DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

REPLY TO
ATTENTION OF

0 1 OCT 2014

DAJA-ZA

MEMORANDUM FOR Judge Advocate Legal Service Personnel

SUBJECT: Disclosure of Information to Crime Victims – **POLICY MEMORANDUM 14-09**

1. This policy addresses the disclosure of information by prosecutors to victims who report suffering direct physical, emotional, or pecuniary harm as a result of the commission of an offense under the Uniform Code of Military Justice (UCMJ).

2. Background. Military law has traditionally recognized the rights of crime victims in a variety of ways. Their previous statements may be protected by certain evidentiary privileges, and previous behavior by a victim may be inadmissible at trial. Victims of sexual assault may now receive advice and representation from Special Victim Counsel. Congress has recently amended the UCMJ to expressly provide all crime victims with the rights enumerated in Article 6b, UCMJ, which include the right to reasonable, accurate, and timely notice of certain events during the court-martial process.

3. Policy.

a. It is my intent that prosecutors will vigorously protect the rights of victims as prescribed in Article 6b, UCMJ, without compromising the commander's responsibility to promote justice and maintain good order and discipline. Staff Judge Advocates will also ensure timely and accurate notice to crime victims concerning significant proceedings and events in the military justice process in accordance with Article 6b(2), subject to available resources, operational commitments, and military exigencies.

b. The way in which we treat victims will have a significant effect on their ability to heal and recover from the offenses reportedly committed against them and their confidence in the military justice system. Without victim cooperation, it is unlikely that the military justice system will continue to function as efficiently or effectively. Accordingly, all persons working within and in support of the prosecutorial function must ensure that victims of crime are treated courteously and with respect for their privacy.

4. Implementation. To safeguard the rights of crime victims and provide notice as required by Article 6b(2), UCMJ, the prosecution will provide the victim, Special Victim Counsel, if applicable, with the information listed below without request by the victim.

a. Upon preferral of charges:

(1) A copy of all statements and documentary evidence produced or provided by the victim;

(2) An excerpt of the charge sheet setting forth the preferred specifications pertaining to that victim; and

(3) The date, time, and location of any pretrial confinement review pursuant to Rule for Courts-Martial 305, and the preliminary hearing pursuant to Article 32, UCMJ.

b. Upon receipt or filing by the government:

(1) A summarized transcript of the victim's testimony at the preliminary hearing;

(2) An excerpt of the charge sheet setting forth the referred specifications pertaining to that victim;

(3) Any docket requests, as well as docketing or scheduling orders, including deadlines for filing motions and the date, time, and location for any session of trial;

(4) A copy of any motion or responsive pleadings that may limit a victim's ability to participate in the court-martial, affect the victim's possessory rights in any property, concern the victim's privileged communications or private medical information, or involve the victim's right to be heard; and

(5) Any request to interview the victim received from defense counsel.

4. Requests for Information. Staff Judge Advocates will continue to ensure that requests by victims or designated counsel for investigative reports or other documents are processed **without delay** under the applicable procedures of the Freedom of Information Act or Privacy Act.

5. This policy is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord a victim the notice outlined in this policy.

FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

REPLY TO ATTENTION OF:

DAJA-ZA

1 November 2013

MEMORANDUM FOR Judge Advocate Legal Services Personnel

SUBJECT: Office of The Judge Advocate General Policy Memorandum # 14-01, Special Victim Counsel

1. This policy addresses Judge Advocates (JAs) assigned as Special Victim Counsel (SVCs) and is effective immediately.

2. Background. The Secretary of Defense has directed that each service stand-up a special victim advocacy program to provide advice and representation to victims of sexual assault throughout the military justice process. The Secretary specifically directed that initial operating capability (IOC) be established not later than 1 November 2013 and that full operating capability (FOC) be established not later than 1 January 2014.

3. Implementation. SVCs are part of the Army-wide effort to ensure that sexual assault victims are provided responsive and timely support throughout the investigation and judicial proceedings. In support of this Army priority, Staff Judge Advocates (SJAs) are authorized to limit legal assistance services for Retirees and their Family Members. However, each SJA will implement a mitigation strategy for the curtailment of retiree services, such as retiree weekends.

4. Mission. SVCs have the professional duty to provide advice to their clients and to represent their clients throughout the military justice process. The SVC's primary duty is to zealously represent the best interests of their clients as required by the attorney-client relationship even if their client's interests do not align with those of other interested parties, to include the government of the United States. The SVC also helps build and sustain victim resiliency. An SVC should make every effort to establish and maintain an effective, complementary and professional working relationship with all other attorneys associated with a given case, and with other parties involved, including but not limited to investigators, victim advocates, victim witness liaisons, trial counsel, trial defense attorneys, special victim prosecutors and those professionals working to meet the physical, spiritual, and emotional needs of the client.

5. Appointment of SVCs and Length of Assignments. SJAs will appoint JAs to serve as SVCs, who will be part of the Office of the Staff Judge Advocate (OSJA) Legal Assistance Office. While SVCs do not have to be selected from currently serving Legal Assistance Attorneys, SVCs will function as part of the OSJA Legal Assistance Office when performing SVC duties. They should have trial or defense counsel experience. Regardless of experience, the SVCs must have maturity and good judgment to handle this important duty. SVCs should serve no less than one year and no more than two years in the position.

6. Training. Training is essential to honing the expertise of SVCs. The SVC Program Manager (PM), in coordination with The Judge Advocate General's Legal Center and School, the Criminal Law Division and the Legal Assistance Policy Division, will determine training requirements for SVCs and develop and administer a training program for SVCs. Completion of the SVC course is mandatory unless an exception is approved by the SVC PM. Given the nature and timing of certain training events, individuals may attend SVC training courses prior to their actual assignment as an SVC.

7. Supervision. An SVC's professional duty is to their client. SJAs must ensure a proper balance of mentorship and guidance for their SVCs, including supervision by the OSJA Chief of Legal Assistance. SJAs must recognize that SVCs have an ethical obligation to advocate for their clients even when it is not in the best interest of the government. The SJA, through the Chief of Legal Assistance, shall provide day-to-day supervision of the SVC and ensure the SVC is provided the necessary material and resource support to carry out the SVC mission. The OSJA will facilitate SVCs' requests for official travel for cases within their jurisdiction.

8. Relationship with the SVC PM. The SVC PM is responsible for monitoring the overall execution of the SVC program. Chiefs of Legal Assistance and SJAs remain the primary day-to-day supervisory chain for SVCs. However, due to the nature of the SVC function, there will be some cases in which the interests of the SJA and the command are not in concert with the victim's. In those situations, the SVC's technical adviser and supervisory JA for professional responsibility per AR 27-26 is the SVC PM. Our goal is the SVC program should be effective, transparent, avoid conflicts of interest with other legal assistance clients and complement the way our Corps already delivers legal services.

Army Strong!

FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

REPLY TO
ATTENTION OF:

DAJA-ZA

22 JAN 2014

MEMORANDUM FOR JUDGE ADVOCATE LEGAL SERVICES (JALS) PERSONNEL

SUBJECT: Special Victim Prosecutors - **POLICY MEMORANDUM 14-06**

1. This policy addresses Judge Advocates (JAs) assigned as Special Victim Prosecutors (SVPs).

2. Background. SVPs are part of an Army-wide effort to enhance the investigation and disposition process for allegations of sexual assault and family violence. SVPs focus exclusively on sexual assault and family violence cases.

3. Mission.

a. The SVP's primary mission is to develop and litigate special victim cases within their geographic areas of responsibility. SVPs must maintain excellent working relationships with investigating agencies and those professionals who provide crime victims with physical, spiritual, and emotional support.

b. Secondary to their primary mission, to the extent practicable, SVPs will develop and implement a sexual assault and family violence training program for investigators and trial counsel in their area of responsibility using both civilian and military resources. The local Staff Judge Advocate (SJA), with the assistance of their SVP, will ensure that trial counsel receive appropriate sexual assault and special victim training.

c. SVPs will not be tasked to perform non-SVP duties, to include litigation support in non-SVP cases. The AJAG (MLO) may waive this duty limitation.

d. The Trial Counsel Assistance Program (TCAP) manages the operation of the SVP program, including the caseload management between SVPs. All SVPs will coordinate their caseload with the Chief, TCAP. At a minimum, SVPs will provide Chief, TCAP a report of the number and status of each special victim case investigated and prosecuted in their area of responsibility. The AJAG (MLO), with recommendations from SVPs, SJAs, TCAP, and Chief, Government Appellate Division, will determine whether to provide SVP assistance outside the SVP's normal geographic area of responsibility.

4. Duty Location. Presently, SVPs are assigned to the U.S. Army Legal Services Agency with duty at a specific installation in order to support a geographic area of

responsibility as identified by the Personnel, Plans & Training Office (PPTO). SVPs are not subject to deployment without approval from the AJAG (MLO).

5. Rating Scheme. To ensure a proper balance between local and Army-wide needs, the SVP rating chain will include both installation and OTJAG-level supervisors.

a. Captains and majors serving as SVPs will be rated by the Chief, TCAP and senior rated by the SJA of the office that serves as the SVP's primary place of duty. The Deputy SJA or the Chief, Military Justice (CoJ) may serve as intermediate rater if deemed appropriate.

b. Lieutenant colonels serving as SVPs will be rated by the SJA of the office that serves as their primary place of duty and senior rated by the AJAG (MLO).

6. SVP Training. TCAP, in coordination with Criminal Law Division (CLD), OTJAG and The Judge Advocate General's Legal Center and School (TJAGLCS), will execute a SVP training program. Training will consist of foundational courses and follow-on annual training. The AJAG (MLO) may waive the mandatory training requirement.

7. Working Relationships.

a. The SJA will ensure that SVPs receive appropriate administrative and logistical support to carry out the SVP mission.

b. SVPs will provide the local OSJA investigative and litigation support, professional development and training. SJAs will notify their SVP of any allegation of sexual assault or family violence and should detail SVPs to sexual assault and family violence cases within their areas of responsibility. SVPs, TCAP, and SJAs will balance SVP caseload considering SVP training and investigative support duties.

c. The SVP will not serve as the local commander's legal advisor. However, CoJs and/or BJAs will consult with the SVP regarding the disposition, to include charging and referral decisions, charge sheet review and review of investigative file for **every** sexual assault and special victim case in their jurisdiction(s). Unless exceptional circumstances dictate otherwise, SVPs will communicate to the command through the servicing trial counsel and chief of military justice.

FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

DAJA-ZA

25 AUG 2014

MEMORANDUM FOR JUDGE ADVOCATE LEGAL SERVICES PERSONNEL

SUBJECT: Location, Supervision, Evaluation and Assignment of Judge Advocates in Brigades —POLICY MEMORANDUM 14-08

1. This policy addresses Judge Advocates (JAs) assigned to brigade combat teams (BCTs) authorized three JAs (one Major and two Captains) and all other brigades authorized two JAs (one Major and one Captain). Forward recommended changes to Office of The Judge Advocate General (DAJA-PT), 2200 Army Pentagon, Rm 2B517, Washington, DC 20310. NOTE—Use of the term *Staff Judge Advocate* (SJA) in this policy refers to the SJA servicing a BCT or brigade's General Court-Martial Convening Authority (GCMCA) at home station or while deployed.

2. Background.

a. The BCT is the Army's modular force building block of land combat power. The BCT is uniquely capable of operating as an autonomous unit, independent of the standard command and control relationship between a division and an organic brigade. A BCT may operate as a self-contained task force, or it may "fall in" on a higher headquarters element, possibly from a different home station. The Army's brigade-centric approach impacts the Judge Advocate General's Corps' (JAGC) provision of legal services, resulting in an OSJA-BJA shared responsibility for providing legal services. Whether deployed or in garrison, BCT and brigade legal offices are not resourced nor intended to function wholly independent of higher OSJA support. In garrison settings, BCT and brigade legal services must be tightly nested with the garrison OSJA. When deployed, BCT and brigade legal services must be integrated with their higher OSJA organization.

b. The BCT/brigade legal section is responsible for the full spectrum of legal services required by the BCT or brigade and, where it is beyond its capabilities, for coordinating with the OSJA for the delivery of such legal services. CPTs serving as Trial Counsel (TC) in BCT/brigade legal sections are primarily responsible for administering all military justice matters for the BCT/brigade. BCTs are authorized an additional (second) captain (hereinafter "BCT OPLAW JA").

3. Duty Location. The BJA, TC, and, where authorized, BCT OPLAW JA, are all assigned to the BCT or brigade.

a. The BJA will work at the brigade headquarters and lead the BCT/brigade legal section.

b. In garrison, the TC will work at the OSJA military justice section and interact with the BCT/Brigade staff as noted above. This will foster effective training and ensure consistency in the quality of legal services delivered. Although the TC's primary duty location while in garrison is the OSJA military justice section, the nature of military justice necessitates regular interaction with commanders and BCT/Brigade staff at the units involved. I expect TCs to participate, to the fullest extent possible consistent with their military justice responsibilities, in all scheduled BCT and brigade training (e.g., daily PT, field exercises, etc.) and social events. Effective integration of the TC into the BCT and brigade staff is essential to successful legal support and the practice of military justice.

c. The BCT OPLAW JA – normally a first or second tour Captain – will also work in the OSJA. If, however, the SJA, in coordination with the BJA, believes the BCT OPLAW JA has the training and experience to work at the brigade headquarters legal section, then those accommodations will be made. It is the SJA's sole responsibility to ensure the competency of all JAs under his or her supervision.

4. Supervisory Chain. The BJA is a member of the BCT/brigade commander's personal and special staff, with a direct line of communication to that commander. The SJA will provide technical guidance to the BJA, TC, and BCT OPLAW JA, as necessary; however, the brigade commander determines the BJA's routine, day-to-day duties. The TC will be supervised by the BJA during training exercises and operational missions, and supervised by the Chief of Justice in garrison. The BCT OPLAW JA will be supervised by the BJA during training exercises and operational missions, and while working in the OSJA will be supervised by the Chief of Administrative Law, or as the SJA directs.

5. Working Relationships.

a. JAs at every echelon must display the motivation, professionalism, and dedication to duty that are the hallmarks of our Corps regardless of the evolving force structure. JAs must understand the importance of maintaining positive working relationships with one another, as well as their higher and subordinate legal offices. A positive relationship must also exist between the OSJA's Chief Paralegal NCO and the Senior Paralegal NCO at the BCT or brigade.

b. As JAGC senior leaders, SJAs must take every opportunity to teach, coach, mentor, and support less experienced JAs, including BJAs. I expect SJAs to invite BCT and brigade legal personnel to OSJA social events, training events (e.g., Leader Development Program and Non-Commissioned Officer Professional Development), and professional opportunities (e.g., continuing legal education and professional responsibility training). Personnel in the BCT/brigade legal sections BJAs must have the professionalism and maturity to support SJAs, consistent with the demands of their brigades' operational missions.

c. It is optimal that BCT OPLAW JAs are second assignment captains, or captains with prior OSJA experience at that installation. While providing administrative and operational law support to the BCT, it is essential that the BCT OPLAW JA is integrated with the OSJA's administrative law division, whether in garrison or deployed. Administrative law division support to the BCT OPLAW JA will ensure consistency in advice, provide additional technical chain support, and serve as an additional link between the BCT and the OSJA. The BCT OPLAW JA is expected to support other elements under the OSJA's technical chain, including duties as an Article 32 Investigating Officer or Legal Advisor.

6. Rating Scheme. The rating schemes for the BJA and TC will be in accordance with Army Regulation (AR) 623-3, Appendix D. Specifically, the BJA will, wherever possible, be rated by the SJA and senior rated by the BCT or brigade commander, and the TC will normally be rated by the BJA, intermediate rated by BDE XO, and senior rated by the SJA. BCT OPLAW JAs' rating chains will mirror the TC rating chain. These rating schemes are designed to ensure Judge Advocates receive both leadership and mentoring from their unit chain of command as well as professional guidance and development in the practice of law from a senior Judge Advocate. The rating schemes outlined herein are intended to accomplish these goals, while providing maximum flexibility to the BCT or brigade JA's chain of command, under the AR's recognition of dual supervision.

7. Length of Assignments. The BJA will ordinarily be assigned to the BCT or brigade for two years. Tour lengths for the TC and the BCT OPLAW JA will be determined based upon the needs of the Army and JAGC and the professional developmental needs of the officer.

8. Conclusion. As members of dual professions, and in order to provide world-class legal support to our Army, our Soldiers, and our Nation, JAs must leverage the training and mentorship opportunities of both their commands and their technical supervisory chain.

25 Aug 14

FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

SECRETARY OF DEFENSE
1000 DEFENSE PENTAGON
WASHINGTON, DC 20301-1000

AUG 14 2013

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
CHIEFS OF THE MILITARY SERVICES
COMMANDERS OF THE COMBATANT COMMANDS
CHIEF OF THE NATIONAL GUARD BUREAU
DIRECTOR, COST ASSESSMENT AND PROGRAM EVALUATION
DIRECTOR, OPERATIONAL TEST AND EVALUATION
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
ASSISTANT SECRETARIES OF DEFENSE
DEPARTMENT OF DEFENSE CHIEF INFORMATION OFFICER
ASSISTANTS TO THE SECRETARY OF DEFENSE
DIRECTOR, ADMINISTRATION AND MANAGEMENT
DIRECTOR, NET ASSESSMENT
DIRECTORS OF THE DEFENSE AGENCIES
DIRECTORS OF THE DOD FIELD ACTIVITIES

SUBJECT: Sexual Assault Prevention and Response

Eliminating sexual assault from our Armed Forces remains one of our top priorities. This effort requires our absolute and sustained commitment to providing a safe environment in which every Department Service member and civilian is free from the threat of sexual harassment and assault. Our success depends on a dynamic and responsive approach. We, therefore, must continually assess and strive to improve our prevention and response programs.

On May 6, 2013, I directed a range of initiatives designed to strengthen our program in the areas of commander accountability, command climate, victim advocacy, and safety. Today, I am directing immediate implementation of the following additional measures to gain greater consistency of effort and enhance oversight, investigative quality, pretrial investigations, and victim support:

- Improving Victim Legal Support: Secretaries of the Military Departments shall establish a special victim's advocacy program best suited for that Service that provides legal advice and representation to the victim throughout the justice process. Each Service will identify and periodically share best practices, and will establish an initial operating capability not later than November 1, 2013, and a fully established program by January 1, 2014.

- Expanding Victim Rights: General Counsel shall develop draft language for an Executive Order to amend the Manual for Courts Martial to provide victims of crime the opportunity to provide input to the post-trial action phase of courts-martial. Deliver your proposal to me not later than October 15, 2013.

- Enhancing Protections: Secretaries of the Military Departments shall develop and implement policy allowing the administrative reassignment or transfer of a member who is accused of committing a sexual assault or related offense, balancing interests of the victim and accused. Implement this provision not later than January 1, 2014.

- Standardizing Protections: Under Secretary of Defense for Personnel and Readiness shall ensure current policies prohibiting inappropriate relations between trainers and trainees and recruiters and recruits are consistent across the Services. Report your findings to me not later than November 1, 2013.

- Elevating Oversight: Under Secretary of Defense for Personnel and Readiness shall develop policy, standardized across all the Services, that requires status reports of unrestricted sexual assault allegations and actions taken to the first general/flag officer within the chain of command, without delaying reporting to the relevant military criminal investigation organization. Implement this policy not later than November 1, 2013.

- Enhancing Pretrial Investigations: Secretaries of the Military Departments shall mandate that judge advocates serve as investigating officers for all Article 32 hearings on sexual assault offense charges. Implement this policy not later than December 1, 2013.

- Ensuring Investigative Quality: I am requesting that the Department of Defense Inspector General plan to evaluate the adequacy of closed sexual assault investigations on a recurring basis. Respond to this request within 30 days.

Preventing the crime of sexual assault remains our focus. In addition, when a crime does occur, we must ensure that victims' rights are respected, they are provided responsive and timely support, and related investigations and judicial proceedings, if appropriate, are conducted in a thorough, professional, and fair manner. To this end, the measures outlined above will strengthen our overall sexual assault prevention and response programs and efforts. Remember, we are all accountable and responsible for eliminating this crime from our ranks.

Thank you.

cc:
Deputy Secretary of Defense

NOTIFICATION OF SPECIAL VICTIM COUNSEL SERVICES

I, _____, have been advised of my right to consult with a Special Victim Counsel (SVC) provided by the Government at no cost to me.

I understand that the SVC's mission is to provide victims with confidential legal representation related to issues that may arise as a result of being sexually assaulted. The SVC may provide the following services:

- Accompany to and advise client during interviews, examinations, hearings, and court-martial proceedings
- Represent client in court-martial as permitted by law
- Referral to Trial Defense Service for collateral misconduct, if necessary
- Advocate client's interest with Government counsel on disposition options
- Assist client with post-trial submissions to include victim impact statements
- Advise client on collateral civil issues arising from the crime
- Legal assistance services

I understand that I may speak with an SVC and elect representation at any time during the legal, medical, or investigative process. At this time (initial in the applicable blank):

_____ I want to speak to an SVC.

_____ I do not want to speak to an SVC.

_____ _____

(Signature of Victim) (Date)

_____ _____

(Signature of SHARP/SARC/UVA) (Date)

You may contact your servicing SVC, CPT Mealy, directly at the following number:

719-526-0031

In the matter of: US v. _____ U.S. Army, _____, GCM

Convened by Commander, Headquarters, Fort Carson, Fort Carson, Colorado 80913

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

CITY STATE ZIP

PHONE NUMBER: _____

I was a victim in the above entitled court-martial. I acknowledge that under Article 60(d), UCMJ, I am entitled to receive a copy of the authenticated record of proceedings of the court-martial as soon as practicable. I am also entitled to submit matters to the convening authority who is taking action on this case before such action is taken.

