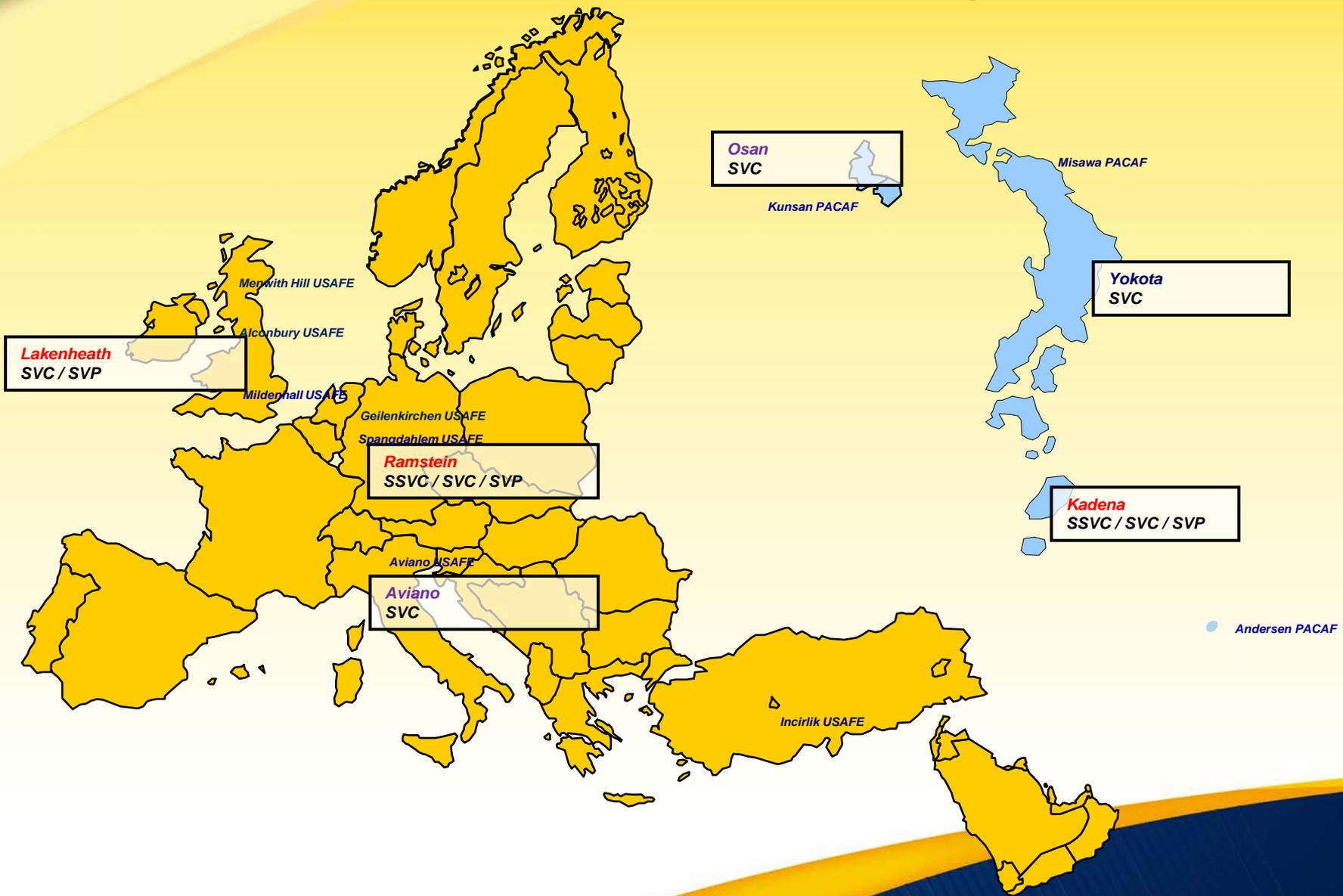
- 30 SVCs
- 10 SVPs
- 3 Senior SVC
- 33 locations world-wide by Jul 15
- Represented 1501 victims over life of program; 734 current caseload
- Attended 225 courts-martial & 285 Article 32 hearings
- Attended over 2,236 interviews with investigators, defense counsel and trial counsel



