

Special Victim's Counsel (SVC) Scope of Representation Letter

Date

From: *(Name/Rank of SVC)*

To: *(Name/Rank of Eligible Victim)*

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

The Coast Guard is committed to promoting and protecting the rights and interests of victims of sexual assault. One means to do that is by ensuring you receive assistance through the Special Victim's Counsel (SVC) Program in addition to the other support services available through the Coast Guard.

At your request, I have been assigned to serve as your Special Victims Counsel and provide you legal services. We will form an attorney-client relationship. I will act as your attorney, and you will be my client.

The purpose of this document is to explain the nature and limitations of our attorney-client relationship and the legal services I can provide to you.

Importantly, if you are seeking legal services related to a Restricted Report of sexual assault, speaking to me will not alter the status of your report.

1. I Represent You. As your SVC, I am your attorney. I have been licensed by a state bar to practice law, and I have been certified by the Judge Advocate General of the Coast Guard to act as counsel in courts-martial and to represent servicemembers like you. As your attorney, you have my undivided loyalty and concern. While I serve in the Coast Guard, my sole legal and ethical obligation is to be your attorney to the best of my ability and subject to the rules discussed in detail below.

My supervisor for my Special Victims' Counsel duties is Captain Sloan Tyler, Director of the Office of Special Victims' Counsel Program. Our chain of command runs through the Coast Guard Deputy Judge Advocate General's Office in Washington, DC. As your SVC, I will not be involved in the investigation or processing of your reported assault unless necessary to promote and protect your rights and interests. My independence means that no one in your chain of command or the chain of command of the person who assaulted you will influence my representation of you.

2. Confidentiality. The law recognizes that you must be able to share information with me in confidence. As your attorney, I am generally prohibited from revealing information related to our conversations unless you give me consent to do so after we discuss that possibility. I may need to discuss confidential information with others, such as your commander, the Legal Office, or investigators, in order to effectively assist you. 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:

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- a. I may 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 substantial impairment of national security or the readiness or capability of a military unit.
- b. 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.
- c. 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 cease assisting you if such a situation occurs.

Importantly, this means that everything we discuss will remain confidential unless you give me permission to discuss the information with others. If you give me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your rights and interests, I am required to keep that information confidential except as described above.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, and victim advocates. These I can review with you.

Finally, our confidentiality does not extend to communications between you and I made in the presence of third-parties, such as friends or relatives. What this means is that those third-parties can be required to disclose what was said or shared in their presence.

3. Scope of Legal Services Provided. As your SVC, I will provide you legal services that are connected to your sexual assault. My focus will be to promote and protect your rights and interests related to that assault. The legal services I can provide include:

- a. Legal Rights. As above, I will assist you in understanding and exercising your legal rights connected to your sexual assault. This will include advocating on your behalf and with your permission to military authorities to promote, preserve, and protect those rights. Within the military, these rights include the right to be treated with fairness and respect for your dignity and privacy; the right to be reasonably protected from the offender; the right to be notified of court proceedings; the right to be present at all public court proceedings unless the court determines your testimony would be materially altered if you heard other testimony; the right to confer with government counsel in the case; the right to receive restitution, if available; and the right to be provided information about any conviction, sentence, imprisonment, and release of the offender. I will assist you in understanding the Government's authority to compel cooperation and testimony, the degree to which you are responsible to testify, and other duties to the court.

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If you are an eligible servicemember, you may have the right to apply for a permanent change of duty station or transfer from your current unit. I can assist you in understanding and exercising this legal right.

There may also be additional legal rights implicated in your case, depending on the circumstances, which I will discuss with you during the course of our attorney-client relationship.

b. Military Justice System. I will assist you in understanding the military justice system, which includes the investigative and disciplinary processes, the Victim Witness Assistance Program, and the role of the Sexual Assault Response Coordinator and Victim Advocate in relation these processes. I can answer any questions you have about these processes.

I will promote and protect your rights and interests in the military justice system if you have made an unrestricted report. This will include, with your permission, advocating on your behalf to various parties in the military justice system including: investigators such as CGIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates; military prosecutors, also known as trial counsel; the defense counsel; pretrial investigation officers; pretrial confinement initial review officers; and military judges. At your request, and if available, I will attend your interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I will try to attend your interviews via video-teleconferencing or by telephone, or attempt to reschedule the interview to permit my attendance if possible.

I will assist you in obtaining information relevant to your case that you have a right to obtain, to include the status of the investigation and the status of the accused(s).

I can assist and facilitate your communication with trial counsel on the following matters; monitoring the status of disciplinary or court-martial processing, whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.

If the accused is charged, I may represent you in military justice proceedings, such as court-martial or Article 32 pretrial investigation, where you are afforded an opportunity to be present and heard. I may present facts and legal arguments on your behalf through written pleadings and, if permitted by the court, oral argument. If you desire, I can attend all military justice proceedings where you will testify.

c. Advocacy to Civilian Prosecutors/Law Enforcement. My representation of you will be more limited with civilian authorities than military authorities. I cannot represent you in civilian court proceedings or effectively advocate on your behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can attend your interviews with investigators and assist in obtaining the status of the investigation. If desired, you may obtain civilian counsel at your own expense to represent you with civilian authorities.

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d. Collateral Misconduct. "Collateral misconduct" is misconduct that you may have committed that has a direct connection to your sexual assault, such as underage drinking, adultery, fraternization, or violating liberty policy. If, through our conversations, either you or I believe it may be alleged that you committed collateral misconduct, I can provide you limited personal representation legal advice regarding that alleged misconduct. What this means is that I can explain the potential consequences of your collateral misconduct and what, if any, disciplinary action could be taken against you. With your permission, I may advocate to military authorities on your behalf regarding your collateral misconduct.

If you face administrative or military justice proceedings for collateral misconduct, including any administrative separation board or court-martial, you will be assigned a military defense counsel to represent you in that proceeding. I will work closely with your defense counsel to continue to promote and protect your rights and interests related to your reported sexual assault.

If, through our conversations, either you or I believe it may be alleged you committed misconduct that is not directly connected to your sexual assault, I will coordinate your referral to the nearest Defense Service Office, which provides legal advice and services to Coast Guard members who may have committed misconduct or are facing disciplinary action. I will be largely uninvolved with respect to misconduct that is not directly connected to your reported sexual assault; however our conversations regarding that misconduct will remain confidential.

e. Personal Civil Legal Affairs. I can consult with you regarding the potential for civil litigation against other parties other than the United States. I can provide you basic legal assistance services that are directly connected to your reported sexual assault to include notarizations and basic powers of attorney. If you need assistance in more substantive matters such as estate planning, family law, consumer law, or landlord/tenant matters, I will coordinate your referral to the nearest Legal Assistance Office.

4. Duration of Attorney-Client Relationship. In general, I will provide assistance to you for matters related to the sexual assault, unless and until you release me. Typically, the attorney client relationship terminates in the following circumstances:

a. Case is over: If the case disposition is complete then there are no further legal aspects that require representation. Generally, the legal aspects of your case will conclude shortly after a disposition decision is made by the Convening Authority or, in the case of a court-martial, shortly after the military judge's findings and sentence, if any, are acted upon by the convening authority.

b. Transfer of military member: If I transfer to a new duty station or terminates military service. If I transfer or leave military service before completion of your case, I will protect your interests. This will include giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new SVC to serve as your attorney, and completing a turnover of your case with your new SVC to assure continuity of legal services. No matter my