❑ I elect to submit matters.

_____I understand that I have 10 days from receipt of the authenticated record and the Staff Judge Advocate's Recommendation to submit matters to the convening authority.

_____I understand that I may request an extension of up to 20 additional days if necessary for good cause.

_____I understand that my matters and any request for extension should be submitted to the: **Office of the Staff Judge Advocate, ATTN: Post-Trial Section, 1633 Mekong Street, Building 6222, Fort Carson, Colorado 80913-4303**.

_____I understand that if I fail to submit matters within the time allotted, the convening authority will proceed to take action on the case.

_____ I understand that any matters I submit must be served on the accused and/or accused's counsel for opportunity to comment as "new matter" under R.C.M. 1106(f)(7).

❑ I do not wish to submit matters.

_____ _____

Date Signature

Please sign/date and return to the Office of the Staff Judge Advocate, ATTN: Post-Trial Section, 1633 Mekong Street, Building 6222, Fort Carson, Colorado 80913-4303 [Fax: (719)-526-1469, Email: roger.r.lane.civ@mail.mil]

If you have questions please call: Mr. Roger (Ray) Lane, Post-Trial Paralegal Specialist at: (719) 526-0040, Monday – Thursday between 0630 and 1700 hours. On Fridays you may call SPC Girodier in the Military Justice Division at: (719) 526-0496.

In the matter of: US v. _____ U.S. Army, _____, GCM

Convened by Commander, Headquarters, Fort Carson, Fort Carson, Colorado 80913

NAME: _____

ADDRESS: _____

CITY, STATE, ZIP: _____
CITY STATE ZIP

PHONE NUMBER: _____

I was a victim in the above entitled court-martial. I acknowledge that under Article 60(d), UCMJ, I am entitled to receive a copy of the authenticated record of proceedings of the court-martial as soon as practicable. I am also entitled to submit matters to the convening authority who is taking action on this case before such action is taken.

_____I understand that a copy of the authenticated record of trial and Staff Judge Advocate's post trial recommendation will be served on me, or if I so request, will be forwarded to my Special Victim Counsel, _____ (**name of counsel**).

_____I **(authorize) (do not authorize)** my Special Victim Counsel to accept service of the authenticated record of trial and Staff Judge Advocate's post trial recommendation on my behalf.

_____I understand that if I have matters that I wish the convening authority to consider, or matters in response to the Staff Judge Advocate's recommendation, such matters must be submitted within 10 days after a receive a copy of the record of trial or the recommendation of the Staff Judge Advocate, whichever occurs later. If I authorized service to my Special Victim Counsel, the 10 day period begins to run after my counsel receives the record of trial or the recommendation of the Staff Judge Advocate, whichever occurs later.

_____I understand that I may request an extension of up to 20 additional days if necessary for good cause.

_____I understand that my matters and any request for extension should be submitted to the: **Office of the Staff Judge Advocate, ATTN: Post-Trial Section, 1633 Mekong Street, Building 6222, Fort Carson, Colorado 80913-4303.**

_____I understand that if I fail to submit matters within the time allotted, the Convening Authority will proceed to take action on the case.

_____ I understand that any matters I submit must be served on the accused and/or accused's counsel for opportunity to comment as "new matter" under R.C.M. 1106(f)(7).

_____I understand that it is my responsibility to inform the Office of the Staff Judge Advocate and/or my Special Victim Counsel of any changes to the contact information I have listed above.

☐ I do not wish to submit matters. I understand that my waiver of the right to submit matters to the Convening Authority cannot be revoked.

_____ _____

Date Signature

Please sign/date and return to the Office of the Staff Judge Advocate, ATTN: Post-Trial Section, 1633 Mekong Street, Building 6222, Fort Carson, Colorado 80913-4303 [Fax: (719)-526-1469, Email: roger.r.lane.civ@mail.mil]

If you have questions please call: Mr. Roger (Ray) Lane, Post-Trial Paralegal Specialist at: (719) 526-0040, Monday – Thursday between 0630 and 1700 hours. On Fridays you may call SPC Girodier in the Military Justice Division at: (719) 526-0496.

DEPARTMENT OF THE ARMY
HEADQUARTERS
7th INFANTRY DIVISION
JOINT BASE LEWIS-McCHORD, WASHINGTON 98433-9500

:PLY TO
'TENTION OF:

XX Month Year

Office of the Staff Judge Advocate

Name
5655 North Division
Joint Base Lewis-McChord

Dear Name:

Please find attached the post-trial recommendation of the Staff Judge Advocate in the case of U.S. v. CASENAME. The written recommendation of the Staff Judge Advocate is required in all court-martial cases prior to the Convening Authority taking "Action" on the findings and sentence. The Staff Judge Advocate is the principal legal advisor to the Convening Authority and has functions similar to those of a District Attorney in the civilian community. The Convening Authority is the officer, usually a General Officer, who convened the court-martial. Under Article 60 of the Uniform Code of Military Justice (UCMJ), the Convening Authority must act in all cases where a Soldier was convicted of any offense. The Action of the Convening Authority may simply approve the sentence adjudged by the Military Judge or Panel (Jury) in the case. However, under the provisions of Article 60, UCMJ and Rules for Courts-Martial 1107(d), Manual for Courts-Martial (2012), the Convening Authority may for any or no reason disapprove a legal sentence in whole or in part, mitigate the sentence, and change a punishment to one of a different nature as long as the severity of the punishment is not increased.

Although not required, the Convening Authority has broad discretion to grant clemency. He or she can disapprove the finding of guilty and the sentence. He also may disapprove or lessen one or more elements of the sentence such as the term of confinement or the Bad Conduct Discharge. Action therefore provides an opportunity for the convicted Soldier to submit matters in extenuation or mitigation or to raise legal error and request some form of clemency from the Convening Authority.

As a victim in the above referenced court-martial you also have the right to be heard in this process. In order to allow you to more meaningfully participate, you also have the right to receive a copy of the record of trial in this case as well as the formal recommendation of the Staff Judge Advocate. You may submit matters to the convening authority for his or her consideration prior to action being taken on the findings and sentence. Matters you submit would therefore be most helpful, if they expressed your thoughts and wishes regarding whether or not to grant clemency in this case. Your matters can take virtually any form (pictures, documentary evidence, etc.), but written statements, formal or informal, are generally considered most helpful.

You have ten (10) days to submit matters for the Convening Authority's consideration prior to taking action in the case upon receipt of this letter. The time for filing your matters may be extended an additional twenty (20) days upon a showing of good cause. You may also waive your right to submit matters. A form to memorialize your decision is attached. Please use the enclosed envelope to return this form to the undersigned at the below address or, if more convenient, you may reply by email to jonathan.d.hoag.mil@mail.mil.

Sincerely,

Major, US Army
Chief, Military Justice

VICTIM/WITNESS ISSUES

- VWL: Primary POC through which victims and witnesses may obtain information and assistance
  - Victim and witness services
  - Information regarding the status of the investigation
  - Facilitator and Coordinator
  - Refer all victims to [redacted]
- Ms. [redacted]
- Special Victim Advocates: new position
  - CPT [redacted]

VWAP 101

"This is one experience that one does not plan for, is not prepared for, has no knowledge of who or where to turn."

--a victim

Final Report of the President's Task Force on Victims of Crime dated December 1982.

VICTIM WITNESS ASSISTANCE OVERVIEW

- Regulations
- The DoD Policy
- VWAP Requirements
- The Role of the VWL
- DD Forms
- Victims' Rights
- Crime Victims' Fund
- Lessons Learned

REFERENCES

- 42 USC Chapter 112
- 18 USC §§ 1512-1514
- DoD Directive 1030.1
- DoD Instruction 1030.2

References Continued

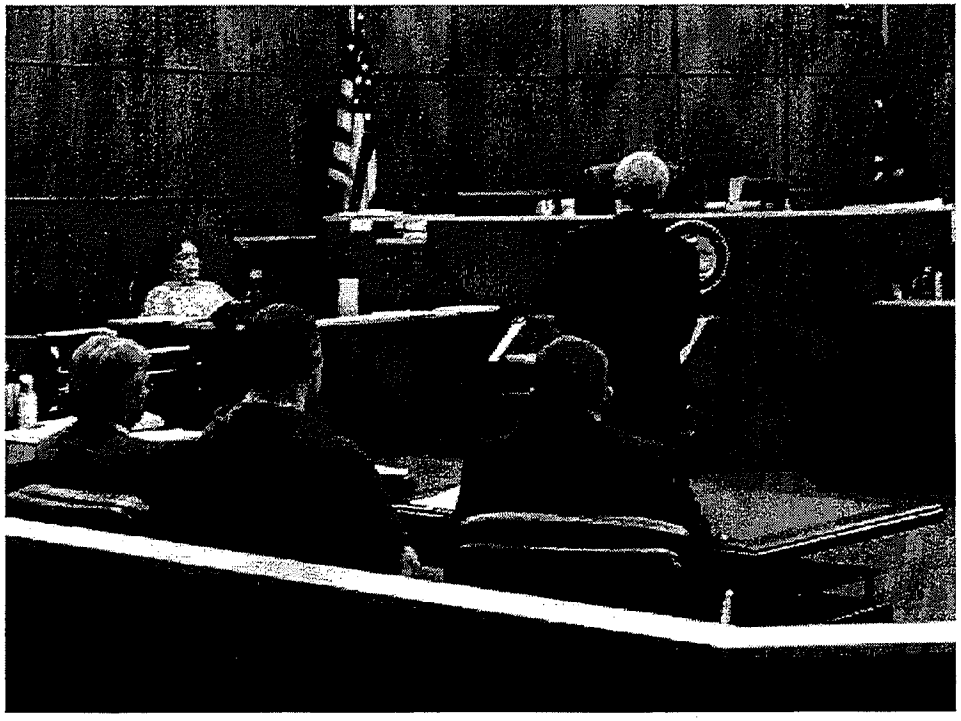
- Service Regulations
  - AR 27-10, *Military Justice* (Chapter 17)
  - Appendix D-1 and D-2 V/W Checklist
  - AFI 51-201 (Chapter 7)
  - OPNAVINST 5880.7
  - MCO P5800.16A (LEGADMINMAN) Chapter 6
  - No Cause of Action

- These provisions are not intended to and do not create any entitlements, causes of actions, or defenses, substantive or procedural, enforceable at law, by any victim, witness, or other person in any matter, civilian or criminal, arising out of the failure to accord a victim or witness the services enumerated in this chapter. No limitations are hereby placed on the lawful prerogatives of DA or its officials.

DOD POLICY

- "The necessary role of crime victims and witnesses in the criminal justice process should be protected."
- "The DoD Components shall do all that is possible within the limits of available resources to assist victim and witnesses of crime…"

Victims' Rights do not infringe on the rights of the accused. Accused is still presumed innocent
Accused is still entitled to a fair trial.



DOD'S DEFINITION OF A VICTIM

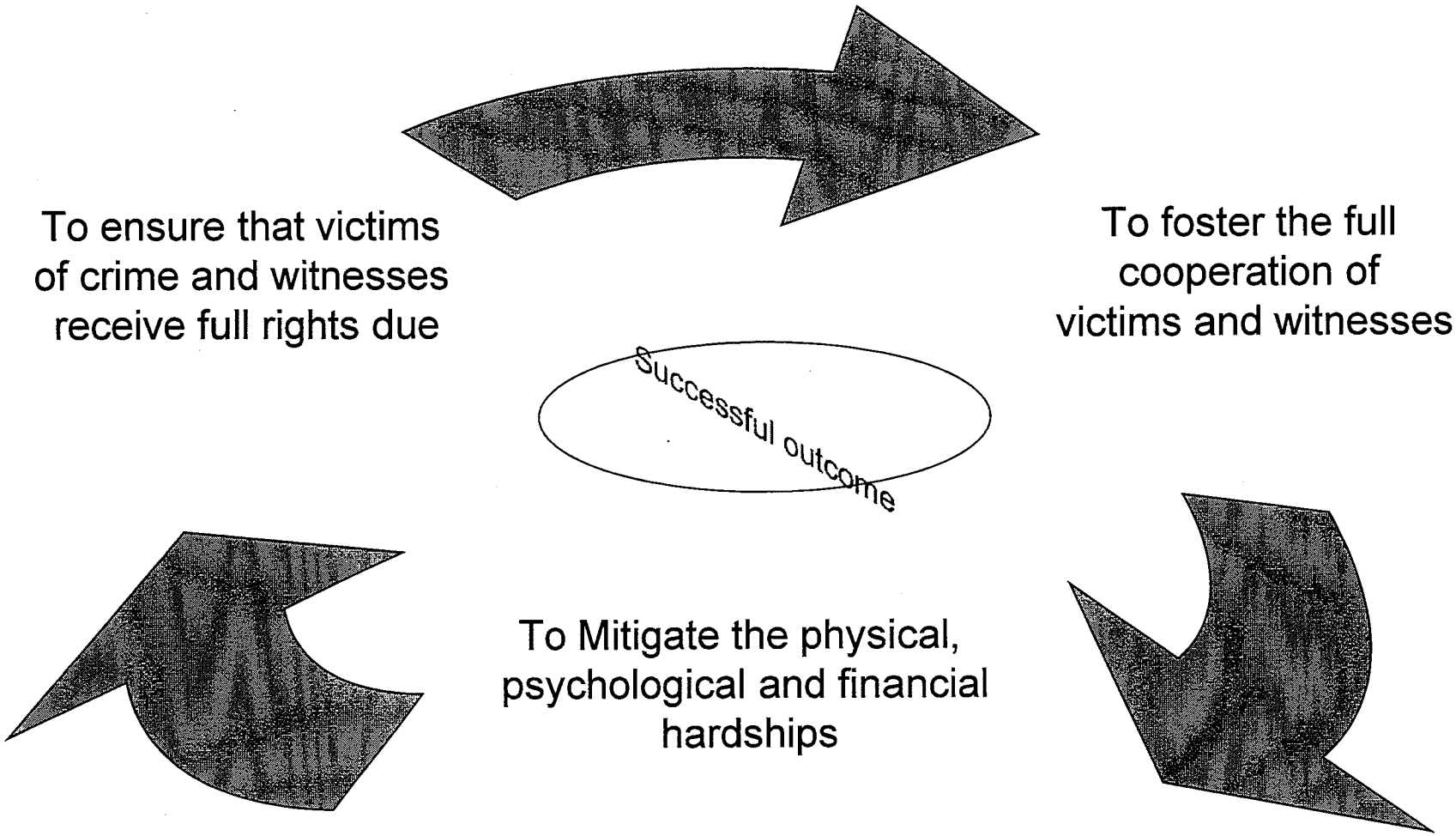
- Person who has suffered direct physical, emotional or financial harm as a result of crime
  - UCMJ Violation
  - other jurisdiction

- Includes
  - military members
  - family members
  - spouse/parent/guardian
    - minor
    - incompetent
    - incapacitated
    - deceased
  - institution's authorized representative

DOD'S DEFINITION OF A WITNESS

- Person who has information or evidence about a crime and provides that knowledge to military investigators or prosecutors
- Includes Family member or legal guardian of a minor
- Does <u>not</u> include defense witness, perpetrator, or accomplice

GOALS FOR VWAP



APPLICATION

- Military Components involved in
  - Detection, investigation & prosecution of crime
  - Detention & incarceration of accused
- Victim & Witnesses
  - UCMJ & Federal Court Proceedings
  - State & Foreign when involved in military justice investigations or proceedings

CID, MILITARY POLICE AND FIRST RESPONDERS

- Earliest opportunity without interfering with investigation Identify victims & witnesses

- Provide Victims & Witnesses with a DD Form 2701 Record IAW DoDI 1030.2

SVP

- Since 2009, the Army has directed the creation of 15 slots for "SVPs." As of 2013, now 24.
- These lawyers enhance the prosecution of offenders, unique training and specialization.
- SVPs are more senior and experienced; they are nominated for the positions.
- They do not serve any installation or commands
- Like a VWL they work with all types of victims.

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation contact the investigator below:

MPI CID Agent

(Name)

(719) 526-0085 (719) 525-3991

(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

Christa Thompson

(Name)

(719) 526-1383

(Telephone Number)

In regard to the prosecution, contact the legal office below:

Military Justice

(Name)

(719) 526-0600

(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

ART 139 Claims, (719) 526-5572

(Name)

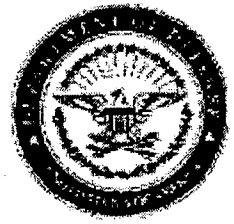
Victim Compensation Office (719) 520-6049/6051

(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
http://dod.mil/vwac

DEPARTMENT OF DEFENSE



INITIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

DD FORM 2701, MAY 2004

Initial Information
For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist.

If You Were a Victim of Spouse or Child Abuse. For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

DOD BILL OF RIGHTS

1. To be treated with fairness and respect for the victim's dignity and privacy
2. To be reasonably protected from the accused offender
3. To be notified of court proceedings
4. To be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial, or for other good cause
5. To confer with the attorney for the Government in the case
6. To restitution, if appropriate
7. To information regarding conviction, sentencing, imprisonment, and release of offender from custody

SVC

- Beginning 1 Nov 2013, Soldiers who report they have been the victim of a sexual assault can elect to have a Special Victims Counselor assigned to them.
- The SVC represents the victim's need throughout the course of the legal proceedings that might follow the report of a SA.
- The VWL is still required to keep the victim notified with the DD Forms & through the SVC

REQUIRED DD FORMS

DD Form 2701 - Initial Information for Victims and Witnesses of Crime

DD Form 2702 - Court-Martial Information for Victims and Witnesses of Crime

DD Form 2703 - Post-Trial Information for Victims and Witnesses of Crime

DD Form 2704 - Victim/Witness Certification and Election Concerning Inmate Status

DD Form 2705 - Victim/Witness Notification of Inmate Status (Corrections Report)

DD Form 2706 - Annual Report on Victim and Witness Assistance

Download forms from: http://www.apd.army.mil/

WHO PROVIDES THE DD FORMS

- CID, 2701, 2706
- MPs, 2701, 2706
- MPI, 2701
- VA, 2701
- TC or other Gov't Rep, 2701, 2702, 2703, 2704
- VWL, 2701, 2702, 2703, 2704, 2706
- RCF, 2705, 2706

RESPONSIBILITY

- TJAG is component responsible official
- SJAs are local responsible officials
  - establish & provide overall supervision
  - ensure coordination
  - establish multidisciplinary council
  - ensure local management controls
- IG provides additional oversight & review

TRAINING & PUBLICITY

- SJAs ensure annual training
  - victims' rights
  - available compensation
  - providers' responsibilities
  - regulatory requirements & procedures
- SJAs ensure publicity
  - Bill of Rights & pamphlets
  - Public Affairs & command policy letters

DoD Bill of Rights
for
Victims and Witnesses of Crimes

A CRIME VICTIM HAS THE FOLLOWING RIGHTS:

- To be treated with fairness and respect for the victim's dignity and privacy
- To reasonable protection from the accused offender
- To notification of all court proceedings
- To be present at all public court proceedings, unless the court determines the victim's testimony would be materially affected if the victim heard other testimony at trial
- To confer with the attorney for the government in the case
- To appropriate restitution, when available; and
- To information about the conviction, sentencing, confinement and release of the offender.

For More Information Contact Christa Thompson, Office of the Staff Judge Advocate, Building 6285 (526-1383)

VICTIM-WITNESS LIAISON (VWL)

- SJA designates VWLs in writing
- VWL's role is facilitator & coordinator
  - primary POC for information
  - does not provide specific services (unless qualified)

VWL CONTINUED

- Provides DD Forms
- Rights advisement
- Provide qualified victims with option to retain the Special Victim Counsel in writing.
- Educates the victims and witnesses
- Acts in conjunction with the UVA

VWL CONTINUED

- No limitation on the types of victims

INITATION OF SERVICE TO VICTIMS

- The impression you make is going to stay with that victim for a life time
- All are different
- Treat victims like you would want a member of your family treated
- Special attention to victims of serious, violent crime, including child abuse, domestic violence, and sexual assault
- Use checklist provided in Appendix D

HOW DO YOU MAKE CONTACT WITH THE VICTIM?

SAMPLE LETTER

Ms. Victim Name
4905 Home Street.
City, State Zip

Dear Ms. Name:

We in the (Location) Military Justice Division regret that you have become a victim of a crime. I am aware that you have suffered a terrible ordeal and now you are faced with dealing with those of us in a system that may seem confusing to you.

The Victim-Witness Assistance Program has been established in this office to assist you through the upcoming criminal investigative process and aid in the recovery from any trauma this event may have caused. Enclosed you will find an application for the Colorado Victims' Compensation Program. After you complete the application you can either mail it, or hand carry it, to the Victim Compensation Program's address on the cover sheet. To further assist you I have enclosed two brochures. The first one titled "Initial Information for Victims and Witnesses of Crime," explains your rights as a victim of a crime. The second one titled "Court-Martial Information for Victims and Witnesses of Crime", explains the military justice system.

Your complaint is currently being investigated. Please contact this office if you wish to be kept informed on the status of this case. Please understand that it can take several weeks to investigate a case. We are aware that this delay may be difficult for you however, it is often completely unavoidable. The government's attorney assigned to handle this case is Captain Doe.

If you have any questions or concerns please contact the undersigned at (###) ###-####. The Victim/Witness Assistance office is open Monday through Friday 7:30 a.m. to 4:00 p.m. Victim Advocate Services are available 24 hours a day by calling the on-call pager at (###) ###-####.

