

**JUDICIAL PROCEEDINGS PANEL  
REQUEST FOR INFORMATION SET # 1**

**14. Services: According to current policies, what documents and/or information is a sexual assault victim entitled to receive from parties to the case during the different phases of the court-martial process:**

- a. Pre-trial?**
- b. During the merits phase of a court-martial?**
- c. Before Sentencing?**

<b>USA</b>	<p>See Enclosure 7, TJAG Policy Memorandum 14-09, Disclosure of information to Crime Victims, dated October 1, 2014.</p> <p><b>ENCLOSURE 7, TJAG Policy Memoranda:</b></p> <ul style="list-style-type: none"> <li>a. TJAG Policy Memorandum 14-09, Disclosure of information to Crime Victims (01 Oct 2014)</li> <li>b. TJAG Policy Memorandum 14-01, Special Victim Counsel (01 Nov 2014)</li> <li>c. TJAG Policy Memorandum 14-06, Special Victim Prosecutors (22 Jan 2014)</li> <li>d. TJAG Policy Memorandum 14-08, Location, Supervision, Evaluation and Assignment of Judge Advocates in Brigades (24 Aug 2014)</li> </ul>
<b>USAF</b>	<p>All victims of crime under the UCMJ have the right to reasonable, accurate, and timely notice of:</p> <ol style="list-style-type: none"> <li>1. The status of the investigation of the crime, to the extent it will not interfere with the investigation and is appropriate;</li> <li>2. The accused’s pretrial status and any subsequent change in that status, including but not limited to, the accused being placed in pretrial confinement, being released from pretrial confinement, or escaping from pretrial confinement;</li> <li>3. Preferral and referral of charges or a decision not to pursue prosecution;</li> <li>4. A pretrial confinement hearing and/or Article 32 investigation, including introduction of any MRE 412, 513, or 514 evidence;</li> <li>5. Notification of the scheduling, including changes and delays, of each court-martial proceeding the victim is entitled to or required to attend;</li> <li>6. The acceptance of a guilty plea or announcement of findings; and</li> <li>7. The sentence imposed, including the date on which the accused becomes eligible for release from confinement, or parole, if applicable.</li> </ol> <p><i>See Article 6b, UCMJ and AFGM2 to AFI 51-201, Administration of Military Justice, paras. 7.11 and 7.12.9.</i></p> <p>Upon receiving the notice of representation, the Article 32 Investigating Officer (IO) should direct the government representative to provide to the witness’s counsel the following information:</p> <ol style="list-style-type: none"> <li>1. Copy of the charge sheet;</li> <li>2. Copy of the Article 32 IO appointment letter; and</li> <li>3. Reasonable notice of, and access to, evidence procured from the witness (e.g.,</li> </ol>