SUMMER 2015 CONUS



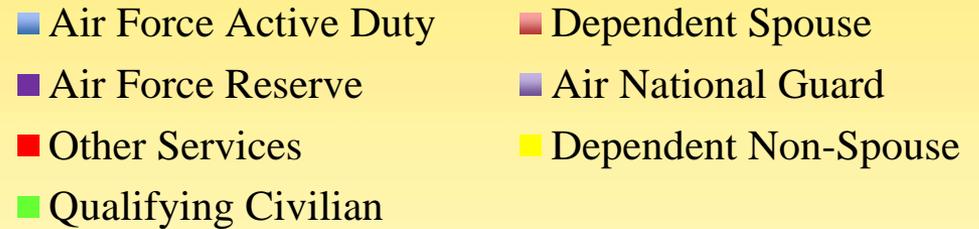
SUMMER 2015 EUROPE/PACIFIC



SVC CLIENTELE

- **79% of clients are AF Active Duty**
- **84% of clients are female**

Victim Demographics

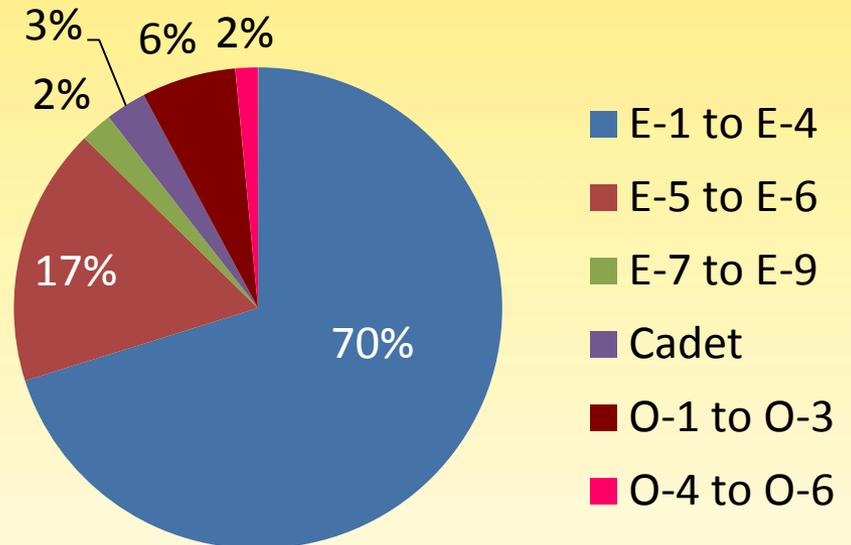


*Data current a/o 6 Apr 15

SVC CLIENTELE

- **85% of clients had made an unrestricted report** by the time they requested an SVC
- **3% of clients – allegations include UPR**
 - In only 43% of those cases is the UPR the only allegation – 57% include a sexual assault allegation also
- **1% of clients indicated their assault occurred at a deployed location**
 - 1% of requests were received from deployed locations

Victims Represented



What was your biggest
fear throughout this
whole process?