VWL CONTINUED

- Provides VWAP Training
- Publicize VWAP
- Chair the VWA Council
- Provide annual statistical report, DD Form 2706, to your MACOM of number of victims and witnesses who received services
- Provide information about compensation available to victims of crime

VWL CONTINUED

- Creditors, employers, transportation/child care
- POC for victims and witnesses regarding information concerning results of courts-martial or status of administrative separation process
- Provide documentation to VWC at RCF for notification procedures after trial

VWL CONTINUED

- Interviews
  - AR 27-26
  - Para 17-19d, AR 27-10
  - Recordings
  - Potted Plant
  - Victim's choice for support
- No confidentially

CONSULTATION WITH VICTIM

- When appropriate, trial counsel shall consult
  - Decision not to prefer charges
  - Decisions on pretrial restraint or release
  - Pretrial dismissal of charges
  - Negotiations on pretrial agreements & terms
- Consultation may be limited when justified
- Victim's views considered (not controlling)

"I make a pretty good team!"

CRIME VICTIM'S FUND

A Unique Source of Funding

Criminals Pay - Not Taxpayers!

- Criminal Fines
- Penalty Fees
- Forfeited Bail Bonds
- Special Assessments
- Every State has a Victim's Compensation Program

TRACKING PROGRESS

- Create a file with the victim's contact information
- Keep notes of dates that you contacted the victim
- Notes should be brief and to the point
- VWL notes are discoverable
- Track distribution of DD Forms

VICTIM SERVICES

- Social Work Services
- Counseling
- Respite Care
- State Funded Victims' Compensation
- VA Referral
- RO Military and Civilian
- Relocation for safety
- AER
- Local Charities and Abuse Shelters
- Threat to Life Program for AD

PREFERRAL OF CHARGES

- The VWL, TC, or other Gov't Rep will notify victim and key witnesses
- Next step 32 hearing, defense and prosecution will want to interview
- Provide DD Form 2702

The DD Form 2702

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

Christa Thompson

(Name)

(719) 526-1383

(Telephone Number)

Trial Counsel

CPT John Smith

(Name)

(719) 526-0000

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:

http://dod.mil/vwac

DEPARTMENT OF DEFENSE

COURT-MARTIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

DD FORM 2702, MAY 2004

Court-Martial Information For Victims and Witnesses of Crime

Introduction.

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferral of Charges.

Like a civilian criminal "complaint," the preferral of charges begins the criminal trial process. Upon preferral, you may participate in the case at several points as outlined below.

Pretrial Conference.

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing.

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

Court-Martial.

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

Testimony.

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

Pointers When Testifying.

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument.

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

RESULT OF 32 HEARING
&
REFERRAL OF CHARGES

- Notify regarding the recommendation of the I.O
- Notify when the CA Refers the case to Court-Martial

COURT-MARTIAL

- Notify the Victim and Witnesses of the dates of the court-martial
- Accompany victim to court
- Meet with all prosecution witness at the courthouse
- Explain the court-marital process
- Provide DD Forms 2703 and 2704 (2701 and 2702 if still needed)
- Complete Application for Transitional Compensation (dependent abuse only)

VICTIMS' RIGHT TO BE PRESENT

- Manual for Courts-Martial Rule 615

  Sec. 4. Part III of the Manual for Courts-Martial, United States, is amended in Mil. R. Evid. 615 by striking the period at the end of the rule and adding ", or (4) a person authorized by statute to be present at courts-martial, or (5) any victim of an offense from the trial of an accused for that offense because such victim may testify or present any information in relation to the sentence or that offense during the presentencing proceedings.". (MJ has final decision)

Your Rights As A Victim.

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;

- To be reasonably protected from the accused;

- To be notified of court proceedings;

- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;

- To confer with the attorney for the Government (Trial Counsel) in the case;

- To receive available restitution;

- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

Points of Contact:

Service Central Repository

150 Army Pentagon, Washington, DC 20310

(Name)

(703) 428-7707

(Telephone Number)

Confinement Facility

Christa Thompson

(Name)

(719) 526-1383

(Telephone Number)

Service Clemency and Parole Board

Army Clemency and Parole Board

(Name)

(703) 571-0537 or (703) 571-0535

(Telephone Number)

Other

Christa Thompson, VWL

(Name)

(719) 526-138

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
http://dod.mil/vwac

DEPARTMENT OF DEFENSE

POST-TRIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

DD FORM 2703, MAY 2004

Previous edition is obsolete.
Adobe Professional 7.0

Post-Trial Information For Victims and Witnesses of Crime

Introduction.

This brochure details the post-trial process and your rights in that process. Most important is your right to be notified of changes in the confinement status of the offender in your case.

Location of Confinement Facility.

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "inmate", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the inmate will be held there temporarily.

Depending on the security level of the inmate, he/she may be assigned to various work details around the installation. If the inmate's period of confinement is minimal, and there are adequate facilities on the installation, the inmate may serve the entire sentence at the installation.

If there is no confinement facility at the installation, the facility is not adequate to house the inmate, or the sentence is in excess of what is handled on the installation, he/she will be taken to a regional confinement facility. The inmate may later be transferred to other facilities available, based on length of sentence, programs and security levels. You will be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status." It is very important that you keep the confinement facility informed of your current address and telephone number.

Convening Authority Action.

The other parts of the sentence (e.g., forfeitures of pay, reduction in rank) will not be effective until the "convening authority", usually a senior officer, takes "action" on it, generally within 6 to 9 months. The convening authority may disapprove the findings, disapprove or reduce any part of the sentence, or approve everything except a punitive discharge. The convening authority cannot increase any part of the sentence. You have the right to submit a statement to the convening authority on how you feel about the inmate receiving clemency. You can ask the Trial Counsel about this right.

Clemency and Parole Consideration.

Military inmates are eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. You may make a statement to the Clemency and Parole Board on how the crime affected you. The statement may be on audio or video tape or in writing and may be sent to the Service Clemency and Parole Board at the address on the back of this page. A personal appearance before the Board may also be permitted.

Notification Rights.

You have the right to be notified in writing of the following changes in the inmate's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the inmate is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance.

How To Exercise Your Rights.

If you want to exercise these rights, and be notified of the dates of any clemency and parole hearings, and changes in the inmate's status, you must fill out DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status." You MUST notify the Service Central Repository of all address and telephone number changes if you want to receive notices. This information will be kept confidential.

Points of Contact.

From now on, your point of contact will be the confinement facility or the Service Central Repository listed on the back of this page. Please call if you have any questions.

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 10607 et seq.; 18 U.S.C. 1512 et seq; DoDI 1325.07; DoDI 1030.2; and DoDD 1030.1.
PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in prisoner status.
ROUTINE USES: None.
DISCLOSURE: Voluntary however, failure to provide identifying information will prevent the correctional facility from notifying victim or witness of changes in a criminal offender's status.

SECTION 1 - ADMINISTRATIVE INFORMATION

Incident Number _____

Installation FORT CARSON City FORT CARSON State CO ZIP Code 80913

Court-martial case of United States v. SPC John Doe (*Prior Name of Accused (Last, First, Middle initial)*) 9999 (*Social Security Number (last 4 only)*)

Convened by CMCO #2, dtd 1 Mar 2013, HQ, Fort Carson, CO 80913
(*Court-Martial Convening Order Number, Date, and Issuing Convened*)

SECTION 2 - CERTIFICATION OF NO VICTIM(S) OR WITNESS(ES)

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by 42 U.S.C. 10607 et seq. and U.S.C. 3771 et seq.

_____ (*Date (YYYYMMDD)*) _____ (*Signature of Trial Counsel or Designee*) _____ (*Type Name (Last, First, Middle initial)*)

_____ (*Grade and Title*) _____ (*Telephone Number (Include area code)*)

IF THERE ARE NO VICTIM(S) OR WITNESS(ES), STOP HERE AND SKIP TO SECTION 4.

SECTION 3 - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)

I certify that on this date I personally notified the victim(s) and witness(es) in the above-named court-martial case that included a sentence to confinement, of their right under 42 U.S.C. 10607 et seq., and U.S.C. 3771 et seq., to receive information about the status of the prisoner named in Section 1 of this form, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the prisoner's parole hearings, release from confinement, escape and death. I advised the victim(s) and witness(es) that to receive notification of the prisoner's transfer, parole hearings, and release confinement, the victim or witness MUST PROVIDE THE INFORMATION REQUIRED ON PAGE 2 OF THIS FORM. I advised all victim(s) and witness(es) that if they elect to terminate or reinitiate notifications or if they change their address, they must contact the Military Service Central Repository listed in Section 4. When a Victim or Witness is not present to initial box 4 (on page 2 of this form) the Trial Counsel or Designee shall contact the Victim or Witness in order to determine their election choice (Yes or No). Once verified, the Trial Counsel or Designee shall initial box 4 indicating and validating the Victim's or Witness's election choice.

20130513 (*Date (YYYYMMDD)*) _____ (*Signature of Trial Counsel or Designee*) THOMPSON, CHRISTA C. (*Type Name (Last, First, Middle initial)*)

Paralegal, Victim Witness Liaison (*Grade and Title*) (719) 526-5383 (*Telephone Number (Include area code)*)

SECTION 4 - DISTRIBUTION

1. MILITARY SERVICE CENTRAL REPOSITORY	2. LAW ENFORCEMENT/SPECIAL INVESTIGATION	3. CORRECTIONAL FACILITY
Army Corrections Command Victim/Witness Central Repository Manager 150 Army Pentagon Washington, DC 20310-0150 (703) 428-7707	Criminal Investigation Division Building 1336 Specker Ave. Fort Carson, CO 80913 (719) 526-3691	

SECTION 6 - LIST OF VICTIM(S) AND WITNESS(ES)
VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS

Court-martial case of United States v. SPC John Doe (Printed name of accused - Last, first, middle initial) 9999 (SSN - last 4 only)

STATEMENT OF UNDERSTANDING: The victim(s) and witness(es) that have elected to receive information about changes in the status of the prisoner are required to notify the respective Military Central Repository with an accurate address and telephone number to continue receiving notifications on the prisoner's status, if their relocation results in changes to their address and/or telephone numbers.

STATEMENT OF TRANSFER NOTIFICATION: This transfer notification only applies in the event the above named prisoner is permanently transferred to another Federal, State or local law enforcement agency or correctional facility. The victim(s) and witness(es) will be notified using the address on file by DD Form 2705 of the prisoner's new location. The receiving Federal, State, or local agency will be responsible for all further notifications to the victim(s) and witness(es) about the prisoner's status. The military correctional facility retains responsibility for domestic house notifications.

INSTRUCTIONS: LIST ALL VICTIMS AND WITNESSES INVOLVED IN THE CASE Using the drop-down box, indicate whether Adult, Parent, Legal Guardian, Minor/Age, Incompetent, Incapacitated. If under 18 years old, incompetent or incapacitated, also list parent or legal guardian's name. Using the next drop-down box, indicate whether victim (V), witness (W), or victim and witness (V&W). For all minor victims/witnesses, ensure minor status and age (at time of CM) are identified after their full name in Column 1. All minors, incapacitated and incompetent persons require a competent adult to be notified on their behalf by placing an adult and minor victim in the same row. Individuals that elect to be notified of prisoner status changes initial the "Yes" block in Column 4; all others initial the "No" block adjacent the respective name. The Trial Counsel or Designee (TC/D) are required to sign their initials in the Yes or No box in Column 4 for unavailable victims or witnesses.

1. NAME - Last, First, Middle Initial/AFFILIATION/STATUS (Select affiliation and status from drop-down lists.) (Provide age if Victim/Witness is a minor) (List Parent or Guardian if victim/witness is under 18 or incompetent or incapacitated.)			2. ADDRESS - Street, Apartment No., City, State, ZIP Code (If under 18 years old, incompetent or incapacitated, also list Parent or Legal Guardian's address if different from victim/witness)	3. TELEPHONE NUMBER (Include Area Code) (If under 18 years old, incompetent or incapacitated, also list Parent or Legal Guardian's number, if different from victim/witness)	4. NOTIFY (Initial) YES	NO
Doe, Cindy	Minor/Age:13	V	999 Neverland Court Nowhere, CO 80906	(719) 222-0100	CD	
Doe, Mary	Parent	V			TC/D:	
Smith, John CPT	Adult	W	222 Forever Rd. Tomorrow, CO 80612	(719) 526-0100	JS	
					TC/D:	
					TC/D:	
					TC/D:	
					TC/D:	
					TC/D:	
					TC/D:	
					TC/D:	

POST TRIAL

- Send thank you letter to the victims or witnesses with a copy of the DD Form 2704
- For any case that is sent to the Clerk of Court for ACCA, also send a copy of the DD Form 2704 to Office of the Clerk of Court, ATTN: Victim Coordinator
- Send out Evaluation Form with Postage Paid Envelope, DA 7568

Post Trial Continued

- Confinement facility should now contact victim and witnesses with updates on the inmate's confinement status
- Does the DD Form 2704 get attached to any portion of a record to which the offender has access?

I would like to take this opportunity to express my sincere appreciation for your assistance and testimony in the court-martial, U.S. v. PVT John Smith. Private Smith was found guilty of 1 count of wrongful use of methamphetamine, 2 counts of failure to repair and 5 counts of AWOL, and received the following sentence: confinement for 4 months (52 days credit for pretrial confinement) and to be discharged with a bad conduct discharge (BCD). The Army does not issue the BCD until the soldier's appeals are finalized.

Enclosed is your copy of the Victim/Witness Certification and Election Concerning Inmate Status, DD Form 2704. The DD Form 2704 has been forwarded to the Fort Knox Regional Confinement facility. The Fort Knox Regional Confinement facility will notify you if the inmate is transferred, eligible for parole, or released from confinement. I want to remind you that you are responsible for notifying the confinement facility if you change your address or phone number. If at a later date you elect to terminate your request for notification about this inmate, you must contact the Fort Knox Victim/Witness Coordinator, Ms. Mclaurin.

If you have any questions or concerns regarding this inmate or your rights, please contact the Victim/Witness Coordinator for the confinement facility at (502) 624-5942 or DSN 464-5942.

NOTIFICATION TO VICTIM/WITNESS OF PRISONER STATUS

(This form is exempt from Freedom of Information Act release.)

EXPLANATION: This form is being used to give basic information on changes in a prisoner's status to victims and witnesses who have elected, on the DD Form 2704, to be notified. The correctional facility holding the prisoner must promptly notify victims and witnesses of initial entry into confinement and of prisoner status changes in accordance with DoDI 1030.2 and DoDI 1325.07.

SECTION 1 - DISTRIBUTION

1. TO: (Victim or Witness)			2. FROM: (Victim/Witness Assistance Coordinator of Correctional Facility/Unit)		
a. NAME (Last, First, Middle Initial)			a. NAME (Last, First, Middle Initial)		
b. STREET ADDRESS (Include apartment no.)			b. STREET ADDRESS		
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE
f. TELEPHONE NUMBER (Include area code)			f. TELEPHONE NUMBER (Incl area code)	g. EMAIL	

SECTION 2 - PRISONER RELEASE ELIGIBILITY DATE AND DISPOSITION BOARD HEARINGS

3. PRISONER NAME (Last, First, Middle Initial)	4. REGISTRATION NUMBER	5. MINIMUM RELEASE DATE (YYYYMMDD)	6. MAXIMUM RELEASE DATE (YYYYMMDD)
7. SCHEDULED CORRECTIONAL FACILITY BOARD DATE (YYYYMMDD)	8. PAROLE ELIGIBILITY DATE (YYYYMMDD)	9. CLEMENCY ELIGIBILITY DATE (YYYYMMDD)	

10. ADDRESS OF CORRECTIONAL FACILITY/RIG DISPOSITION BOARD

NOTE 1: Prior to the Service Clemency and Parole Board meeting, each facility will hold a Disposition Board to review the prisoner's clemency and parole submissions.
NOTE 2: You may submit documentation to the Facility Disposition Board when the prisoner is scheduled to appear. If you would like to submit a Victim Impact Statement to the Board, please mail it to the above address as soon as possible. Your statement may be submitted in the form of a letter, or electronic media. This Board reviews all Victim Impact Statement(s) in the original media they were submitted. Upon review of all the information available, the board adds its recommendation to the case file and the entire record, including the Victim Impact Statement(s), are forwarded to the Service Clemency and Parole Board.
NOTE 3: Victim Impact Statement(s) concerning U.S. Navy and Marine Corps Personnel will be submitted directly to the U.S. Naval Clemency and Parole Board.
NOTE 4: The facility Victim/Witness Coordinator will notify you in advance of the approximate date of an upcoming Service Clemency and Parole Board hearing.

11. ADDRESS OF SERVICE CLEMENCY AND PAROLE BOARD

NOTE 1: If you wish to appear at the Service board, you must obtain approval 30 days prior to the scheduled board date by contacting the appropriate Board: US Army: 1-703-602-1180, US Navy 1-202-685-6455, US Marine Corps 1-202-685-6436; US Coast Guard 1-785-357-9450.
NOTE 2: The Air Force Clemency and Parole Board does not permit personal appearances by or on behalf of the prisoner, victims or other interested individuals; but does allow these parties to submit written, audio or video statements.

SECTION 3 - CHANGE IN PRISONER STATUS

12. PRISONER'S SENTENCE TO CONFINEMENT CHANGED AS FOLLOWS:

13. PRISONER HAS BEEN APPROVED FOR (Check one or more as applicable)

☐ a. CLEMENCY (Date - YYYYMMDD)	☐ b. PAROLE (Date - YYYYMMDD)	c. MSR (Date - YYYYMMDD)	☐ d. RESTORATION TO DUTY (Date - YYYYMMDD)	☐ e. OTHER (Date - YYYYMMDD)

f. NAME OF U.S. PAROLE/PROBATION OFFICER (Last, First, Middle Initial)	g. TELEPHONE NUMBER (Include area code)

14. RELEASE (If applicable)	a. PROJECTED RELEASE DATE (YYYYMMDD)	b. PLANNED RELEASE DESTINATION CITY AND STATE	
15. ESCAPE (If applicable)	a. ESCAPE DATE (YYYYMMDD)	b. RECAPTURE DATE (YYYYMMDD)	c. RECONFINEMENT LOCATION
16. TRANSFER (If applicable)	a. TRANSFER DATE (YYYYMMDD)	b. FACILITY NAME	c. ADDRESS (Include ZIP Code)

17. PRISONER DECEASED (YYYYMMDD)	18. TEMPORARY PAROLE (If applicable)	a. DATE BEGAN (YYYYMMDD)	b. DATE TERMINATED (YYYYMMDD)	c. SPECIFY TYPE

SECTION 4 - TERMINATION/SUSPENSION OF NOTIFICATION

19. THE ABOVE NAMED PRISONER STATUS NOTIFICATIONS HAVE BEEN (If) ☐ TERMINATED ☐ SUSPENDED DUE TO:

☐ a. REQUEST BY YOU ☐ b. OTHER (Specify)

SECTION 5 - POINT OF CONTACT INFORMATION

20a. NAME OF VICTIM/WITNESS ASSISTANCE COORDINATOR (Last, First, Middle Initial)	b. GRADE	c. SIGNATURE	d. DATE SIGNED (YYYYMMDD)

REPORTING REQUIREMENTS

- DAPM-ACC is central repository
- Annually, NLT 15 February
  - DAMO-ODL notifies TJAG (DAJA-CL)
  - GCMCA SJAs thru MACOMs to DAJA-CL
- DD Form 2706 (Annual Report)
- DAJA-CL consolidated report to DoD

ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE	REPORT CONTROL SYMBOL DD-P&R(A)1952

This report summarizes delivery of services to victims and witnesses as prescribed by the Victim and Witness Protection Act of 1982 (18 USC 1512) and the Victim's Rights and Restitution Act of 1990 (42 USC 10601-10607). It is submitted annually in accordance with DoD Instruction 1030.2.

1. REPORTING OFFICE	2. REPORTING PERIOD a. FROM January 1,	b. TO December 31,
3. DURING THE REPORTING PERIOD, OUR LAW ENFORCEMENT, SPECIAL INVESTIGATION, TRIAL COUNSEL, AND RELATED OFFICES ASSISTED:	(1) NUMBER OF CRIME VICTIMS	(2) NUMBER OF WITNESSES
a. DD FORM 2701 UPON INITIAL CONTACT *(Number of crime victims and witnesses informed of their rights to assistance.)*		
b. DD FORM 2702 UPON REFERRAL TO COURT-MARTIAL *(Crime victims informed of their consultation rights in courts-martial.)*		
c. DD FORM 2703 UPON SENTENCING TO CONFINEMENT *(Number of crime victims and witnesses informed of their right to be notified of changes in the prisoner's status in confinement (i.e., release, transfer, escape, parole, death))*		
d. DD FORM 2704 ONCE INFORMED OF THEIR RIGHT TO BE NOTIFIED OF CHANGES IN THE PRISONER'S STATUS *(Number of crime victims and witnesses who elected to be notified of prisoner status changes.)*		
4. DURING THIS REPORTING PERIOD, NOTIFICATION LETTERS WERE SENT FROM OUR CORRECTIONAL FACILITIES:	(1) NUMBER OF PRISONER STATUS CHANGES	(2) NUMBER OF NOTIFICATION LETTERS
DD FORM 2705 UPON STATUS CHANGE *(Number of status changes that required notification letters)*		

5. AS OF DECEMBER 31, _____ OUR CORRECTIONAL FACILITIES CUMULATIVE REPORT OF TOTAL SERVICE PRISONERS THAT REQUIRE VICTIM AND WITNESS NOTIFICATIONS:	(1) ARMY	(2) NAVY	(3) AIR FORCE	(4) MARINES	(5) COAST GUARD	(6) OTHER

6. DOD COMPONENT RESPONSIBLE OFFICIAL		
a. NAME *(Last, First, Middle Initial)*	b. SIGNATURE	c. DATE SIGNED *(YYYYMMDD)*

DD FORM 2706, MAR 2013 PREVIOUS EDITION IS OBSOLETE. Adobe Professional X

RELOCATING DEPENDENTS FOR PERSONAL SAFETY

- U 5205 Travel and Transportation for Dependents Relocating for Reasons of Personal Safety
- Effective 24 February 2004
- JTR Chapter 5, Part C

MILITARY PROTECTIVE ORDERS

- Military Protective Orders (MPOs)
- Dated March 10, 2004
- Signed by the Under Secretary of Defense
- DD Form 2873
- Does not replace civilian courts' order of protection
- Is a civilian order of protection valid on an exclusive Federal Jurisdiction?