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	<p>statements, records, physical evidence, etc.)</p> <p>Personally identifiable information redactions are made to these documents. <i>See</i> AFLOA/JAJM Article 32 Investigating Officer’s Guide, para. 4.3.3. (Atch 14.1)</p> <p>Following the Article 32 hearing, upon request by any witness in the case or the witness’s counsel, the convening authority that directed the investigation, or the SJA on behalf of the convening authority, should promptly cause a FOIA compliant copy of the report to be served upon the requestor. <i>See</i> AFLOA/JAJM Article 32 Investigating Officer’s Guide, para. 9.5.3. (Atch 14.1)</p> <p>Additionally, pursuant to Article 54(e), UCMJ, and RCM 1103(g)(3), victims who are named in a specification in an offense under Article 120, Article 120b, Article 120c, Article 125, or an attempt thereof under Article 80, UCMJ, are entitled to a copy of the record of proceedings. Note the amendment to the MCM providing this right is contained in Executive Order 13669 attached. (Atch 14.2)</p> <p><u>References:</u></p> <ul style="list-style-type: none"> <li>- Article 6b, UCMJ – 10 U.S.C. § 806b <a href="http://www.law.cornell.edu/uscode/text/10/806b">http://www.law.cornell.edu/uscode/text/10/806b</a></li> <li>- AFGM2 to AFI 51-201, <i>Administration of Military Justice</i> <a href="http://static.e-publishing.af.mil/production/1/af_ja/publication/afi51-201/afi51-201.pdf">http://static.e-publishing.af.mil/production/1/af_ja/publication/afi51-201/afi51-201.pdf</a></li> </ul> <p><b>ATTACHMENT 14:</b></p> <ul style="list-style-type: none"> <li>- Atch 14.1 – AFLOA/JAJM Article 32 Investigating Officer’s Guide (05 May 2014)</li> <li>- Atch 14.2 – Executive Order 13669 (13 June 2014)</li> </ul>
<b>USN</b>	<p>A: The government is required to provide notice to the victim regarding the apprehension of the accused (VWAP); any public hearing regarding the continuation of pre-trial confinement (Art 6b); the release of an alleged offender from pre-trial confinement (VWAP/Art 6b); and must inform the victim of the date charges are referred and the nature of the charges (VWAP).</p> <p>Under current practice, the assigned Victims’ Legal Counsel (VLC)) (Special Victims Counsel in Army and Air Force) in a case is provided with copies of:</p> <ul style="list-style-type: none"> <li>• Charge sheet,</li> <li>• Victim’s statements</li> <li>• Filed motions and responses relating to MRE 412, 513, 514</li> <li>• Case management orders</li> </ul> <p>In addition, all Senior Trial Counsel (STC) are aware of the Army policy (attached in enclosure (6) which is similar to what Navy is executing in practice. Navy is currently drafting a formal policy.)</p>

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	<p>B: In addition to the information provided above, the government is required to provide notice of court-proceedings (VWAP/Art 6b); and must inform victim of the acceptance of a pretrial agreement (VWAP). Additionally, the moving Party must provide notice of intent to introduce certain evidence (MRE 412); and must provide notice when a motion has been filed that the patient/victim has an opportunity to be heard (MRE 513/514).</p> <p>C: In addition to information provided above, the government must inform victim of the conviction (VWAP/Art 6b). Post-trial the government must inform victim of the sentence adjudged (VWAP); provide a copy of the Staff Judge Advocates Advice (SJAR), if it is prepared; and provide a copy of the CA’s action, and Record of Trial (ROT), if requested, to sexual assault victims (VWAP/RCM/Art 54e). The government must also provide notice of escape or release of accused from confinement (VWAP/Art 6b) and notice of any public proceeding of the clemency and parole board (VWAP/Art 6b).</p> <p><b>ENCLOSURE (6): Army policy on disclosures to VLC - TJAG Policy 14-09 - Disclosure of Information to Victims (01 Oct 2014)</b></p>
<b>USMC</b>	<p>Currently, there is a published practice advisory on VLC discovery from the Staff Judge Advocate to the Commandant of the Marine Corps’ (SJA to CMC) office and the Navy-Marine Corps Trial Judiciary Rules of Practice require trial counsel to provide a copy of filings to VLC within 24 hours for certain motions. It states:</p> <p>35.4: Ordinarily, LC [Legal Counsel] may have an interest in hearings regarding M.R.E. 412, 513 and 514. As such LC must be provided with copies of the relevant Prosecution and Defense filings within 24 hours of said filings. The trial counsel is responsible for serving said pleading on the LC. LCs are encouraged to provide written motions and proposed rulings in advance to assist the court in clarifying the issues.</p> <p>For the SJA to CMC Practice Advisory see FY14 NDAA Practice Advisory 4-14 available at <a href="http://www.hqmc.marines.mil/sja/Branches/MilitaryJusticeBranch(JMJ).aspx">http://www.hqmc.marines.mil/sja/Branches/MilitaryJusticeBranch(JMJ).aspx</a> .</p>
<b>USCG</b>	<p>See Attachment (20).</p> <p><b>ATTACHMENT (20): USCG TJAG Memorandum – Disclosure of Information to Crime Victims (28 Oct 2014)</b></p>