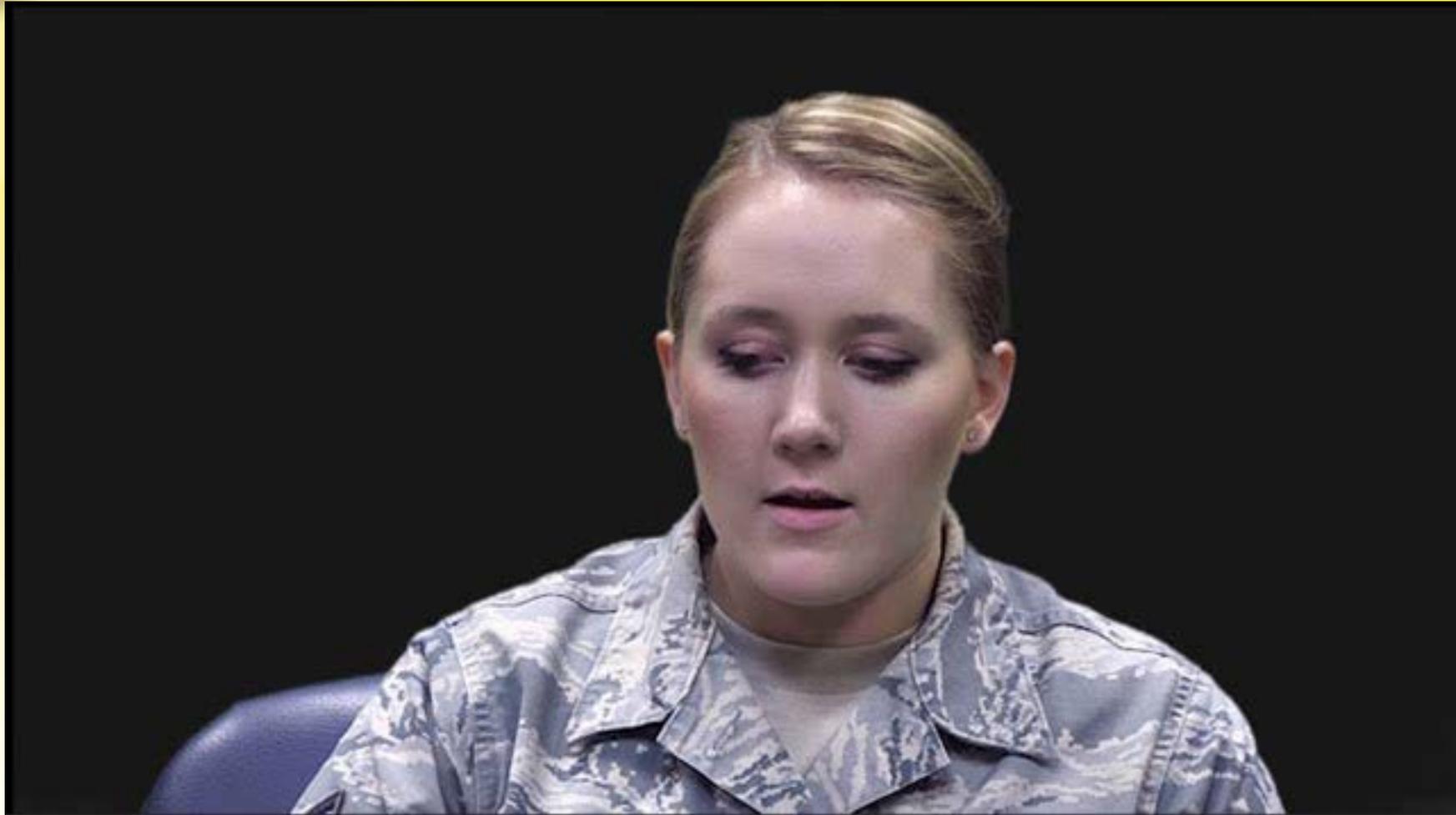
SECONDARY TRAUMA

- Most victims whether civilian or military:
 - Investigation phase/ trial process
 - Multiple interviews
 - Uncertainty of outcome
- Unique to military
 - Working in the same unit as Accused
 - Getting help without interfering with mission
 - Focus on the mission

How do trial, the interviews and things like that affect your work performance and your ability to interact with others?

RETALIATION

- FY14 NDAA specifically addresses retaliation
 - Not necessarily an offense by commanders
 - IG investigation requirements
- Forms of retaliation
 - Significant changes in member's duties
 - Adverse actions
 - Withholding favorable actions
 - Maltreatment



OSTRACISM

- More common in the workplace
 - Taking sides between victim and Accused
 - Walking on eggshells around victim
 - Seemingly intrusive questioning
- Defined in AFI 36-2909 as:
an action with “the intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice”



COLLATERAL MISCONDUCT

- Potential bar to reporting/participation
- Typical collateral misconduct
 - Underage drinking, DUI
 - Fraternalization, Adultery
- Considerations for IDA
 - Referral options
 - Timing

VICTIMS' RIGHTS UNDER THE UCMJ

- Article 6b, UCMJ codified certain victim rights
- Adapted the Crime Victims' Rights Act
- Key provisions include right to be:
 - Treated with dignity and respect
 - Reasonable protection from the Accused
 - Notification of all court-martial proceedings
 - Be present at all public court-martial proceedings

VICTIMS' RIGHTS CON'T

- Article 6b affords victim the right to:
 - Confer with trial counsel
 - Appropriate restitution
 - Information about an accused's conviction, sentencing, confinement and release
 - Be afforded an opportunity to make a personal appearance at a military clemency and parole board

REQUIRED VICTIM CONSULTATION

- According to AFI 51-201, para 7.12.12, victims must be consulted on the following decisions:
 - Preferral
 - Dismissal of charges
 - Pretrial confinement
 - Release from confinement
 - PTAs and PTA negotiations
 - Discharge
 - Scheduling of proceedings

Did you have any
interactions with your
Wing Commander?



COMMANDER INTERACTION w/ VICTIM

- Victims may want access to provide input on various decisions
- Decision not to participate
 - Victims may want to discuss with the commander
- Input typically through SVC, if represented, and typically in writing

Do you have any other
advice you'd want to give
to a Commander?

ASSISTANCE TO VICTIM

- Expedited Transfer Requests
 - 115 of 122 Expedited Transfer requests have been approved
 - Possible to transfer the Accused rather than victim
- Mental Health
 - Many victims receive mental health services
 - Some victims have concerns
- SVCs, ADCs, Chaplain – Confidentiality



VICTIM WITNESS ASSISTANCE PROGRAM

- Installation Commander is the Local Responsible Official
 - Typically delegate to SJA
- 17 Enumerated Commander responsibilities
 - Codified in AFI 51-201, Chap 7
 - Many are similar to victim rights listed previously
 - Responsible to provide support to witnesses
 - Annual reporting required to OSD



SPECIAL VICTIM CAPABILITY AND SVIP

- Special Victim Capability and Special Victim Investigation and Prosecution (SVIP) encompasses:
 - AFOSI Case Agent
 - JA/Trial Counsel
 - Paralegal
 - Victim Liaison
- Created in response to FY13 NDAA, §573



SVIP CON'T

- Only applies in certain cases
 - Unrestricted reports of adult sexual assault
 - Unrestricted reports of domestic violence including sexual assault and/or aggravated assault with grievous bodily harm
 - Child abuse involving sexual assault and/or aggravated assault with grievous bodily harm

QUESTIONS?

LT COL [REDACTED]

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