VICTIM ADVOCATES

- Works at ACS
- On-call 24 hours a day with pager
- Assists only adult victims of DV and sexual assault, I.D. card holders
- Exclusive focus on the needs of the victim
- Overlap services with VWL, court support
- Does not provide services to witnesses
- Will assist the accused of a DV or SA if he/she asks for services (SWS identified accused as victim)
- Confidentially
- Get to know your victim advocates and your SARCs

SARC & UVAs

- Know your SARC and become familiar with Chapter 8, AR 600-20
- "Active Duty" Sexual Assault Victim
- SARC provides training to UVAs
- Is a permanent member of the SARB
- Provides statistical information to DA
- Confidentially for UVAs
- VWLS, CID, and SVPs should provide training

LESSONS LEARNED

- Tell the victim you're sorry
- Never tell a victim you know how they feel
- Polygraph for Victims?
- SA Exams – by trained SANE
- Never argue with a victim

LESSONS LEARNED
CONTINUED

- Interview of children, Child Advocacy Center
- Interview without the parent present
- Suggest they bring their favorite stuffed animal
- Have them sit in the witness chair and get comfortable with the courtroom
- Tell the mother to bring movies or games

VWL LESSONS LEARNED
CONTINUED

- Remember Murphy's Law "anything that can go wrong will go wrong."
- Prepare the victim for an acquittal
- Meet with victim after the court-martial
- Provide training
- Don't use "We" use the Commander or the attorneys

VWL LESSONS LEARNED

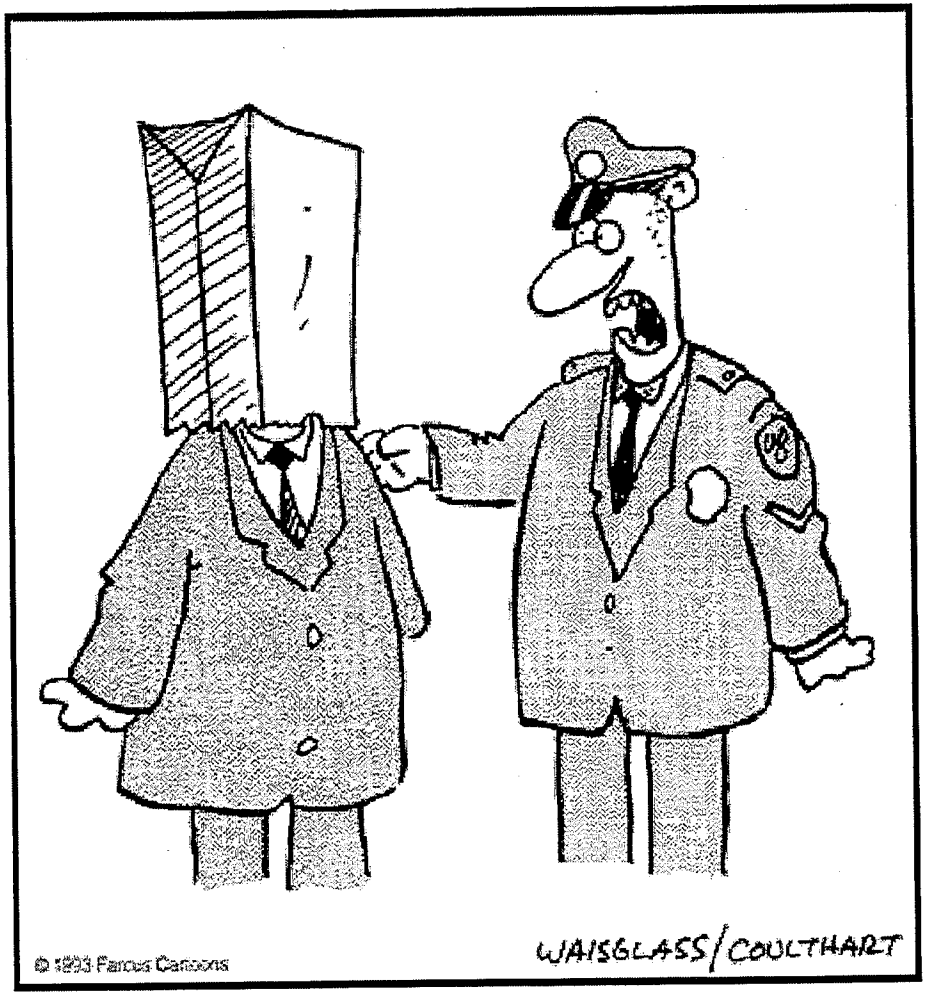
- Never give legal advice
- No notes at Interviews
- Never make promises
- Prepare all victims and witnesses including police officers for testifying

Challenges

- DV Cases
- Sexual Assault Cases
- Child Sexual Abuse Cases
- Vehicle Homicide Case

Farcus

by David Waisglass
Gordon Coulthart



"Sorry, Earl, but that's all the budget allows for our witness protection program."

YOU

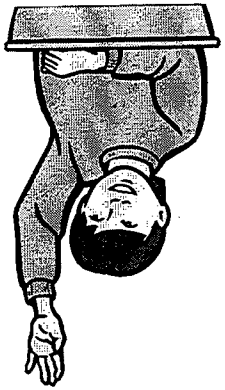
- Remember you
- Rest
- Take lunch
- Stress relief
- Laugh

VWAP CLOSING

- Serious problems need to be brought to the attention of the SJA
- You can make a difference
- Victims and Witnesses report
- Information is Power
- Cooperation means successful outcomes
- Victims may not always like the system

"Justice, though due the accused is due the accuser also."

Justice Benjamin Cardozo



Civilian Prosecution
Magistrate Court
Update in SVP App
Move to Close

Fort Carson SVP Case Tracker

2014 Open Cases
2-Oct-14

Rank	Name	Unit	Charges	One-Three Sentence Case Synopsis	CID ROI # / MPR #	Trial Counsel	Status
SGM	Ebrecht, Virgil L Jr.	HHC, USASMDC/ARSTRAT (Peterson AFB)	Sexual Assault on a Child	Child victim reports subject sexually assaulted her by placing his hands on her breasts and genital area	0069-2014-CID056-86322	CPT B. West	Charge sheet drafted as of 18 AUG 14. CID obtaining vic's school records to verify dates of alleged offenses. Unit contemplating transferring subject to 4ID prior to preferral of charges.
SFC	Kalili, William K Jr	G Co, 4 BSB, 1BCT, 4ID	Sexual Assault	SM was arrested by CSPD for domestic violence. During investigation, Civilian victim reported subject sexually assaulted her over her verbal and physical objections.	0298-2014-CID056-86498	CPT Bernal	Command disposing of adultery at FG Art 15 and initiating elimination. Victim has refused to cooperate w/ investigation.
SSG	Lavertue, Corey T.	B Co, 4-9 IN, 1BCT, 4ID	Assault; Obstruction; False Imprisonment; Child Abuse; Harassment; Domestic Violence	Subject grabbed his wife and threw her to the ground during an argument. He then prevented her from leaving the residence and threw her phone against the wall so that she could not call police. Subject's children were present at the time.	MPR 01795-2014-MPC056	CPT Bernal	Subject has civilian hearing on 26 SEP 14. Unit will initiate separation upon completion of civilian case.
CPL	Myers, Michael D	B Co, 4-9 IN, 1BCT, 4ID	Agg Assault of a Child	Subject reports child victim was limp and unresponsive and transported to hospital. Nurse examiner revealed child victim to have had sustained brain bleed and several bruises throughout his entire body.	0447-2014-CID056	CPT Bernal	Subject pending civilian charges. Unit will initiate separation upon completion of civilian case.
PFC	Smalley, Matthew J	A Co, 299th BDE,EN BN, 1BCT, 4ID	Sexual Assault on a Child	Subject told his squad leader that he had sexual relations with a 14 y.o. girl, who he believed was 18 y.o. Victim's grandfather caught subject naked in his basement w/ alcohol and victim in the shower.	0550-2014-CID056	CPT Bernal	26 AUG 14 TC reports that victim's father does not want to pursue charges against the subject. Unit intends to initiate admin sep upon completion of investigation.
SPC	Sorensen, Dominick	C Co, 1BSTB, 1BCT, 4ID	Sexual Assault	Subject had sex with victim while she was incapacitated by alcohol. Subject later told witness that he believed victim was unaware they had sex. At witness's urging, subject told victim that he had sex with her while she was incapacitated.	0322-2014-CID056	CPT Bernal	Civilians have elected to prosecute. Administrative separation under 14-12c initiated on 19 JUN 14. With unit for notification as of 24 JUN 14. As of 26 AUG 14, case is pending referral to OTH board upon appointment of board.
SPC	Stanley, Kristofer K	A Co, 2/23 INF, 1BCT, 4ID	Domestic Violence, assault in the 3rd degree	Subject pinned wife to the ground by the neck during an altercation	MPR 02088-2014-MPC056	CPT Bernal	
SFC	Thomas, Christopher	HHC, 1BCT, 4ID	Rape	1LT victim reports that subject repeatedly raped her, sometimes with foreign objects, using force and threats while the two of them were stationed in Kuwait.	0135-14-CID 056-86368	CPT Bernal	TC and SVP meeting with CID on 2OCT14 to discuss way ahead with investigation.
1LT	Valldejuli, Reynaldo R.	HHB, 1BCT, 4ID	Domestic Violence	Subject beat and strangled wife during an argument. Wife suffered a concussion and fled the house by running out onto the roof and knocking on neighbor's window.	MPR 01326-2014-MPC056	CPT Bernal	TC finalizing charge sheet and prosecution memo.
SPC	Waggener, Conrad D.	A Btry, 2-12 FA, 1BCT, 4ID	Assault of a Child	Subject allegedly grabbed his austistic 4 y.o. son by the back of the neck on one occasion, threw him on his bed on one occasion, and locked him in his room on multiple occasions.	MPR 01968-2014-MPC056	CPT Bernal	CID investigation ongoing as of 18 SEP 14.

APPLICATION FOR TRANSITIONAL COMPENSATION

All information except Item 12 is to be entered by Service representative from Service records.

SECTION I - PAYEE INFORMATION
(If more than one eligible dependent, use the Remarks section on back to enter applicable information for each payee.)

1. PAYEE NAME *(Last, First, Middle Initial)*	2. SOCIAL SECURITY NUMBER	3. DATE OF BIRTH *(YYYYMMDD)*	4. SEX *(X one)* ☐ MALE ☐ FEMALE

5. ADDRESS

a. STREET *(Include apartment number)*	b. CITY	c. STATE	d. ZIP CODE

6. RELATIONSHIP TO MEMBER *(X one)*
☐ SPOUSE ☐ FORMER SPOUSE ☐ CHILD ☐ ADOPTED CHILD ☐ STEPCHILD

7. CUSTODY *(If payee is spouse or former spouse, enter names of dependent children from Item 23 who are in payee's custody) (If all, enter "ALL")*

8. INCAPACITATION *(X Yes or No for each item)*

YES	NO	
☐	☐	a. IS PAYEE INCAPACITATED? *(If Yes, complete Items 8.b. and c., and Item 9.)*
☐	☐	b. IS PAYEE INCAPABLE OF HANDLING FINANCIAL AFFAIRS? *(If Yes, complete Item 10.)*
☐	☐	c. IS PAYEE INCAPABLE OF SELF SUPPORT?

9. IS INCAPACITY: *(X one) (If applicable)* ☐ PERMANENT ☐ TEMPORARY

10. LEGAL REPRESENTATIVE *(Complete only if legal representative is not the payee.)*

a. NAME *(Last, First, Middle Initial)*	b. STREET ADDRESS *(Include apartment/suite no.)*	c. CITY	d. STATE	e. ZIP CODE

11. IF PAYEE IS A CHILD: *(X Yes or No for each item.) (NOTE: Age of majority for a child is 18 in all states except the following: Alabama, Nebraska and Wyoming: age of majority is 19; Mississippi, West Virginia and Puerto Rico: age of majority is 21.)*

YES	NO	
☐	☐	a. WAS INCAPACITY INCURRED BEFORE AGE 18?
☐	☐	b. IF INCAPACITY WAS INCURRED BETWEEN AGES 18 AND 23, WAS THE CHILD A FULL-TIME STUDENT?
☐	☐	c. IS CHILD UNDER THE AGE OF MAJORITY? *(See NOTE. If Yes, complete Item 10.)*
☐	☐	d. WAS CHILD DEPENDENT ON FORMER MEMBER FOR OVER ONE-HALF OF SUPPORT?

12. PAYEE CERTIFICATION *(Payee must sign and date to certify that the statements below are correct. Lines (2)-(4) apply only to spouse or former spouse.)*
(1) I am not cohabiting with the former member. If status changes, I will notify DFAS within 30 days.
(2) I have not remarried. If status changes, I will notify DFAS within 30 days.
(3) I have custody of the dependent children listed in Item 7.
(4) I was married to the member in Item 14 at the time of the dependent abuse offense resulting in his conviction/administrative separation.
(5) I claim payment of transitional compensation under Section 1059, Title 10, U.S.C.
(6) I understand that I may not receive payments under both Section 1059 and Section 1408(h) of Title 10, U.S.C., and that, if eligible for both, I must elect which to receive. I elect payment of transitional compensation under Section 1059.

a. SIGNATURE *(Applicant acknowledges that acceptance of payments if the offender rejoins household is punishable under the law.)*	b. DATE SIGNED *(YYYYMMDD)*

SECTION II - MEMBER IDENTIFICATION

13. BRANCH OF SERVICE *(X one)* ☐ AIR FORCE ☐ MARINE CORPS ☐ ARMY ☐ NAVY	14. MEMBER NAME *(Last, First, Middle Initial)*	15. PAY GRADE *(Prior to conviction or separation)*
16. SOCIAL SECURITY NUMBER	17. DATE OF BIRTH *(YYYYMMDD)*	18. SEX *(X one)* ☐ MALE ☐ FEMALE

19. OBLIGATED SERVICE DATES *(YYYYMMDD)*

a. ACTIVE DUTY SERVICE ENTRY DATE	b. EXPIRATION OF ACTIVE OBLIGATED SERVICE *(Enlisted only)*	c. ESTABLISHED DATE OF SEPARATION AT TIME OF CONVICTION/ADMINISTRATIVE SEPARATION *(Officer only) (If none, so state)*

20. DATE OF APPROVAL OF THE COURT-MARTIAL SENTENCE/ ADMINISTRATIVE SEPARATION *(YYYYMMDD) (If court-martial, verify date with approving official. If administrative separation, use date of initiation of separation.)*

21. PAYMENT DATES *(YYYYMMDD) (Start date is date in Item 20. Length of payment is 36 months except as follows: Subtract date in Item 19.b. or 19.c. from the date in Item 20. If less than 36 months, length of payment is that period or 12 months, whichever is greater.)*

a. START	b. STOP

22. APPROVING OFFICIAL CERTIFICATION.
I certify that the offense resulting in court-martial conviction or involved in administrative separation is a dependent-abuse offense in accordance with DoD regulations. If married, the spouse was not a participant in the abuse offense.

a. SIGNATURE	b. DATE SIGNED *(YYYYMMDD)*	c. TITLE	d. TELEPHONE *(Include area code)*
e. STREET ADDRESS *(Include apartment or suite number)*		f. CITY	g. STATE / h. ZIP CODE

Adobe Professional 8.0

23. DEPENDENT CHILDREN AT THE TIME OF THE ABUSE *(Continue in Remarks if necessary)*		
NAME *(Last, First, Middle Initial)* a.	SOCIAL SECURITY NUMBER b.	DATE OF BIRTH *(YYYYMMDD)* c.

SECTION III - REMARKS *(Use this area to continue items as necessary. Reference each entry by item number.)*

SECTION IV - APPROPRIATION DATA

24. DFAS-DE IS AUTHORIZED TO CITE THE FOLLOWING APPROPRIATIONS FOR PAYMENT:

25. FUND CITE APPROVING OFFICIAL

a. SIGNATURE	b. DATE SIGNED *(YYYYMMDD)*	c. TITLE	d. TELEPHONE *(Include area code)*	
e. STREET ADDRESS *(Include apartment or suite number)*		f. CITY	g. STATE	h. ZIP CODE

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

_____
(Name)

_____
(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

_____
(Name)

_____
(Telephone Number)

In regard to the prosecution, contact the legal office below:

_____
(Name)

_____
(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

_____
(Name)

_____
(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
http://vwac.defense.gov/

DEPARTMENT OF DEFENSE

INITIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

DD FORM 2701, AUG 2013

Previous edition is obsolete.
Adobe Professional X

Initial Information For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist.

If You Were a Victim of Spouse or Child Abuse. For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2698) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:
Victim/Witness Responsible Official

_____
(Name)

_____
(Telephone Number)

Trial Counsel

_____
(Name)

_____
(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
http://dod.mil/vwac

DEPARTMENT OF DEFENSE

COURT-MARTIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

DD FORM 2702, MAY 2004

Previous edition is obsolete.
Adobe Professional 8.0

Court-Martial Information For Victims and Witnesses of Crime

Introduction.

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferral of Charges.

Like a civilian criminal "complaint," the preferral of charges begins the criminal trial process. Upon preferral, you may participate in the case at several points as outlined below.

Pretrial Conference.

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing.

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

Court-Martial.

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

Testimony.

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

Pointers When Testifying.

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument.

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

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_____
(Name)

_____
(Telephone Number)

Trial Counsel

_____
(Name)

_____
(Telephone Number)

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DEPARTMENT OF DEFENSE

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For Victims and Witnesses of Crime

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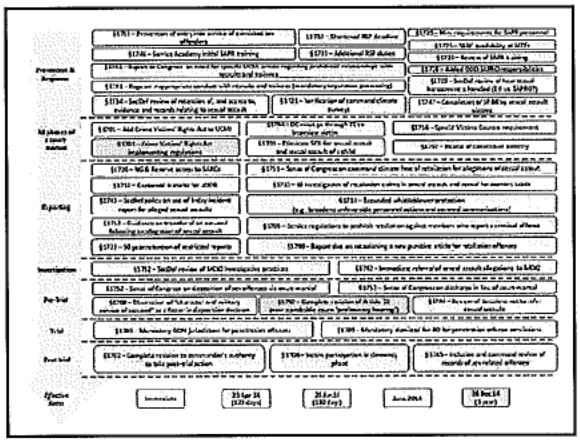
Military Justice Update

Chief, Military Justice

FY14 Changes to the NDAA

If you are going to remember one thing from this brief remember this:



FY14 Changes to the NDAA

Most important change for

SEC. 1701. EXTENSION OF CRIME VICTIMS' RIGHTS TO VICTIMS OF OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

Effective now:

subchapter I of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by adding at the end the following new section (article):

Sec. 806b. Art. 6b. Rights of the victim of an offense under this chapter.

In this section, the term **'victim of an offense under this chapter'** means a person who has **suffered direct physical, emotional, or pecuniary harm as a result of the commission of an offense under this chapter (the Uniform Code of Military Justice).**

SEC. 1701. EXTENSION OF CRIME VICTIMS' RIGHTS TO VICTIMS OF OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

General Rights Provided:

--(1) The right to be reasonably protected from the accused.

--(2) The right to reasonable, accurate, and timely notice of any of the following:

- (A) A public hearing concerning the continuation of confinement prior to trial of the accused.
- (B) A preliminary hearing under section 832 of this title (article 32) relating to the offense.
- (C) A court-martial relating to the offense.
- (D) A public proceeding of the service clemency and parole board relating to the offense.
- (E) The release or escape of the accused, unless such notice may endanger the safety of any person.

SEC. 1701. EXTENSION OF CRIME VICTIMS' RIGHTS TO VICTIMS OF OFFENSES UNDER THE UNIFORM CODE OF MILITARY JUSTICE.

Specific right to be present and heard:

The right **not to be excluded** from any public hearing or proceeding described in paragraph (2) unless the military judge or investigating officer, as applicable, **after receiving clear and convincing evidence, determines that testimony by the victim of an offense under this chapter would be materially altered if the victim heard other testimony at that hearing or proceeding.**

The right to be **reasonably heard** at any of the following:

- (A) A public hearing concerning the continuation of confinement prior to trial of the accused.
- (B) A sentencing hearing relating to the offense.
- (C) A public proceeding of the service clemency and parole board relating to the offense.
- (5) The reasonable right to confer with the counsel representing the Government at any proceeding described in paragraph (2).
- (6) The right to receive restitution as provided in law.
- (7) The right to proceedings free from **unreasonable delay.**
- (8) The right to be treated with fairness and with respect for the dignity and privacy of the victim of an offense under this chapter.

"Trust In Me"

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

Effective 27 December 2014:

The purpose of the preliminary hearing shall be limited to the following:

(A) Determining whether there is probable cause to believe an offense has been committed and the accused committed the offense.

(B) Determining whether the convening authority has court-martial jurisdiction over the offense and the accused.

(C) Considering the form of charges.

(D) Recommending the disposition that should be made of the case.

Eliminates the century-old requirement of a "thorough and impartial investigation" of charges before trial, and the similarly ancient guarantee that an accused can present to the investigator anything he wishes in his own defense.

"Trust In Me"

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

Hearing Officer-

(1) A preliminary hearing under subsection (a) shall be conducted by an impartial judge advocate certified under section 827(b) of this title (article 27(b)) whenever practicable or, in exceptional circumstances in which the interests of justice warrant, by an impartial hearing officer who is not a judge advocate. If the hearing officer is not a judge advocate, a judge advocate certified under section 827(b) of this title (article 27(b)) shall be available to provide legal advice to the hearing officer.

(2) Whenever practicable, when the judge advocate or other hearing officer is detailed to conduct the preliminary hearing, the officer shall be **equal to or senior in grade to military counsel detailed to represent the accused** or the Government at the preliminary hearing.

"Trust In Me"

SEC. 1702. REVISION OF ARTICLE 32 AND ARTICLE 60, UNIFORM CODE OF MILITARY JUSTICE.

More on scope of the Article 32, Preliminary Hearing:

- The accused may cross-examine witnesses who testify at the preliminary hearing and **present additional evidence in defense and mitigation, relevant to the limited purposes of the hearing,** as provided for in paragraph (4) and subsection (a)(2).
- A **victim may not be required to testify at the preliminary hearing.** A victim who declines to testify shall be deemed to be not available for purposes of the preliminary hearing.
- The **presentation of evidence and examination** (including cross-examination) of witnesses at a preliminary hearing **shall be limited to the matters relevant to the limited purposes** of the hearing, as provided in subsection (a)(2).

  Recording of Preliminary Hearing- A preliminary hearing under subsection (a) shall be recorded by a suitable recording device. The **victim may request the recording and shall have access to the recording as prescribed by the Manual for Courts-Martial.**

Victim Defined- In this section, the term 'victim' means a person who--
(1) is alleged to have suffered a direct physical, emotional, or pecuniary harm as a result of the matters set forth in a charge or specification being considered; and (2) is named in one of the specifications.

"Trust In Me"

SEC. 1702, CONT.: ELIMINATION OF UNLIMITED COMMAND PEROGATIVE AND DISCRETION

(B) If the convening authority or another person authorized to act under this section **acts on the findings of a court-martial,** the convening authority or other person--

- (i) may not dismiss any charge or specification, other than a charge or specification for a qualifying offense, by setting aside a finding of guilty thereto; or
- (ii) may not change a finding of guilty to a charge or specification, other than a charge or specification for a qualifying offense, to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge or specification.

(C) If the convening authority or another person authorized to act under this section acts on the findings to dismiss or change any charge or specification for an offense (other than a qualifying offense), **the convening authority or other person shall provide, at that same time, a written explanation of the reasons for such action. The written explanation shall be made a part of the record of the trial and action thereon.**

In this subsection, the term 'qualifying offense' means, except in the case of an offense excluded pursuant to clause (ii), an offense under this chapter for which--

- (i) the maximum sentence of confinement that may be adjudged does not exceed two years; and
- (ii) the sentence adjudged does not include dismissal, a dishonorable or bad-conduct discharge, or confinement for more than six months.

(ii) Such term does not include any of the following:

- (i) An offense under subsection (a) or (b) of section 920 of this title (article 120).
- (ii) An offense under section 920b or 925 of this title (articles 120b and 125).
- (iii) Such other offenses as the Secretary of Defense may specify by regulation.

(4)(A) Except as provided in subparagraph (B) or (C), the convening authority or another person authorized to act under this section may not disapprove, commute, or suspend in whole or in part an adjudged sentence of confinement for more than six months or a sentence of dismissal, dishonorable discharge, or bad conduct discharge.

(B) Upon the recommendation of the trial counsel, in recognition of the substantial assistance by the accused in the investigation or prosecution of another person who has committed an offense, the convening authority or another person authorized to act under this section shall have the authority to disapprove, commute, or suspend the adjudged sentence in whole or in part, even with respect to an offense for which a mandatory minimum sentence exists.

"Trust In Me"

SEC. 1702, CONT.: ELIMINATION OF UNLIMITED COMMAND PEROGATIVE AND DISCRETION

Effective 24 June 2014

So, stated another way, if the convening authority reduces it in writing, he or she may dismiss outright or change of finding of guilty to a finding of guilty of a lesser included offenses in any case where:

1. the maximum sentence of confinement that may be adjudged for an offense does not exceed two years; and
2. the sentence adjudged does not include dismissal, a dishonorable or bad-conduct discharge, or confinement for more than six months.

Under no circumstances can a CA dismiss or change a finding to a lesser including offense for

1. An offense under subsection (a) or (b) of section 920 of this title (article 120).
2. An offense under section 920b or 925 of this title (articles 120b and 125).
3. Such other offenses as the Secretary of Defense may specify by regulation.

"Trust In Me"

SEC. 1702, CONT.: ELIMINATION OF UNLIMITED COMMAND PEROGATIVE AND DISCRETION

(C) If a pre-trial agreement has been entered into by the convening authority and the accused, as authorized by Rule for Courts-Martial 705, the convening authority or another person authorized to act under this section **shall have the authority to approve, disapprove, commute, or suspend a sentence in whole or in part pursuant to the terms of the pre-trial agreement,** subject to the following limitations for convictions of offenses that involve a mandatory minimum sentence:

(i) If **a mandatory minimum sentence of a dishonorable discharge** applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section **may commute the dishonorable discharge to a bad conduct discharge pursuant to the terms of the pre-trial agreement.**

(ii) Except as provided in clause **(i), if a mandatory minimum sentence** applies to an offense for which the accused has been convicted, the convening authority or another person authorized to act under this section **may not disapprove, otherwise commute, or suspend the mandatory minimum sentence in whole or in part, unless authorized to do so under subparagraph (B) [referring back to the previous slide].**

SEC. 1703. ELIMINATION OF FIVE-YEAR STATUTE OF LIMITATIONS ON TRIAL BY COURT-MARTIAL FOR ADDITIONAL OFFENSES INVOLVING SEX-RELATED CRIMES.

Effective now:

- (a) Inclusion of Additional Offenses- Section 843(a) of title 10, United States Code (article 43(a) of the Uniform Code of Military Justice), is amended by striking `rape, or rape of a child' and inserting `rape or sexual assault, or rape or sexual assault of a child'.
- (b) Conforming Amendment- Section 843(b)(2)(B)(i) of title 10, United States Code (article 43(b)(2)(B)(i) of the Uniform Code of Military Justice), is amended by inserting before the period at the end the following: `, unless the offense is covered by subsection (a)'.
- (c) Effective Date- The amendments made by this section shall take effect on the date of the enactment of this Act, and **shall apply with respect to an offense covered by section 920(b) or 920b(b)** of title 10, United States Code (article 120(b) or 120b(b) of the Uniform Code of Military Justice), that is committed on or after that date.

C. 1704. DEFENSE COUNSEL INTERVIEW OF VICTIM OF AN ALLEGED SEX-RELATED OFFENSE IN PRESENCE OF TRIAL COUNSEL, COUNSEL FOR THE VICTIM, OR A VICTIM ADVOCATE.

Effective now:

- (1) Defense Counsel Interview of **Victim of Alleged Sex-Related Offense-** (1) Upon **notice** by trial counsel to ***defense counsel*** of the name of an alleged victim of an alleged sex-related offense who trial counsel intends **to call to testify at a preliminary hearing** under section 832 of this title (article 32) **or a court-martial** under this chapter, defense counsel **shall** make any request to interview the victim through trial counsel.

  (2) If requested by an alleged victim of an alleged sex-related offense who is subject to a request for interview under paragraph (1), any interview of the victim by defense counsel **shall** take place only in the presence of trial counsel, a counsel for the victim, **or** a Sexual Assault Victim Advocate.

  (3) In this subsection, the term `alleged sex-related offense' means any allegation of--

  (A) a violation of section 920, 920a, 920b, 920c, or 925 of this title (article 120, 120a, 120b, 120c, or 125); or

  (B) an attempt to commit an offense specified in a paragraph (1) as punishable under section 880 of this title (article 80).

SEC. 1705. DISCHARGE OR DISMISSAL FOR CERTAIN SEX-RELATED OFFENSES AND TRIAL OF SUCH OFFENSES BY GENERAL COURTS-MARTIAL.

Effective 24 June 14:

Any sentence involving a service member convicted of penetrative sex crime (Art 120(a)(b) and Article 120b, forcible sodomy or an attempt to commit such crimes, must at a minimum include a dismissal or dishonorable discharge.

SEC. 1706. PARTICIPATION BY VICTIM IN CLEMENCY PHASE OF COURTS-MARTIAL PROCESS.

Effective 24 June 2014:

In any case in which findings and sentence have been adjudged for an offense that involved a victim, the victim shall be provided an opportunity to submit matters for consideration by the convening authority or by another person authorized to act under this section before the convening authority or such other person takes action under this section. The submission of matters under paragraph shall be made within 10 days after the later of—

- the date on which the victim has been given an authenticated record of trial in accordance with section 854(e) of this title (article 54(e)); and,
- if applicable, the date on which the victim has been given the recommendation of the staff judge advocate or legal officer under subsection

In the case of a summary court-martial, the submission of matters under paragraph (1) shall be made within seven days after the date on which the sentence is announced.

Additional time may be granted upon request for good cause, not to exceed an additional 20 days.

A victim may **waive the right**, in writing, under this subsection to make a submission to the convening authority or other person taking action under this section. For the purposes of subsection (c)(2), the time within which a victim may make a submission under this subsection shall be deemed to have expired upon the submission of such waiver to the convening authority or such other person. Such waiver may not be revoked.

In this section, the term `victim' means a person who has suffered a direct physical, emotional, or pecuniary loss as a result of a commission of an offense under this chapter (the Uniform Code of Military Justice) and on which the convening authority or other person authorized to take action under this section is taking action under this section.

SEC. 1706. PARTICIPATION BY VICTIM IN CLEMENCY PHASE OF COURTS-MARTIAL PROCESS.

Effective now:

Limitations on Consideration of Victim's Character- Subsection (b) of section 860 of title 10, United States Code (article 60 of the Uniform Code of Military Justice), is amended by adding at the end the following new paragraph:

The convening authority or other person taking action under this section shall not consider under this section any **submitted matters that relate to the character of a victim unless such matters were presented as evidence at trial and not excluded at trial.**

SEC. 1708. ELIMINATION OF FACTOR RELATING TO CHARACTER AND MILITARY SERVICE OF THE ACCUSED IN RULE ON INITIAL DISPOSITION OF OFFENSES.

Effective 24 June 2014:

Rule 306 of the Manual for Courts-Martial (relating to policy on initial disposition of offenses) shall be amended to strike the character and military service of the accused from the matters a commander should consider in deciding how to dispose of an offense.

SEC. 1716. DESIGNATION AND AVAILABILITY OF SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF SEX-RELATED OFFENSES.

EFFECTIVE NOW (NOT REQUIRED BY NDAA UNTIL APRIL 14)

SA will designated legal counsel to provide legal assistance to individual eligible for legal assistance under 10 U.S.C. 1044, who is the victim of an alleged sex-related offense (restricted or unrestricted).

Staffing Requirements:
Meets the qualifications of 1044(d)(2) of this title; and,
Is certified as competent to be designated as a Special Victim's Counsel by TJAG.

Qualifying Sex Offense:
Art. 120, 120a, 120b, 120c or 125 and attempts thereof.

Legal consultation and assistance-
...in any proceedings of the military justice process in which a victim can participate as a witness or other party.

MRE: 412, 513, 514

C. 1744. REVIEW OF DECISIONS NOT TO REFER CHARGES OF CERTAIN SEX-RELATED OFFENSES FOR TRIAL BY COURT-MARTIAL.

Requires the service secretary to review all cases under Articles 120(a), 120(b), 125 and attempts thereof where the SJA recommends referral and the convening authority declines to refer any charges. Requires review by the next superior commander authorized to exercise general court-martial convening authority when both the SJA recommends not referring charges and convening authority does not refer the charges.

When both SJA and convening authority do not refer the case, the convening authority must forward the case to the next superior convening authority.

"that charges of sex related offense" -meaning?

The secretaries must develop a system to ensures that the victim of a possible sex-related offense under the Code of Military Justice is given the opportunity to state, either at the time of making an unrestricted report of the allegation or during the criminal investigation of the allegation whether or not the victim believes that the offense alleged is a sex-related offense subject to the requirements of this section.

MISCELLANEOUS PROVISIONS

SEC. 1709. PROHIBITION OF RETALIATION AGAINST MEMBERS OF THE ARMED FORCES FOR REPORTING A CRIMINAL OFFENSE.
SEC. 1711. PROHIBITION ON SERVICE IN THE ARMED FORCES BY INDIVIDUALS WHO HAVE BEEN CONVICTED OF CERTAIN SEXUAL OFFENSES.
SEC. 1712. ISSUANCE OF REGULATIONS APPLICABLE TO THE COAST GUARD REGARDING CONSIDERATION OF REQUEST FOR PERMANENT CHANGE OF STATION OR UNIT TRANSFER BY VICTIM OF SEXUAL ASSAULT.
SEC. 1713. TEMPORARY ADMINISTRATIVE REASSIGNMENT OR REMOVAL OF A MEMBER OF THE ARMED FORCES ON ACTIVE DUTY WHO IS ACCUSED OF COMMITTING A SEXUAL ASSAULT OR RELATED OFFENSE.
SEC. 1714. EXPANSION AND ENHANCEMENT OF AUTHORITIES RELATING TO PROTECTED COMMUNICATIONS OF MEMBERS OF THE ARMED FORCES AND PROHIBITED RETALIATORY ACTIONS.
SEC. 1715. INSPECTOR GENERAL INVESTIGATION OF ALLEGATIONS OF RETALIATORY PERSONNEL ACTIONS TAKEN IN RESPONSE TO MAKING PROTECTED COMMUNICATIONS REGARDING SEXUAL ASSAULT.
SEC. 1716. DESIGNATION AND AVAILABILITY OF SPECIAL VICTIMS' COUNSEL FOR VICTIMS OF SEX-RELATED OFFENSES.
SEC. 1721. TRACKING OF COMPLIANCE OF COMMANDING OFFICERS IN CONDUCTING ORGANIZATIONAL CLIMATE ASSESSMENTS FOR PURPOSES OF PREVENTING AND RESPONDING TO SEXUAL ASSAULTS.
SEC. 1722. ADVANCEMENT OF SUBMITTAL DEADLINE FOR REPORT OF INDEPENDENT PANEL ON ASSESSMENT OF MILITARY RESPONSE SYSTEMS TO SEXUAL ASSAULT.
SEC. 1723. RETENTION OF CERTAIN FORMS IN CONNECTION WITH RESTRICTED REPORTS AND UNRESTRICTED REPORTS ON SEXUAL ASSAULT INVOLVING MEMBERS OF THE ARMED FORCES.
SEC. 1724. TIMELY ACCESS TO SEXUAL ASSAULT RESPONSE COORDINATORS BY MEMBERS OF THE NATIONAL GUARD AND RESERVES.
SEC. 1725. QUALIFICATIONS AND SELECTION OF DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE PERSONNEL AND REQUIRED AVAILABILITY OF SEXUAL ASSAULT NURSE EXAMINERS.
SEC. 1726. ADDITIONAL RESPONSIBILITIES OF SEXUAL ASSAULT PREVENTION AND RESPONSE OFFICE FOR DEPARTMENT OF DEFENSE SEXUAL ASSAULT PREVENTION AND RESPONSE PROGRAM.
SEC. 1731. INDEPENDENT REVIEWS AND ASSESSMENTS OF UNIFORM CODE OF MILITARY JUSTICE AND JUDICIAL PROCEEDINGS OF SEXUAL ASSAULT CASES.

MISCELLANEOUS PROVISION, CONT.

SEC. 1732. REVIEW AND POLICY REGARDING DEPARTMENT OF DEFENSE INVESTIGATIVE PRACTICES IN RESPONSE TO ALLEGATIONS OF UNIFORM CODE OF MILITARY JUSTICE VIOLATIONS.
SEC. 1733. REVIEW OF TRAINING AND EDUCATION PROVIDED MEMBERS OF THE ARMED FORCES ON SEXUAL ASSAULT PREVENTION AND RESPONSE.
SEC. 1734. REPORT ON IMPLEMENTATION OF DEPARTMENT OF DEFENSE POLICY ON THE RETENTION OF AND ACCESS TO EVIDENCE AND RECORDS RELATING TO SEXUAL ASSAULTS INVOLVING MEMBERS OF THE ARMED FORCES.
SEC. 1735. REVIEW OF THE OFFICE OF DIVERSITY MANAGEMENT AND EQUAL OPPORTUNITY ROLE IN SEXUAL HARASSMENT CASES.
SEC. 1741. ENHANCED PROTECTIONS FOR PROSPECTIVE MEMBERS AND NEW MEMBERS OF THE ARMED FORCES DURING ENTRY-LEVEL PROCESSING AND TRAINING.
SEC. 1742. COMMANDING OFFICER ACTION ON REPORTS ON SEXUAL OFFENSES INVOLVING MEMBERS OF THE ARMED FORCES.
SEC. 1743. EIGHT-DAY INCIDENT REPORTING REQUIREMENT IN RESPONSE TO UNRESTRICTED REPORT OF SEXUAL ASSAULT IN WHICH THE VICTIM IS A MEMBER OF THE ARMED FORCES.
SEC. 1744. REVIEW OF DECISIONS NOT TO REFER CHARGES OF CERTAIN SEX-RELATED OFFENSES FOR TRIAL BY COURT-MARTIAL.

Questions?

DEPARTMENT OF THE ARMY
U. S. ARMY CRIMINAL INVESTIGATION COMMAND
27130 TELEGRAPH ROAD
QUANTICO, VA 22134

REPLY TO
ATTENTION OF

CIOP-PO

1 November 13

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Operational Memorandum 010-13, Implementation of Special Victims Counsel (SVC) – Interim Guidance

1. References:

a. CID Regulation 195-1 (Criminal Investigation Operational Procedures), 7 January 13.

b. Message, TJAG, 15 October 13, subject: Special Victim Advocate Program

2. The purpose of this operational memorandum is to provide interim guidance to CID offices regarding the implementation of SVCs on 4 Nov 13. The guidance is subject to change as more information is provided by the Office of the Judge Advocate General (OTJAG). The Special Victims Advocate Program was established by OTJAG at the direction of the Secretary of Defense to afford specially trained legal assistance to victims of sexual assault. The SVCs will provide legal advice and representation to victims throughout the military justice process.

3. Victims of sexual assault will be informed by Victim Advocates or the first responsible party to make contact with the victim (e.g. Sexual Assault Response Coordinator, Victim/Witness Liaison, Trial Counsel) of their right to the services of the SVC utilizing a DD Form 2701 (Initial Information for Victims and Witnesses of Crime). If a victim reports a sexual assault directly to the CID office she will be informed about the right to a SVC at the time the DD Form 2701 is issued (normally after the initial interview). Victims will be provided a brief description of the role of the SVC and an explanation that the SVC is available and may be requested at any time throughout the duration of the military justice process. The victim will be informed the services of the SVC are optional and may be declined. There must be a voluntarily created attorney-client relationship before an attorney can act on the client's behalf. The SVC cannot prospectively control contact with victims who have not asked for his support.

4. All questioning of the victim will be delayed if the victim elects the representation of a SVC prior to any interview. All further coordination regarding the victim will be made through the SVC if they elect representation. The SVC can accompany and advise the victim throughout the investigative process (e.g., interviews, court proceedings). The SVCs can stop or pause interviews to speak with the victim and can inform Special

Agents if their client will not answer specific questions. Additionally, the SVC will refer the victim to TDS for collateral offenses, if necessary. Special Agents are not required to coordinate with the SVC if the victim does not elect representation. If the victim elects representation after the start of the investigative process, the SVC should notify CID, and all further requests regarding the victim will be coordinated through the SVC.

5. An ALCID Memorandum will be published once OTJAG instructions are completed and implemented.

6. The point of contact for this memorandum is CW4 John E. Scarlett, (571) 305-4357, or e-mail john.e.scarlett.mil@mail.mil.

FOR THE COMMANDER:

JOHN D. ADAMS
LTC (P), GS
G-2/3

DISTRIBUTION:
A

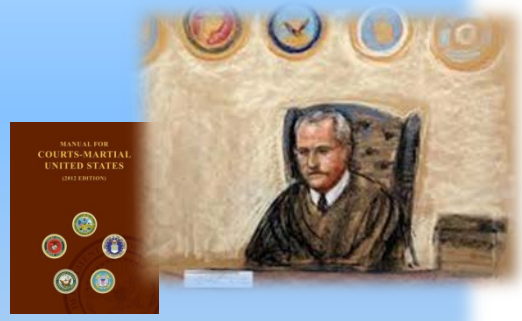
Information Sharing for SVCs:

Navigating *"Where no man has gone before"*

What are the rules out here?

Information Sharing: Who Gets to Know What?

Military Judge



Victim & SVC

Possibly Victim's Defense Counsel

SARC
Victim Advocate
Chaplain
Medical

Government

Defense Team

Understanding...

VICTIM RIGHTS

Privacy Act

Army Regulations

Freedom of Information Act

SVC Handbook

HIPAA

Military Rules of Evidence

Case Law

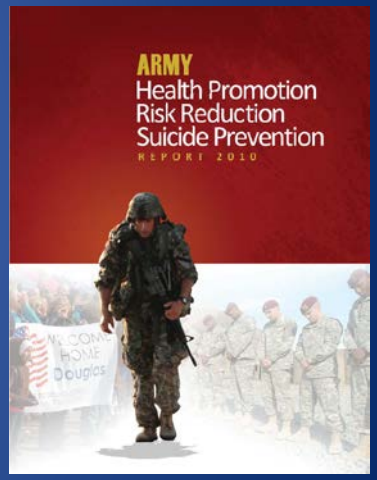
Uniform Code of Military Justice

The Crime Victim's Rights Act

Dep't of Defense Policy

2010 Army Study Finds *"Confusion in the Field"* over Privacy Laws

"Privacy laws place constraints upon the sharing and retrieval of personal, financial and medical information. However, ***there appears to be confusion in the field*** as to the scope of these laws and the limitations they impose. The **"lore"** (as compared to the **"law"**) about privacy protections is that these laws act as complete barriers to information sharing, when in fact the laws contain ***exceptions*** that permit sharing…"



2010 Army Red Book

The Crime Victim's Rights Act

18 U.S.C. § 3771

RIGHTS OF CRIME VICTIMS - A crime victim has the following rights:

(1) The **right to timely notice** of any court proceedings

(2) The **right to be present** at any such court proceeding

- Unless the court determines that testimony by the victim would be materially altered

(3) The **right to be reasonably heard** at any court proceeding

(4) The **right to confer** with the attorney for the Government

Basic Victim Notification and Consultation Rights

- **Rule # 1:** The Victim should be **notified** of all **"significant events"** in the case

- **Rule # 2:** The Victim should be **consulted** and her views considered before the Government makes a disposition decision

Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- Government is required to have **"Cradle to Grave"** Communication with the Victim
  - Initial Notification
  - **Investigation Phase**
  - **Prosecution Phase** **(Notification + Consultation)**
  - Upon Order to Confinement
  - Upon Entry to Confinement
  - Post-trial Rights
  - Upon Change in Status of Confinement

SVC Involvement

Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- **Initial Information** – at the ***"earliest opportunity"*** the VWL or CID will **notify** the victim concerning:
  - Available emergency medical and social services
  - Restitution or other relief
  - Counseling, treatment, and support programs available
  - Prohibition against intimidation and harassment
  - Availability of military and civilian protective orders
  - Information about the military justice process

SVC Involvement

DD Form 2701

Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- **During the Investigation Phase** – Law enforcement (i.e. CID) shall **inform** all victims, as appropriate, of:
  - The **status of the investigation** of the crime, to the extent providing such information does not interfere with the investigation.
  - The **arrest** of the suspected offender.
  - A **decision not to pursue** further investigation.

NOTE: CID will brief the victim **monthly** per CID Regulation

What to Expect from CID

- MONTHLY CASE STATUS **BRIEFINGS** TO THE VICITM
  - **Information not records**
  - **Who should attend?**
  - **Getting access to records**

Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- **During the Prosecution Phase** - The Trial Counsel will **consult** with the victim prior to:
  - Decisions concerning pretrial restraint
  - Decision to prefer or not to prefer charges
  - Decision to refer or not refer charges
  - Decision to dispose of the offense via other than courts-martial
  - Decision to dismiss charges
  - Negotiation and decision to enter into Pretrial Agreement and terms of any such agreement

Robust Consultation

Consultation

However ….

- Government may **limit** consultation when justified by the circumstances
  - Avoid endangering the safety of a victim
  - Jeopardizing an ongoing investigation
  - Disclosing classified or privileged information
  - Unduly delaying the disposition of the offense

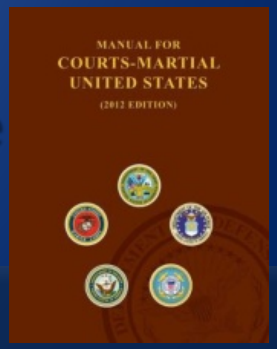
AR 27-10, para. 17-15

Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- **During the Prosecution Phase** - The Trial Counsel will **notify** the victim concerning:
  - **Status of the investigation**
  - Appearance of the Accused at a Pretrial Confinement hearing or Art. 32 Investigation
  - Release of the Accused from Pretrial Confinement
  - Scheduling times of court and Art. 32 proceedings
  - Disposition of the case
    - Acceptance of Guilty Plea
    - Rendering of a verdict
    - Withdrawal or dismissal of charges
  - Opportunity to testify at sentencing on victim impact
  - Sentence imposed and minimum release date, parole and clemency

Robust Notification



DD Form 2702

Requests for Investigative Records

A victim's requests for ***"investigative reports and related documents"*** should be processed under applicable **Freedom of Information Act** or **Privacy Act** procedures

- DoDI 1030.2, para. 6.3.2
- AR 27-10, para. 17-25

The Freedom of Information Act (FOIA)

FOIA Exemptions

1. Classified Information
2. Internal Rules and Policies
3. Withholding Statutes
4. Trade Secrets or other Business Records
5. **Privileged Information**
6. **Privacy Information**
7. **Law Enforcement Purpose Records**
8. Banking Records*
9. Geological and Geophysical Data*

"Under the Freedom of Information Act, I'm requesting that you disclose what you have on me in your files."

What "**Records**" can the Victim obtain?

- Victim's statements to CID
  - **Maybe**
- The Accused statements to CID
  - **Generally No**
- Statements by third party witnesses
  - **Generally No**
- The Charge Sheet
  - **Generally after referral**
- Medical Records
  - **Depends on who has them**

Information Provided to the Court
Prior to and During the Trial

Requested the court to order Trial Counsel and Defense Counsel to provide the Victim with **copies of motions** under MRE 412, 513 and 514 so that the victim may exercise her right to be heard on the motions.

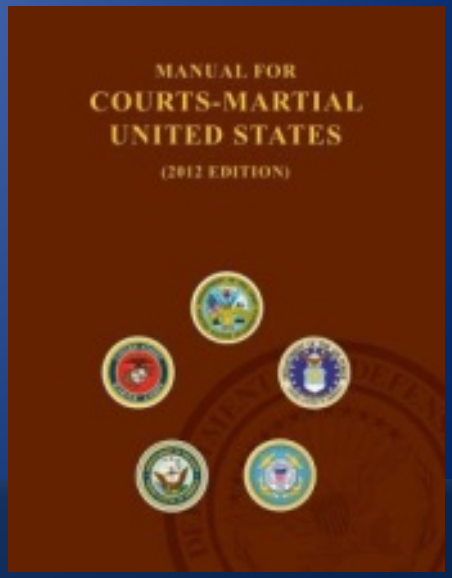
- *See generally* **LRM v. Kastenberg**

- Presence at 802 Sessions?
- Copied on e-mail traffic with the court?

Victim's Right to be Heard

- **MRE 412** – Victim's sexual behavior or predisposition
- **MRE 513** – Psychotherapist-Patient Privilege
- **MRE 514** – Victim Advocate-Victim Privilege
- **The Crime Victim Rights Act**
- **The US Constitution**

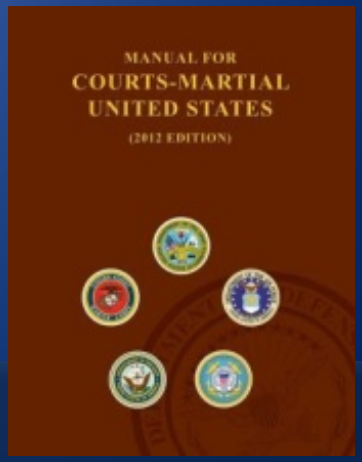
See generally **LRM v. Kastenberg**



Dep't of Defense Guidance

DoDI 1030.2: Victim and Witness Assistance Procedures

- **Upon Order to Confinement**- The Trial Counsel will **notify** the victim concerning:
  - **The post trial process** (including convening authority action, probation, parole, supervised release, etc.) **DD Form 2703**
  - **Right to be notified** of changes in offender's confinement status **DD Form 2704**
  - **Probable date the offender will be eligible for parole**



Dep't of Defense Guidance

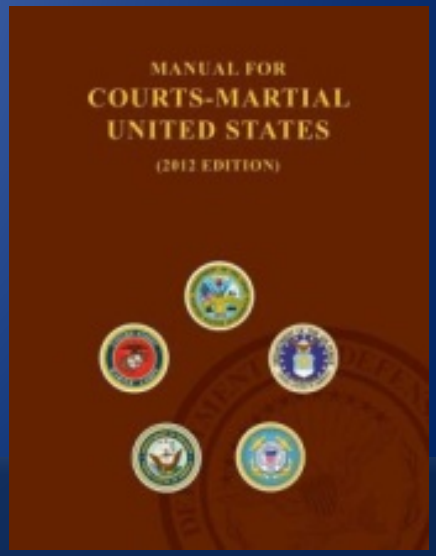
DoDI 1030.2: Victim and Witness Assistance Procedures

- **Upon Entry to Confinement**- If elected, the Confinement Facility will **notify** the victim concerning:
  - The location of confinement
  - Any change in the inmate's status:
    - Scheduling of clemency or parole hearing
    - Transfer, escape, work release, furlough, death, etc.

Post Trial Right to Record of Trial

UCMJ, Article 54(e)

"In the case of a general or special court-martial involving a **sexual assault** or other offense covered by section 920 of this title (article 120), a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided **without charge** and as soon as the records are authenticated. The victim shall be notified of the opportunity to receive the records of the proceedings."



Signed into law on 31 December 2011

Information Sharing: Victim's Privacy Concerns

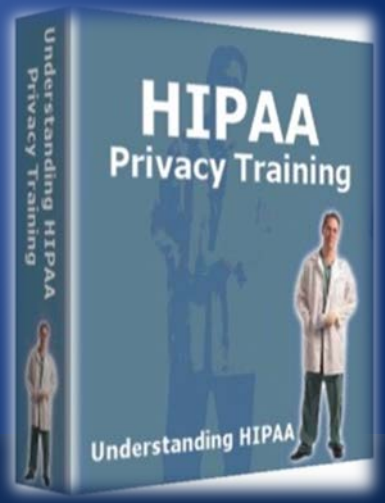
Protection against **"unwarranted invasion of privacy"**

Information Sharing v. Protecting Victim Privacy

- **Counselor** - attend the interviews victims have with investigators, trial counsel, and defense counsel and coordinate multidisciplinary victim services with the SARC, VA, Chaplain, Commander, etc.
- **Privacy Advocate** - SVCs should help protect victims' privacy interests and prevent unnecessary disclosure of intimate details consistent with victims wishes.

Understanding the Privacy Rules

- Access to Victim Medical Records & Information
  - From a Medical Provider
    - HIPAA Protected
  - From CID or Trial Counsel
    - Privacy Act Protected



teamwork ...

SVC
SARC
VA
CID
SJA
Chaplain
Medical Providers
Commander
Military Judge
Trial Counsel
Defense Counsel

Know who is on which team!

Confidentiality: Communicating inside and outside of "the Cone of Silence"

- SARC
- Victim Advocate
- Chaplain
- Medical Providers
- SVC Technical Chain

- Trial Counsel / SJA
- Defense Counsel
- CID

got consent?

Seeing the Big Picture

- *Understand the **victim's rights to information***
- *Without the **cooperation** of victims and witnesses, the [military justice] system would cease to function effectively*

AR 27-10, para. 17-2

ANY
QUESTIONS
?

INFORMATION PAPER

SUBJECT: Implementation Guidance for Article 54(e), UCMJ

1. *In General*. This information paper provides joint guidance for all Services to follow until such time as the Rules for Courts-Martial (R.C.M.) can be amended to implement Article 54(e). On 31 December 2011, the President signed Public Law 112-81, The National Defense Authorization Act for Fiscal Year 2012. Section 586 added article 54(e) to the UCMJ, requiring legal offices to provide a free copy of the record to victims in certain cases, as follows:

> "(e) In the case of a general or special court-martial involving a sexual assault or other offense covered by section 920 of this title (article 120), a copy of all prepared records of the proceedings of the court-martial shall be given to the victim of the offense if the victim testified during the proceedings. The records of the proceedings shall be provided without charge and as soon as the records are authenticated. The victim shall be notified of the opportunity to receive the records of the proceedings."

2. *Criteria*. Article 54(e) applies when the following criteria are met: (1) a general or special courts-martial; (2) involving a sexual assault or other Article 120 offense; and (3) when the victim testified during the proceedings.

3. *Contents*. The documents normally provided to the accused pursuant to Article 54(d) are to be provided to eligible victims under Article 54(e). The victim is entitled to receive the "record of trial," using R.C.M. 1103(b)(2) as a guide. A victim's record of trial does not include matters attached to the record as listed in R.C.M. 1103(b)(3). A verbatim transcript is not required in all cases, as set forth in R.C.M. 1103(b)(2)(B), 1103(b)(2)(C), and 1103(e). Finally, because the convening authority's action is normally prepared after authentication, the signed action should be subsequently served on the victim. In all cases, the victim should also be provided with a promulgating order.

4. *Timing*. The victim is to receive the record after it is authenticated, like the accused under R.C.M. 1104(b)(1)(A). Trial counsel should inform the victim of the right to receive the record after the victim testifies but prior to authentication. A victim can affirmatively decline a copy of the record after proper notification of this right; however, the Trial Counsel must record this declination in writing. A victim may also request a delay in receipt of the record until all documents, including the convening authority's action, are complete. In all cases, legal offices must fully record and document compliance with Article 54(e) and attach documents reflecting compliance to the record of trial.

5. *Redaction*. Rules and policy related to sealed exhibits, classified matters, and privacy apply to all records provided to victims. Matters sealed pursuant to R.C.M. 1103A must not be provided to the victim. Furthermore, legal offices must comply with the Privacy Act, 5 U.S.C. § 552a, and Freedom of Information Act, 5 U.S.C. § 552, and redact matters that would constitute a clearly unwarranted invasion of personal privacy for the accused or any other witness (e.g., social security numbers).

6. *Policy*. Until the R.C.M. can be amended, legal offices are strongly encouraged to follow this guidance in order to maintain consistency across the Department of Defense.

Prepared by: The Joint Service Committee on Military Justice, DOD, 28 June 2012

Special Victim Counsel Handbook

1 November 2013

...I told my commanders that combating sexual assault and sexual harassment within the ranks is our No. 1 priority. I said that because as chief, my mission is to train and prepare our Soldiers for war...These crimes cut to the heart of the Army's readiness for war. They destroy the fabric of our force, Soldier and unit morale... We will fix this problem.

- General Ray Odierno, Army Chief of Staff, 4 June 2013

PURPOSE: In our efforts to combat sexual assault within our ranks, the Special Victim Counsel Program (SVCP) was developed to strengthen our support of victims of sexual assault and enhance their rights within our military justice system, while neither causing unreasonable delay nor infringing upon the rights of an accused. The role of a Special Victim Counsel (SVC) is to zealously represent the client's interests throughout the military justice process within the scope of representation described in this Handbook. This Handbook establishes initial procedural rules and guidelines for the practicing SVC. SVCs will at all times act in accordance with Army Regulation 27-26, Rules of Professional Conduct for Lawyers, the rules of conduct of their particular State bar, and the high ethical standards of an Army Officer. Nothing in this Handbook will be read to alter these ethical standards of practice and, in case of conflict, SVCs will follow the ethical standards.

This handbook and the guidance contained herein may be revised, updated, and/or changed. It is the responsibility of SVCs, Chiefs of Legal Assistance (CLA), and Staff Judge Advocates (SJA) to maintain situational awareness of current practices through the SVC Program Manager (PM). Non-compliance with any of the guidelines contained within this Guide will not give rise to rights or remedies to the victim or the accused, and the guidelines will be interpreted in this context.

BACKGROUND: On 9 November 2012, General Counsel for the Secretary of Defense issued a memo titled "Legal Assistance to Victims of Sexual Assault." The issue examined in the memo was the scope of legal assistance that judge advocates can legally provide with support of paralegals to the victims of sexual assault. The memo concludes that "to the extent the victim could retain the advice or representation of private counsel, [10 U.S.C.] §§ 1044 and 1565b authorizes, and certainly does not prohibit, JAGs from providing the same legal advice and representation, to the same extent." The memo also states, "when read together, 1044 and 1565b authorize, and certainly do not preclude, legal assistance to a victim of a sexual assault in criminal contexts, including attending interviews of the victim and interfacing with military prosecutors, defense counsel and investigators."

The SVC Program does not increase a victim's standing in court-martial hearings or other military justice proceedings beyond the standing victims are currently afforded under existing law and rules (e.g., evidentiary hearings under MREs 412, 513, and 514). Victims, whether represented by SVC or civilian counsel, are not parties to a court-martial under Rules for Courts-Martial 103 and do not have the same entitlements as parties under the UCMJ.

FUNDAMENTAL PRINCIPLES FOR THE ARMY SPECIAL VICTIM COUNSEL PROGRAM:

SVCs are legal assistance attorneys who have received special training and are designated by their SJA's as an SVC. SVCs will provide zealous representation to their clients. Constrained only by ethical limits, SVCs shall represent the best interests of their clients as appropriate even when their client's interests do not align with those of the government of the United States. An SVC's primary duty is to his/her client and no other person, organization or entity.

SVCs are bound by applicable Army Regulations, the Army Rules of Professional Conduct for Lawyers, and the Rules of Practice Before Army Courts-Martial. Depending on the circumstances, they may also be bound by other laws, regulations, and instructions, as well as the ethics rules of their state bars.

SVCs will empower victims, foster victims' understanding of the military justice process and aid each victim with the legal assistance needed to allow full participation in applicable programs and services and the military justice process. This will be accomplished by providing effective and timely advice, being available to assist throughout the full spectrum of the military justice practice from initial investigation to convening authority action, and providing appropriate advocacy to assure rights afforded are fully realized.

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Chapter 1
Victim Eligibility

The Army provides legal assistance to eligible beneficiaries as stated in Army Regulation 27-3 para.2-5, The Army Legal Assistance Program, to include active duty, reserve and guard members when in an active status or for mobilization and deployment related assistance, dependents and former members who are entitled to an ID card, civilian employees who are overseas, contractor personnel (IAW terms of contract), foreign military personnel and their dependents assigned to the United States under official orders, and unique situations.

To be eligible for SVC assistance, a victim of sexual assault must make an unrestricted or restricted report of sexual assault under the UCMJ, including rape, sexual assault, forcible sodomy and other unwanted sexual contact that is aggravated, abusive, or wrongful, and attempts to commit these offenses, which are crimes in violation of Articles 120, 125, and 80, respectively (including previous versions of UCMJ, Article 120) and circumstances contemplated in paragraph 1-6 of this handbook. Legal assistance is not categorically provided under AR 27-3 to victims of crime without a military nexus (e.g., a civilian who does not fall into any of the categories above). (See the Chart at Appendix 3 for a summary of client eligibility)

1-1. Eligibility for Army Members

a. All Army Active Duty and Army Reserve Component Soldiers on active duty pursuant to orders for 30 days or more at the time of the offense who report they are a victim of sexual assault are eligible for an SVC. In addition to the above listed crimes under the UCMJ, Soldiers who report that they are a victim of sexual assault under state and federal laws criminalizing sexual assault when the alleged perpetrator is a civilian or an unknown perpetrator are eligible for limited SVC assistance as described in Chapter 6.

b. Generally, Army members who are on active duty, but were victims of sexual assault prior to enlistment or commissioning are not eligible for the SVC Program. They are eligible for legal assistance IAW AR 27-3 and Sexual Assault Prevention Response (SAPR) services, including both unrestricted and restricted reporting options, IAW DoDI 6495.02, para. 2.e. For exceptions see paragraph 1-8 of this handbook.

1-2. Eligibility for Adult Dependents of Army Members

a. All adult dependents of Active Duty Army members who are an eligible dependent at the time of the offense and report that they are a victim of sexual assault under the UCMJ are eligible for an SVC when an Army commander may exercise jurisdiction over the alleged offender.

b. For purposes of this rule, the non-spouse dependents, as defined in AR 600-8-14, Identification Cards for Members of the Uniformed Services, their Eligible Family Members, and Other Eligible Personnel, must be unmarried between the ages of 18 and 20, a full time student between the ages of 18 and 22, or an incapacitated child over the age of 21.

1-3. Eligibility for Members of Other Services

a. All Navy, Marine Corps, Air Force, and Coast Guard Active Duty and Reserve Component members on active duty pursuant to orders for 30 days or more at the time of the offense who file an unrestricted or

restricted report of sexual assault under the UCMJ are eligible for an SVC when an Army commander may exercise jurisdiction.

b. The Army must have a possibility of obtaining jurisdiction. SVC representation is not authorized to victims in other Services when the alleged perpetrator is a civilian or a member of another Service.

c. When permitted by the rule of confidentiality, the SVC will provide a courtesy notification of representation to the victim's immediate commander.

1-4. Eligibility for Adult Dependents of Members of Other Services

a. All adult dependents of Active Duty members of other Services who are eligible dependents at the time of the offense and file an unrestricted or restricted report that they are a victim of sexual assault under the UCMJ are eligible for an SVC when an Army commander may exercise jurisdiction.

b. For purposes of this rule, non-spouse dependents, as defined in AR 600-8-14, Identification Cards for Members of the Uniformed Services, their Eligible Family Members, and Other Eligible Personnel, must be unmarried between the ages of 18 and 20, a full time student between the ages of 18 and 22, or an incapacitated child over the age of 21.

1-5. Eligibility for Other Categories of Victims

a. All remaining categories of individuals eligible for legal assistance under AR 27-3 are eligible for SVC assistance when they file an unrestricted or restricted report of sexual assault under the UCMJ when an Army commander may exercise jurisdiction.

b. The Army must have a possibility of obtaining jurisdiction in the case, meaning the alleged perpetrator is a member of the Army who committed the crime while in Title 10 status. SVC representation is not authorized to victims in this category when the alleged perpetrator is a civilian or a member of another Service.

c. Victims who are minors are not eligible for an SVC.

1-6. Basic Military Training and Technical Training

a. All entry-level status Army Active Duty and Reserve Component Soldiers who are alleged to have been involved in an unprofessional relationship (as defined by AR 600-20 para. 4-14) that involves physical contact of a sexual nature with basic military training or technical training faculty or staff are eligible for SVC assistance.

b. As defined in AR 350-6, Soldiers are considered to be in entry- level status during the first 180 days of continuous active military service or the first 180 days of continuous active military service after a break of more than 92 days of active service.

1-7. Deployed Victims

Representation will be provided to deployed victims through in-country SVCs directly or through coordination with the SVC PM.

1-8. Determination of Eligibility

The SVC PM has the final authority on determination of eligibility and may grant exceptions to policy on a case-by-case basis consistent with 10 U.S.C.§§1044 and 1565b.

Chapter 2
Special Victim Counsel Representation Process

10 U.S.C. § 1565b requires that servicemembers and their dependents, who are victims of sexual assault, be informed of the availability of legal assistance as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator (SARC), Sexual Assault Prevention and Response Victim Advocate (SAPR VA), the Family Advocacy Program (FAP), military criminal investigator, victim liaison, or Trial Counsel (TC). (See the SVC Representation Chart at Appendix 4.)

2-1. Victim Notification of Right to SVC

a. The Victim Advocate (VA) (or first responsible party to make contact with a victim, e.g., SARC, SAPR, FAP, investigator, VWL, or TC) IAW 10 U.S.C. § 1565b, utilizing DD Form 2701 (Initial Information for Victims and Witnesses of Crime) will inform victims of their right to the services of an SVC. Victims will be provided a brief description of the role of the SVC and an explanation that the SVC is available and may be requested at any time throughout the duration of the justice process. It is not necessary for the victim to sign an acknowledgment or waiver of services. However, best practice is for the VA or responsible party to use the "Notification of Special Victim Counsel Services" form (see Appendix 5). The contact information for the local SARC or FAP, as determined by the victim's relationship with the alleged perpetrator, will be included on the DD Form 2701.

b. It is incumbent upon the VA or responsible party to ensure that the victim understands that an initial declination of SVC services does not permanently waive all right to SVC services and the victim may request an SVC at any time.

c. If charges are preferred as a result of the sexual assault, TC will provide an eligible victim who does not have an SVC with an additional notification of their right to the services of an SVC.

2-2. Victim Exercises Right to SVC

If the victim chooses to exercise the right to consult with an SVC, the following process will be followed. (see Special Victim Counsel Representation Chart in Appendix 4)

a. The VA, or responsible party, notifies Chief of Legal Assistance (CLA) of the victim's request/election for an SVC.

b. CLA performs a conflict check IAW AR 27-3 para. 4-9 and appoints an SVC to consult with the victim within 24 hours of the victim's request/election to right to SVC.

c. If the CLA determines that the office is unable to represent the victim, the CLA will coordinate with the Special Victim Counsel PM to ensure that the victim receives representation.

d. SVC meets and consults with victim.

e. During the initial meeting and consultation with appointed SVC, the victim will complete the Election of Special Victim Counsel (Appendix 6) choosing to continue to utilize SVC services or declining continued representation. If the victim chooses to continue utilizing SVC services, the scope of further representation will be explained and acknowledged by the victim (Appendix 7).

2-3. Solicitation of Victims

SVCs will not solicit clients. (See Army Rules of Professional Conduct for Lawyers, Rules 7.1, 7.2, and 7.3).

Chapter 3
Responsibility and Role of SVC

The Army and Department of Defense provide a wide range of services and support to victims of sexual assault through a variety of personnel, agencies and programs, including commanders, the Sexual Assault Prevention and Response Program, Surgeon General, Soldier & Family Readiness Center, Army Criminal Investigation Command otherwise known as CID, Chaplains, FAP, and the Judge Advocate General's Corps. While each of these agencies provides distinct and critical support and services to victims, there is also overlap in certain roles and responsibilities, requiring coordination in providing effective multi-disciplinary support to victims. (See Sexual Assault Response Flowchart at Appendix 9)

3-1. Primary Duty

An SVC's primary duty is to represent their client's interests within the boundaries of the SVCP.

3-2. Scope of Representation Letter

During the SVC's initial meeting/consultation with the victim, the SVC will review the scope of representation letter with the victim. The victim will sign the letter, acknowledging the scope of the attorney-client relationship (Appendix 7).

3-3. Duration of SVC Client Relationship

a. Once an SVC is appointed, that SVC remains the counsel for the victim for all matters relating to the sexual assault (except as limited by Chapter 5 of this handbook) until released by the victim.

b. Transfer of counsel due to deployments, PCS, ETS and other unique circumstances will be coordinated by the SJA through the SVC PM. The victim will be consulted throughout the process of any transfer of counsel. If a new SVC is appointed, coordination will be made between outgoing and incoming SVCs to ensure an effective transfer of services.

c. In general, the SVC-client relationship will terminate when case disposition is complete. This termination should be conducted in a face-to face meeting, if possible, and confirmed in writing (Appendix 10).

1. For courts-martial, the end of SVC representation will be upon initial action by the convening authority or earlier termination of charges.

2. For non-judicial punishment under Article 15, UCMJ, case disposition is complete upon the completion of any imposed punishments.

3. For administrative actions, case disposition differs depending on the type of administrative action. In cases of administrative separations, case disposition is considered complete when the separation authority takes final action; for memoranda of reprimand, case disposition is considered complete once filing determination is complete. For other administrative actions, case disposition is generally complete once the approval authority has taken final action after any procedural due process requirements are complete.

4. If a decision is made to take no action on the case, the SVC will consult with the client and ensure the client's legal needs have been met and then terminate representation.

d. An SVC may decline or terminate representation only IAW Army Rules of Professional Conduct for Lawyers, Rule 1.16, the scope of representation letter, and after consultation with the SJA or SVC PM.

e. A client may terminate the attorney client relationship at any time.

3-4. Special Victim Counsel Association with SARC and FAP

a. The SARC serves as the installation's single point of contact for integrating and coordinating sexual assault victim care services. The FAP fulfills this role for sexual assault victims who are in a domestic or intimate partner relationship. Services may begin at the initial report of sexual assault. As discussed above, the SARC or FAP should notify the CLA when a victim requests an SVC.

b. Once an attorney-client relationship is formed, SVCs will inform the SARC/FAP of this representation. This notice is intended to make SARCs and FAP aware that the victim is represented by legal counsel to facilitate effective multi-disciplinary support for the victim.

c. In support of the SARC/FAP, SVCs should advise victims of the services available. SVCs should work in conjunction with SARC/FAP to coordinate delivery of services and avoid duplication of services. SVCs may advocate to the responsible agencies when these services are either not being provided, or are not being provided in the manner intended.

d. The SVC will not act as a legal advisor for the SARC or commanders, but shall have access to commanders to represent the needs and interests of their clients as necessary.

3-5. Special Victim Counsel Association with VWAP

a. The Victim Witness Assistance Program (VWAP) (IAW AR 27-10 Chapter 17), through the SJA, VWAP Coordinator, and victim liaison, normally ensures that victims are afforded certain enumerated rights, such as consultation with TC and notification of all court-martial proceedings.

b. Under VWAP, a victim liaison may be assigned to each victim. Along with the SJA and TC, the victim liaison is the SVC's point of contact in the legal office for obtaining case updates and communicating questions and concerns from the victim. The victim liaison works for the SJA and as such, any communication by the victim or the SVC with the victim liaison will not have protection of confidentiality.

c. While there is overlap in the objectives of the SVCP and the VWAP, the SVCP does not supplant or augment VWAP, but is a separate program altogether. VWAP implements the DoD Directive 1030.01, Victim and Witness Assistance, and DoD Instruction 1030.2, Victim and Witness Assistance Procedure.

d. While an SVC may advocate for a victim's rights under federal law, there is no cause of action or defense in favor of any person arising out of a failure of the Army to comply with VWAP.

e. Establishment of the SVCP does not necessitate any change to the scope of VWAP.

Chapter 4
Scope of Representation

4-1. Victim's Rights During the Military Justice Process

a. Both 10 U.S.C. §§ 1044 and 1565b authorize legal assistance to a victim of a sexual assault in criminal contexts, including attending interviews of the victim and interfacing with military prosecutors, defense counsel, and investigators. The SVC may advocate a victim's interests to any actor in the military justice process, including, but not limited to, commanders, convening authorities, the SJA, TC, the accused's trial defense counsel, and, to the extent authorized by the MCM, the military judge. Victims will also be notified of the opportunity to provide input during the post-trial process. This includes matters in which the government is required to consult with the victim.

b. The government will consult with victims and obtain their views concerning:

1. Decisions not to prefer charges;

2. dismissal of charges;

3. pretrial restraint or confinement, particularly an accused's possible release from any pretrial restraint or confinement;

4. pretrial agreement negotiations, including PTA terms;

5. plea negotiations;

6. discharge or resignation in lieu of trial by court-martial; and

7. scheduling of judicial proceedings where the victim is required or entitled to attend.

c. During the investigation and prosecution of a crime, the VWL, trial counsel, or other Government representative will provide a victim the earliest possible notice of significant events in the case, to include:

1. The status of the investigation of the crime (to the extent that it will not interfere with the conduct of the investigation), the rights of the accused, or the rights of other victims or witnesses;

2. the apprehension of the suspected offender;

3. the decision on whether to prefer (or file in a civilian court) or dismiss the charges against a suspected offender;

4. the initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at an investigation under UCMJ, Art. 32;

5. the scheduling (date, time, and place) of each court proceeding that the victim is either required or entitled to attend and of any scheduling changes;

6. the detention or release from detention of an offender or suspected offender;

7. the acceptance of a plea of guilty or the rendering of a verdict after trial;

8. the opportunity to consult with trial counsel about providing evidence in aggravation concerning financial, social, psychological, and physical harm done to, or loss suffered by, the victim;

9. the result of trial or other disposition;

10. if the sentence includes confinement, the probable date by regulation on which the offender will be eligible for parole;

11. general information regarding the corrections process, including information about work release, furlough, probation, parole and other forms of release from custody, and the offender's eligibility for each;

12. the right to request, through the VWL, trial counsel, or designee of the commander of the corrections facility to which the offender is assigned, notice of the matters set forth below where the sentence includes confinement; and

13. how to submit a victim impact statement to the Army Clemency and Parole Board for inclusion in parole and clemency considerations (under AR 15–130).

d. Upon a sentence to confinement, the trial counsel or a representative for the Government will:

1. Formally inform the victim regarding post-trial procedures, and the right to be notified if the offender's confinement or parole status changes, and when the offender will be considered for parole or clemency by providing the victim with DD Form 2703 (Post-Trial Information for Victims and Witnesses of Crime); and

2. ensure the victim's election regarding notification is recorded on DD Form 2704 (Victim/Witness Certification and Election Concerning Inmate Status), in every case, regardless of election. One copy of DD

Form 2704 will be given to the victim. One copy of the form will be forwarded to the commander of the gaining confinement facility. One copy of the form will be forwarded to the Army Corrections Command (DAPM–ACC), 150 Army Pentagon, Washington, DC 20310-0150.

4-2. Notice of Representation

a. If the client has filed an unrestricted report, once an attorney-client relationship is formed, SVCs will serve the SJA, Chief of Military Justice, Senior Defense Counsel (SDC), CID, the victim's commander, and the SARC/VA/FAP with a notice of the representation (Appendix 8).

b. The trial counsel and the accused's trial defense counsel need to obtain consent from the SVC prior to communicating with represented victims pursuant to Army Rules of Professional Conduct for Lawyers, Rule 4.2.

c. Once a notice of representation is served on an office, the SVC will discuss with the office (e.g., TC, DC, etc) the matters, if any, about which the SVC's client may be contacted directly, without additional consent of the SVC.

d. SVC will communicate his or her schedule to the TC, which the TC will consider when scheduling Article 32 hearings, docketing courts-martial, and other military justice proceedings where the victim's presence is required.

4-3. Attendance at Interviews by SVC

SVCs are permitted to attend all interviews of the victim with investigators, TC, and DC. At these interviews, SVCs should require that the interviewer has an additional party present to reduce the likelihood that the SVC may be called later as a witness.

4-4. Notification of Judiciary of SVC Representation

When a victim is represented by an SVC or a civilian counsel, the SVC or civilian counsel will immediately notify TC of the SVC's contact information. The TC will provide that information to the military judge on the Electronic Docket Request (ERD) (IAW Rule 1 and Appendix A of the Rules of Practice Before Army Courts-Martial).

4-5. Standing under the UCMJ

Victims represented by a uniformed SVC are non-parties to a court-martial under RCM 103. The Court of Appeals for the Armed Forces addressed this and related issues in United States v. Kastenberg 72 MJ 364 (C.A.A.F. 2013). The language of Mil. R. of Evid. 412, 513, and 514 afford victims a reasonable opportunity to attend and be heard at hearings concerning these rules. The opportunity to attend and be heard includes argument and presentation of evidence by an SVC or victim's civilian counsel. The extent of argument and presentation of evidence is controlled by the military judge and is case dependent, IAW RCM 801. Presentation of evidence and argument by counsel will not preclude a victim's exercise of the

opportunity to be heard through unsworn statement or testimony. TC and DC will serve SVCs with copies of motions and responses (as well as any accompanying documents under Mil. R. Evid. 412, 513, and 514 filed by parties to the case. SVCs may file responses in the best interests of their clients. Any filings submitted by SVC s must comply with the pretrial order from the military judge if issued, or if absent such order, the Rules of Practice before Army Courts-Martial (including, but not limited to, format and timing).

4-6. Advocacy to Army and Department of Defense Agencies

SVCs may advocate a victim's interests to agencies and offices within the Army and Department of Defense where there is a nexus to the client's status as a victim.

4-7. Notification to Third Parties by SVC

SVCs will ensure that third parties understand that the victim is their client, and not the Army.

4-8. Access to Information

If the SVC attends court proceedings from which the victim is excluded under MRE 615 as a witness, the SVC will not inform the client about the testimony of any other witness.

Chapter 5
Collateral Misconduct

An investigation into the facts and circumstances surrounding a sexual assault may produce evidence that the victim engaged in misconduct. Collateral misconduct is misconduct that is committed by a victim of a sexual assault that has a direct nexus to the sexual assault. Typical examples of collateral misconduct include underage drinking, adultery, fraternization, and violations of regulations or orders, such as General Order 1 or curfews. Collateral misconduct will not preclude SVC representation.

5-1. Referral of Victim to USATDS

It is Army policy that USATDS will provide counsel for collateral misconduct. When the SVC becomes aware that the victim has allegedly committed collateral misconduct, the SVC will notify the victim that a TDS Counsel will be appointed to represent the victim in the event that non-punitative measures, administrative action, nonjudicial punishment, administrative discharge, and/or the court-martial process is initiated.

a. Victim Notification. The SVC will inform the victim of the availability of TDS Counsel. The SVC will inform the victim that the SVC <u>will not</u> serve as the victim's counsel for purposes of collateral misconduct.

b. Victim Referral. In the event that qualifying action is initiated or the victim indicates a desire to meet with TDS Counsel, the SVC will contact the servicing SDC or USATDS and provide the victim with the name and contact information for the detailed TDS Counsel.

Chapter 6
Contact with Civilian Prosecutors and Agencies

Representation in civilian court is not authorized under this program. In addition, most SVCs will be precluded from representing victims in civilian courts by state licensing requirements.

SVCs may provide assistance to a victim with respect to state and federal victim compensation and restitution programs. SVCs may provide assistance to a victim with respect to other civilian helping agencies such off -post rape crisis centers, and abused women shelters.

6-1. Off-Installation Advocacy by SVC

a. SVCs may generally advocate a Soldier victim's interests off-post to civilian prosecutors, law enforcement agencies, and other civilian and government agencies.

b. SVCs may not advocate a victim's interests to the Department of Veterans Affairs or represent a victim in the disability evaluation system. SVC's representation in VA matters is limited to providing advice in the scope of traditional legal assistance.

6-2. Representing Victims in Civilian Courts Precluded

As a matter of policy, SVCs are precluded from representing victims in civilian courts. SVCs will explain this limitation to the scope of representation to their client.

6-3. Notification to Third Parties by SVC

SVCs will ensure that third parties understand that the victim is their client. SVCs must avoid creating the impression that they represent the Army's interests in resolving the client's concerns or that the Army has an interest in the outcome of the matter.

6-4. Interaction with Media

Although SVCs are not parties to their clients' cases, SVCs will, as a matter of policy, interact with the media in accordance with Rule 3.6 of the Army Rules of Professional Conduct for Lawyers.

Chapter 7
Training and Certification Requirements

All Army Judge Advocates are licensed and competent to practice law and receive specialized instruction on the specific areas of law in which they practice. The Army Rules of Professional Conduct for Lawyers apply to all military and civilian lawyers and paralegals, to include SVCs. Army Judge Advocates follow Army Rules of Professional Conduct, Rule 1.1, to "provide competent representation…using legal knowledge, skill, thoroughness, and preparation reasonably necessary for representation."

7-1. UCMJ Article 27(b) Certification Required

Only Judge Advocates who are certified under Article 27(b), UCMJ, and sworn under Article 42(a), are authorized to serve as an SVC. SVCs need not be detailed to a court-martial, but will be required to state their qualifications on the record.

7-2. Special Victim Counsel Training Course Required

Judge Advocates who are selected to serve as SVCs must successfully complete a TJAG approved SVC course before assuming duty.

7-3. Special Victim Counsel's Ability to Deploy

Special consideration should be given to ensure that continuity is not broken between an SVC and the victims represented.

Chapter 8
Oversight and Reporting Structure

8-1. Professional Oversight of SVCs

Staff Judge Advocates will provide professional oversight of SVCs. If a situation arises in which the interests of the SVC client and the interests of the command are in conflict, the SVC will turn to the SVC PM for technical advice and supervision for professional responsibility under the provisions of AR 27-26.

8-2. Functional and Policy Oversight of SVC Program

a. SJAs will make the initial assignment to the position of SVC.

b. In general, CLAs will:

1. make individual appointments of SVCs to victims who request an SVC IAW Appendix 4, and

2. provide day-to-day supervision of SVCs

c. Functional and policy oversight of the SVCP will be provided by the SVC PM.

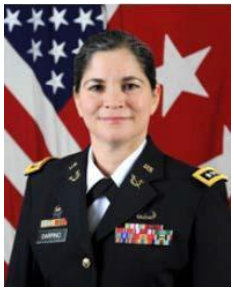
d. A tracking system will be used to track SVCs and their workload.

8-3. Communication Between SJA and SVC

SVCs will communicate their workload and schedule pertaining to SVC matters to their SJAs without violating attorney-client confidences. Additional discussions about the representation will comply with Rule 1.6 of the Army Rules of Professional Conduct for Lawyers.

8-4. Office Space and Other Support

A Staff Judge Advocate or equivalent whose command requires an SVC to travel to his or her installation is responsible for hosting and providing adequate administrative support to the traveling SVC. The Staff Judge Advocate will ordinarily host a traveling SVC through his or her legal assistance office.



TJAG Sends

A Message from The Judge Advocate General

SPECIAL VICTIM ADVOCATE PROGRAM

Today, I am pleased to announce the guidelines of the United States Army Special Victim Advocate Program (SVAP). The SVAP, created at the direction of the Secretary of Defense, exists to provide legal advice and representation to victims of sexual assault throughout the military justice process. The SVAP's initial operational capability (IOC) for offering services will be 1 November 2013.

Special Victim Advocates (SVAs) will be drawn from the Legal Assistance Division of the Offices of the Staff Judge Advocate. At this initial stage, forty-five active duty Judge Advocates will be appointed Corps-wide as SVAs by their respective Staff Judge Advocates (SJAs). Attached is a spreadsheet of where the SVAs will be located for IOC. For larger installations, SVCs will be on-site and the number of SVAs might even be two while for some of the smaller installations, the SVA will receive support from another installation. SJAs should appoint Judge Advocates who have defense or trial counsel experience and ensure completion of training prior to assumption of duties. Regardless of experience, the SVAs must have the maturity and judgment to assume these responsibilities.

Implementation of this program will add to the workload of the Legal Assistance Divisions and individual offices might find it taxing to continue providing the same level of outstanding legal assistance service that our Army community has come to expect. With this in mind, two mitigation measures have been taken. First, the Army's leadership has directed the mobilization of twenty Reserve Component Judge Advocates to provide legal assistance services at those offices where our active component legal assistance Judge Advocates will be impacted the most. The attached spreadsheet outlines the offices where the mobilized Judge Advocates will work. Second, SJAs have the authority to restrict services to Retirees and their Families. Before executing this restriction, however, you should implement mitigation measures to offset the loss of services. For example, consider weekend appointments for Retirees using local Reserve Component Judge Advocates or expanding services during Retiree Appreciation Days. Additional impacts on Legal Assistance may be inevitable but explore creative ways to keep these impacts to a minimum.

I have selected Colonel James "Jay" McKee to be the program manager for the SVAP; SJAs are to keep him informed of the challenges faced and the solution sets generated. COL McKee will provide the technical supervision over the SVAs throughout our Corps, while the Chiefs of the Legal Assistance Offices will have day-to-day supervisory responsibilities related to the on-going legal assistance duties and SVAP duties. COL McKee reports directly to the Assistant Judge Advocate General for Military Law and Operations. He will manage the program

CONTINUED

SPECIAL VICTIM ADVOCATE PROGRAM
Continued

in coordination with Personnel, Plans and Training Office (PP&TO), Criminal Law Division, Legal Assistance Policy Division, and the Legal Center and School (LCS). The goal will be to ensure that the program meets the intent of the Secretary of Defense, addresses the needs of sexual assault victims, and complements our practice of law. Policies, handbooks and other required documents on the SVAP will be published before IOC.

Training our future SVAs is of the highest priority, and we will dedicate the resources necessary to provide SJAs with an effective long-term SVA training model. We have developed specific curriculum that will be offered at a special SVA course in October to meet the IOC deadline. Additionally an online version of the course materials will be available shortly after 1 November 2013. Regardless of the method, SVAs must complete training before assuming their duties. The LCS will then continue planning for full integration across the Corps' education and training curriculum by 1 January 2014, the full operating capability date of the SVAP, in order to accomplish both long term development and sustainment of our SVA capability. Future SVAs will be selected by PP&TO for their knowledge, skill, and experience in both legal assistance and military justice. As we move forward with this unprecedented program, the SVAP reflects a dedication by the Army to the victims of sexual assault, while always ensuring that all Soldiers receive a fair trial.

Army Strong!

FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

CMD	# of SVAs	# of RC JAs for LA Duties	Supporting Installation
Afghanistan	2		
Hood	2	2	
Korea	2	2	
Stewart/Hunter	2	2	
Bliss	2	2	
Bragg	2	2	
Campbell	2	1	
7th JMTC	2	1	
Fort Sam	2	1	
Lewis	2	1	
Hawaii	2	1	
MDW (all 3)	2	1	
Carson	1	1	
Riley	1	1	
Leonard Wood	1	1	
Drum	1	1	
Kuwait	1		
Jackson	1		
21st TSC	1		
Lee	1		
Sill	1		
Benning	1		
Alaska	1		
Vicenza	1		
Irwin	1		
Knox	1		
Gordon	1		
West Point	1		
Polk	1		
Eustis	1		
Huachuca	1		
Wiesbaden	1		
Rucker	1		
Tampa			Fort Stewart
Monterey			Fort Irwin
Eglin			Fort Rucker
Japan			Korea
Leavenworth			Fort Riley
McCoy			Fort Knox
Dix			West Point
Hamilton			West Point
Okinawa			Korea
Redstone			Fort Benning
Totals	45	20	

DEPARTMENT OF THE ARMY
OFFICE OF THE JUDGE ADVOCATE GENERAL
2200 ARMY PENTAGON
WASHINGTON, DC 20310-2200

REPLY TO
ATTENTION OF:

DAJA-ZA I November 2013

MEMORANDUM FOR Judge Advocate Legal Services Personnel

SUBJECT: Office of The Judge Advocate General Policy Memorandum# 14-01, Special Victim Counsel

1. This policy addresses Judge Advocates (JAs) assigned as Special Victim Counsel (SVCs) and is effective immediately.

2. Background. The Secretary of Defense has directed that each service stand-up a special victim advocacy program to provide advice and representation to victims of sexual assault throughout the military justice process. The Secretary specifically directed that initial operating capability (IOC) be established not later than 1 November 2013 and that full operating capability (FOC) be established not later than I January 2014.

3. Implementation. SVCs are part of the Army-wide effort to ensure that sexual assault victims are provided responsive and timely support throughout the investigation and judicial proceedings. In support of this Army priority, Staff Judge Advocates (SJAs) are authorized to limit legal assistance services for Retirees and their Family Members. However, each SJA will implement a mitigation strategy for the curtailment of retiree services, such as retiree weekends.

4. Mission. SVCs have the professional duty to provide advice to their clients and to represent their clients throughout the military justice process. The SVC's primary duty is to zealously represent the best interests of their clients as required by the attorney-client relationship even if their client's interests do not align with those of other interested parties, to include the government of the United States. The SVC also helps build and sustain victim resiliency. An SVC should make every effort to establish and maintain an effective, complementary and professional working relationship with all other attorneys associated with a given case, and with other parties involved, including but not limited to investigators, victim advocates, victim witness liaisons, trial counsel, trial defense attorneys, special victim prosecutors and those professionals working to meet the physical, spiritual, and emotional needs of the client.

5. Appointment of SVCs and Length of Assignments. SJAs will appoint JAs to serve as SVCs, who will be part of the Office of the Staff Judge Advocate (OSJA) Legal Assistance Office. While SVCs do not have to be selected from currently serving Legal Assistance Attorneys, SVCs will function as part of the OSJA Legal Assistance Office when performing SVC duties. They should have trial or defense counsel experience. Regardless of experience, the SVCs must have maturity and good judgment to handle this important duty. SVCs should serve no less than one year and no more than two years in the position.

6. Training. Training is essential to honing the expertise of SVCs. The SVC Program Manager (PM), in coordination with The Judge Advocate General's Legal Center and School, the Criminal Law Division and the Legal Assistance Policy Division, will determine training requirements for SVCs and develop and administer a training program for SVCs. Completion of the SVC course is mandatory unless an exception is approved by the SVC PM. Given the nature and timing of certain training events, individuals may attend SVC training courses prior to their actual assignment as an SVC.

7. Supervision. An SVC's professional duty is to their client. SJAs must ensure a proper balance of mentorship and guidance for their SVCs, including supervision by the OSJA Chief of Legal Assistance. SJAs must recognize that SVCs have an ethical obligation to advocate for their clients even when it is not in the best interest of the government. The SJA, through the Chief of Legal Assistance, shall provide day-to-day supervision of the SVC and ensure the SVC is provided the necessary material and resource support to carry out the SVC mission. The OSJA will facilitate SVCs' requests for official travel for cases within their jurisdiction.

8. Relationship with the SVC PM. The SVC PM is responsible for monitoring the overall execution of the SVC program. Chiefs of Legal Assistance and SJAs remain the primary day-to-day supervisory chain for SVCs. However, due to the nature of the SVC function, there will be some cases in which the interests of the SJA and the command are not in concert with the victim's. In those situations, the SVC's technical adviser and supervisory JA for professional responsibility per AR 27-26 is the SVC PM. Our goal is the SVC program should be effective, transparent, avoid conflicts of interest with other legal assistance clients and complement the way our Corps already delivers legal services.

Army Strong!

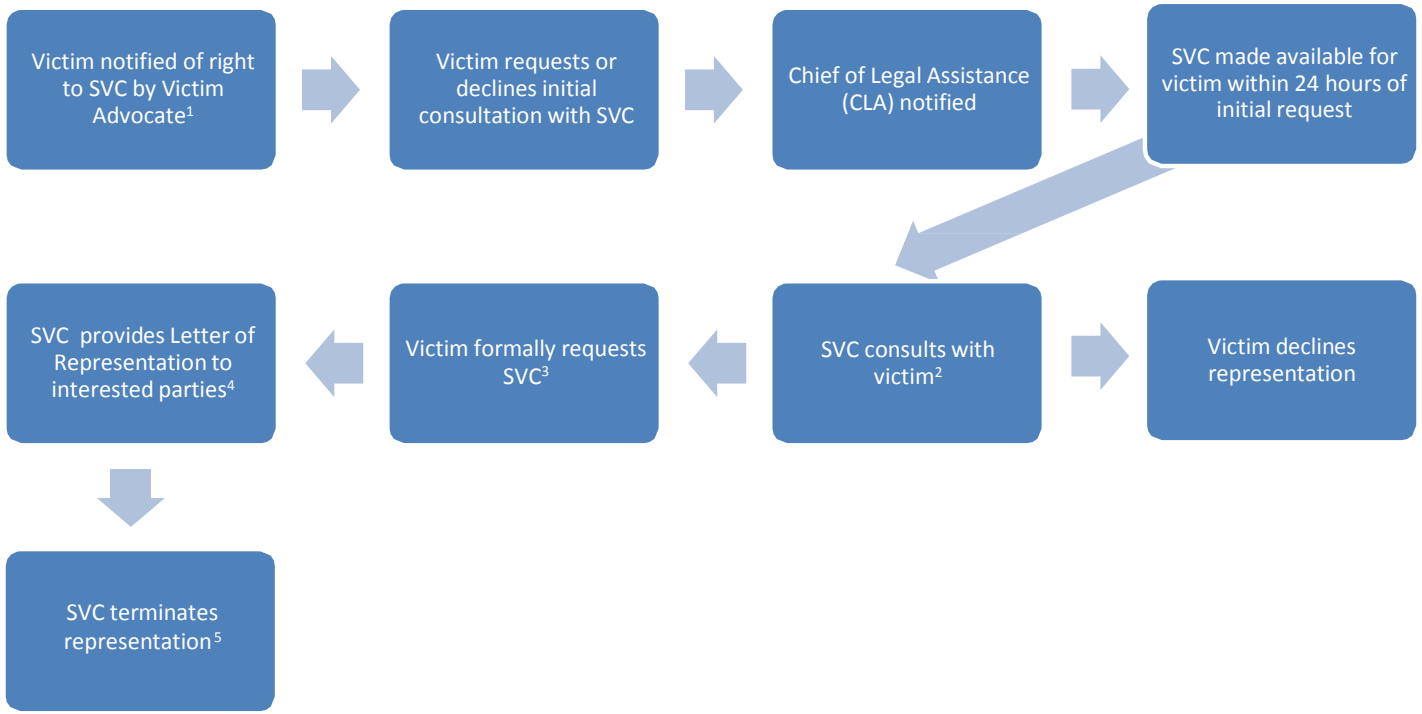
FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

CATEGORIES OF CLIENTS

This chart reflects the direction set out in the SVC Handbook. If there is any question as to client eligibility, SVCs should consult the SVC Program Manager.

Victim Status	Representation
Active Duty Army Army Reserve (active ≥ 30 days at time of the offense) Army National Guard (active ≥ 30 days at time of the offense)	Yes
Adult dependants of the above	Yes, if suspect is a Soldier
Active Duty other Services Other Services Reserve (active ≥ 30 days at time of the offense) Air National Guard (active ≥ 30 days at time of the offense)	Yes, if suspect is a Soldier
Adult dependants of the above	Yes, if suspect is a Soldier
Army National Guard (Title 32 for thirty days or less) Army Reserve (Inactive Duty for Training)	Yes, if suspect is a Soldier
Retired members and their adult dependants	Yes, if suspect is a Soldier
Deployed DoD civilian employees	Yes, if suspect is a Soldier
OCONUS DoD civilian employees and accompanying adult dependants	Yes, if suspect is a Soldier
Foreign military personnel assigned to the United States and accompanying adult dependants	Yes, if suspect is a Soldier
Minors	No
Civilians	No
Deployed civilian contractors	No

SPECIAL VICTIM COUNSEL (SVC) REPRESENTATION CHART



[1] Victim Advocate will provide SVC Notification form to victim
[2] SVC will provide Election of Representation form to victim
[3] SVC will provide Scope of Representation form to victim
[4] SVC will enter appearance with the court and provide Letter of Representation to Trial and Defense Counsel, law enforcement, and victim's commander
[5] SVC will provide notice of termination to victim

NOTIFICATION OF SPECIAL VICTIM COUNSEL SERVICES

I, _____, have been advised of my right to consult with a Special Victim Counsel (SVC) provided by the Government at no cost to me.

I understand that the SVC's mission is to provide victims with confidential legal representation related to issues that may arise as a result of being sexually assaulted. The SVC may provide the following services:

- Accompany to and advise client during interviews, examinations, hearings, and court-martial proceedings
- Represent client in court-martial as permitted by law
- Referral to Trial Defense Service for collateral misconduct, if necessary
- Advocate client's interest with Government counsel on disposition options
- Assist client with post-trial submissions to include victim impact statements
- Advise client on collateral civil issues arising from the crime
- Legal assistance services

I understand that I may speak with an SVC at anytime during the legal, medical, or investigative process.

_____ _____

(Signature of Victim) (Date)

_____ _____

(Signature of SARC/VA) (Date)

You may contact your servicing SVC by calling the following number:

_____

DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL

MEMORANDUM FOR Chief, Legal Assistance, Fort XXXXXX

SUBJECT: Election of Special Victim Counsel (SVC) Representation

1. My initial consultation with [SVC Name], Special Victim Counsel, occurred on [date].

2. I understand that I may elect to have an SVC represent me in matters relating to my status as a sexual assault victim. If I decline representation at this time, I may elect representation at anytime in the future.

3. At this time (initial in the applicable blank),

a. _____I elect Special Victim Counsel representation.

b. _____I decline representation. Should I desire representation at a later time, I may request a Special Victim Counsel by contacting the Sexual Assault Response Coordinator (SARC), Victim Advocate (VA), or by calling the SVC at this number:

(XXX) XXX-XXXX

4. I have been provided a copy of this memorandum for my records.

_____ _____
Date Client Signature

_____
Client Name Printed

DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

DATE

OFFICE SYMBOL

[Name of Client]
[Client Address]

Re: Special Victim Counsel Scope of Representation

Dear Client,

I am an attorney licensed to practice law and serve as a Legal Assistance Attorney with the United States Army. In that capacity, I will serve as your Special Victim Counsel. My duties as your Special Victim Counsel are to provide you with effective and timely advice, be available to assist you throughout the full spectrum of the military justice practice from initial investigation to convening authority action, and provide you with appropriate advocacy to assure that your rights are fully realized. 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.

Scope of Legal Assistance Provided:

1. 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 difference 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.

2. 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.

   a) 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.
   b) 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.
   c) 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.

d) I can represent you in UCMJ proceedings, such as courts-martial, where you are afforded an opportunity to attend and be heard by the court.

3. 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.

a) I can advocate your interests to civilian prosecutors, law enforcement agencies, and other civilian and government agencies.
b) I cannot represent you in civilian court.

4. 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.

a) I will provide you with the name and contact information for a Trial Defense Service attorney, separate from that representing the accused, who can represent you.
b) For misconduct that you may have committed that is not related to the sexual assault, you are eligible for representation through the Trial Defense Service program. I cannot represent you for such matters.

Confidentiality:

Since I am your lawyer, information related to this representation, including everything you tell me, is confidential. This means I have a general obligation not to disclose such information to others. I may need to discuss confidential information with others, such as your commander, the Legal Office, or investigators, in order to represent your interests. However, I will discuss such matters with you first and obtain your consent. There are some limited exceptions to this general rule of confidentiality that you should be aware of:

1. I am required by professional ethics rules to disclose information in order to prevent you from committing a criminal act that I believe is likely to result in imminent death or substantial bodily harm or significant impairment of national security or the readiness or capability of a military unit.

2. Additionally, I may disclose such information if necessary to defend myself in the event that you assert a claim against me or I need to defend myself in other proceedings related to this representation.

3. Finally, I could be required by competent authority to disclose communications you have made to me if those communications contemplate the future commission of a crime or fraud or if you sought my services to aid or enable anyone to commit a crime or fraud. Further, because I am prohibited from assisting you with engaging in

a criminal or fraudulent act, I would likely be required to withdraw from this representation in such a situation.

Duration of Representation:

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

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

2. 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.

3. You may terminate this representation at any time that you desire.

Please feel free to contact as indicated below.

CPT John P. Smith
(123) 456-7899
john.p.smith.mil@mail.mil

JOHN P. SMITH
CPT, JA
Special Victim Counsel

I have read and understand the above letter describing the scope of representation. I agree to these terms of representation.

_____ _____
[Name of Client] [Date]

DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

OFFICE SYMBOL Date

MEMORANDUM FOR

Criminal Investigative Division
Chief of Justice
Senior Defense Counsel
Victim's Commander

SUBJECT: Notification of Representation of [Client's Name]

1. I am the Special Victim Counsel for [client's name]. As you know, my client has specific rights during any investigation and subsequent court-martial. My goal is to represent [client's name] interests throughout the investigative and judicial processes and ensure that her rights are protected.

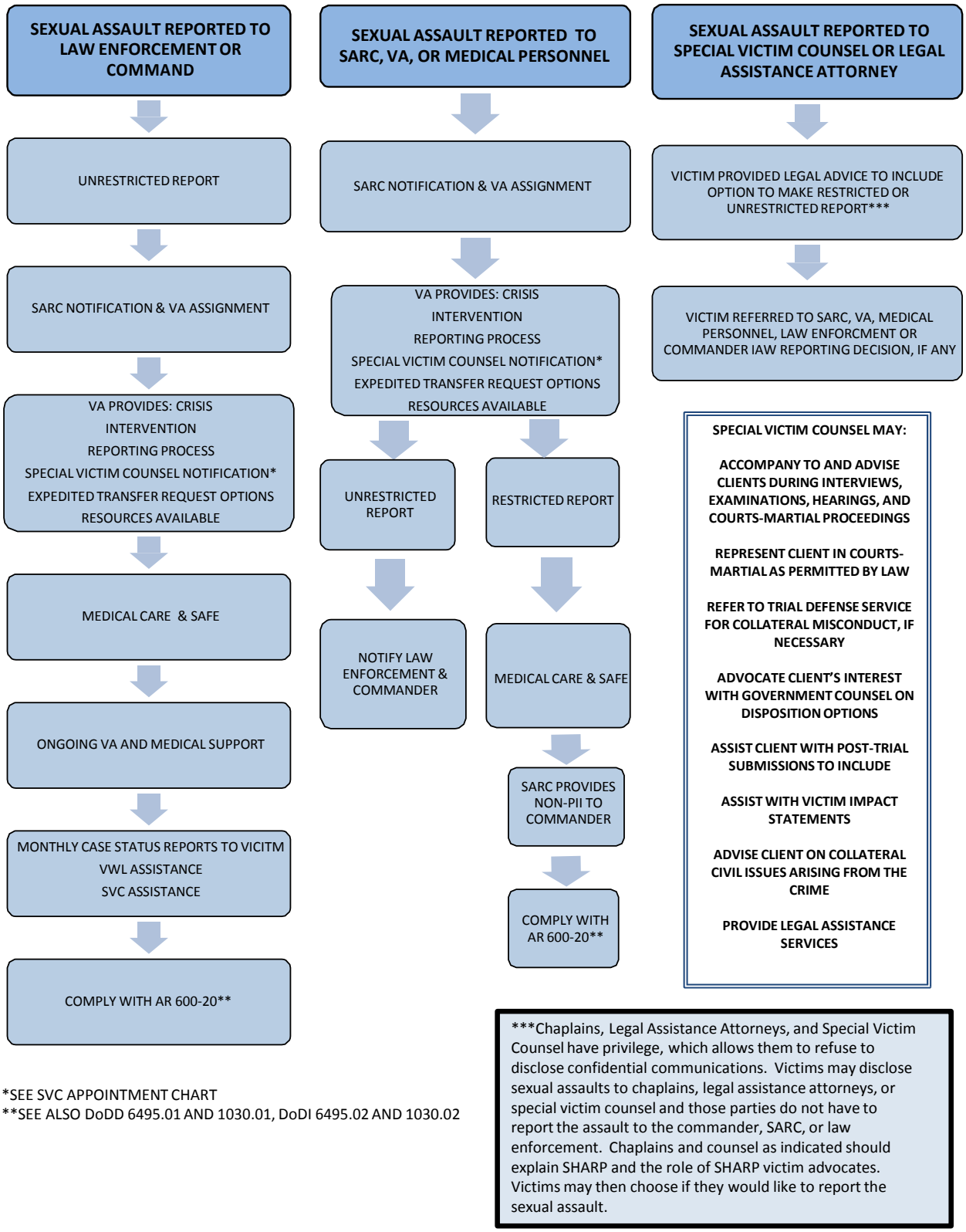
2. I will be present with [client's name] when she meets with trial counsel, defense counsel, and investigators. I plan to appear for and with her at all hearings or court-martial proceedings.

3. Please do not contact my client directly. As [client's name]'s legal representative, I request that you coordinate all contact and communication with her through me. Should you need to set up a meeting or interview with my client, I will facilitate her participation should she so desire.

4. Please contact me, any time that you need to do so. I can be reached by phone at (123) 456-7899 or via email at john.p.smith.mil@mail.mil.

NAME
Captain, JA
Special Victim Counsel

SEXUAL ASSAULT RESPONSE FLOWCHART



*SEE SVC APPOINTMENT CHART
**SEE ALSO DoDD 6495.01 AND 1030.01, DoDI 6495.02 AND 1030.02

***Chaplains, Legal Assistance Attorneys, and Special Victim Counsel have privilege, which allows them to refuse to disclose confidential communications. Victims may disclose sexual assaults to chaplains, legal assistance attorneys, or special victim counsel and those parties do not have to report the assault to the commander, SARC, or law enforcement. Chaplains and counsel as indicated should explain SHARP and the role of SHARP victim advocates. Victims may then choose if they would like to report the sexual assault.

DEPARTMENT OF THE ARMY
ORGANIZATION
STREET ADDRESS
CITY STATE ZIP

Date

Special Victim Counsel

Client Name
Address
City, State, Zip Code

Dear Client Name:

On [date], [GCMCA name, rank] took initial action in the court-martial of Specialist Perpetrator [identify the event triggering termination]. On [date], we discussed [the event triggering termination] and the end of my duties as your Special Victim Counsel. This letter serves as official notification of the termination of our attorney-client relationship. My representation of you is terminated as of [date].

As we discussed, this termination does not mean that you cannot contact me should any new issues arise related to the case, but it is important to keep in mind that anything you choose to disclose to me in the future may not be confidential. Information you disclosed to me in confidence during the course of my representation remains confidential.

[If you chose to be contacted in the event of Specialist Perpetrator's release from confinement or requested notification of his parole opportunities, you will be contacted by a Victim Witness Liaison from the correctional facility so that you may provide input for consideration.]

Should you have any questions about this notification, please do not hesitate to contact me.

Sincerely,

James P. Smith
Captain, U.S. Army
Special Victim Counsel