

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 SPECIAL VICTIM COUNSEL PROGRAM:

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

Special Victim Counsel 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.

Special Victim Counsel will empower victims fostering victims' understanding of the military justice process and aiding 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.2-2, 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, deploy to or are in the AOR, 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, and other unwanted sexual contact that is aggravated, abusive, or wrongful, forcible sodomy, 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

All Army Active Duty, Army Reserve, and Army National Guard victims (in Title 10 status at the time of the offense) who report they are a victim of sexual assault are eligible for a SVC. In addition to the above listed crimes under the UCMJ, Army members who report 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 SVC assistance as described in Chapter 6.

Prior to Service Sexual Assaults. 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

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 a SVC when an Army commander may exercise jurisdiction over the alleged offender.

Non-Spouse Adult Dependents. 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 Other Services' Members

All Navy, Marine Corps, Air Force, and Coast Guard Active Duty, Reserve, and National Guard victims who are in Title 10 status at the time of the offense and file an unrestricted or restricted report of sexual assault under the UCMJ are eligible for an SVC when an Army commander may exercise jurisdiction.

a. Jurisdiction. 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. Special Victim Counsel representation is not authorized to victims in other Services when the alleged perpetrator is a civilian or a member of another Service.

b. Courtesy Notification. 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 Other Services' Members

All adult dependents of Active Duty members of other Services who are an eligible dependent 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.

Non-Spouse Adult Dependents. 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

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 and the Army may exercise jurisdiction.

a. Jurisdiction. 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. Special Victim Counsel representation is not authorized to victims in this category when the alleged perpetrator is a civilian or a member of another Service.

b. Minors. Victims who are minors are not eligible for a Special Victim Counsel.

1-6. Basic Military Training and Technical Training

All entry-level status Army Active Duty, Army Reserve, and Army National Guard members 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.

a. Entry-Level Status. 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.

b. Lack of Consent. Soldiers who meet the above criteria are eligible for SVC assistance because it is uncertain in these circumstances whether consent is actually present in the alleged misconduct (e.g., fraternization).

1-7. Deployed Victims

Special Victim Counsel will be provided to deployed victims through in-country SVCs directly or through coordination with the SVCP Manager, OTJAG.

1-8. Determination of Eligibility

The Special Victim Counsel Program Manager, OTJAG, 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 Assistance

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 a 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. The VA, or responsible party, will use the "Notification of Special Victim Counsel Services" form (see Appendix 1). 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.

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 a SVC at any time.

If charges are preferred as a result of the sexual assault, TC (or Special Victim Prosecutor (SVP)) will provide victim who does not have a SVC with an additional notification of their right to the services of a SVC.

2-2. Victim Exercises Right to SVC

If the victim chooses to exercise the right to a SVC, the following process will be followed (see SVC in Appendix 4) -

- a. The VA, or responsible party, notifies 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 a 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 Advocate Program (SVCP) manager to ensure that the victim receives representation.
- d. Special Victim Counsel meets and consults with victim.

e. During initial meeting and consultation with appointed SVC, the victim will complete the Election of Special Victim Advocate (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).

f. If the client has filed an unrestricted report, the SVC will notify the Chief of Justice, Senior Defense Counsel, criminal investigative services and the victim's commander with notice of representation. (Appendix 7)

2-3. Solicitation of Victims

Special Victim Counsel will not solicit clients. (See Army Rules of Professional Conduct for Lawyers, Rules 7.1, 7.2, Ind 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 Division (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 multi-disciplinary support to victims. (See Sexual Response Flowchart at Appendix 9)

3-1. Primary Duty

A Special Victim Counsel'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

Once a 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.

a. Transfer of Counsel. Transfer of counsel due to deployments, expedited transfers, and other unique circumstances will be coordinated by the SJA through the SVCP manager. 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 a "warm hand-off" is effectuated.

b. Termination of SVC-Client Relationship. 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, case disposition is considered complete at 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.

c. Declination or Termination of Representation. An SVC may decline or terminate representation only IAW Army Rule of Professional Conduct 1.16, the scope of representation letter, and after consultation with the SJA and SVCP manager.

d. Termination by Client. A client may terminate the attorney-client relationship at any time.

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

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.

a. Notify SARC/FAP of Representation. 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 multi-disciplinary support for the victim.

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

c. Legal Advisor. 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

The Victim Witness Assistance Program (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.

a. Victim Liaison. 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. Any communication by the victim or the SVC with the victim liaison will not have protection of confidentiality.

b. No Cause of Action. While a 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.

c. Overlap of Services. While there is overlap in the objectives of the SVCP and the Victim and Witness Assistance Program (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. No Change to VWAP. Establishment of the SVC Program does not necessitate any change to the scope of VWAP.

Chapter 4 Scope of Representation

The OSD/GC memo states that 10 U.S.C. §§ 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 memo clearly envisions that SVC may represent sexual assault victims throughout the military justice process and advocate their interests to all actors within the system.

The SVC Program does not increase a victim's standing in court-martial hearings and 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). While MREs 412, 513 and 514 do not discuss an SVC's role in these evidentiary hearings, the MREs do allow for victims to “be heard.” For the purposes of these three MREs and future MREs or RCMs giving victims the right to be heard in military justice proceedings, SVCs or civilian victims' counsel may be allowed to speak on their clients' behalf, as permitted by the presiding military judge (see *LRM v. Kastenber*, 72 M.J. 364 (C.A.A.F. 2013)).

The trial counsel and the accused's trial defense counsel need to obtain consent from the SVC prior to communicating with represented victims under Army Rule of Professional Conduct 4.2, which states that “in representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.”

4-1. Advocacy During Military Justice Process

The Special Victim Counsel 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. In addition, victims will also be notified of the opportunity to provide input during the post-trial process. Special Victim Counsel will provide assistance with providing matters during the post-trial process. This includes matters in which the government is required to consult with the victim.

a. Victims' Right to Consultation. 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.

b. Victims' Right to Notification of all Court-Martial Proceedings. 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.
- 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).

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).
- 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.

c. Communication with TC. Special Victim Counsel will communicate his or her schedule to the TC, which the TC will consider when scheduling Article 32 hearings, docketing court-martial, and other military justice proceedings where the victim's presence is required.

4-2. Notice of Representation

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

a. Obtaining Consent From SVC. The trial counsel and the accused's trial defense counsel need to obtain consent from the SVC prior to communicating with represented victims under Army Rules of Professional Conduct for Lawyers, Rule 4.2, which states that "in representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so."

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

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

4-3. Attendance at Interviews by SVC

Special Victim Counsel are permitted to attend all interviews of the victim with investigators, TC, and DC. At all interviews, SVCs should ensure 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 Special Victim Counsel Representation

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

4-5. Standing under the UCMJ

Victims, whether represented by a uniformed Special Victim Counsel or civilian counsel, are non-parties to a court-martial under RCM 103. The Court of Appeals for the Armed Forces recently addressed this and related issues in *LRM v. Kastenber* 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 a Special Victim Counsel 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. Trial Counsel and Defense Counsel will serve Special Victim Counsel and victim's civilian counsel with copies of motions and responses (as well as accompanying documents) under Mil. R. Evid. 412, 513, and 514 filed by parties to the case. Any filings by SVCs or victim's civilian counsel must comply with the pretrial order from the military judge if issued or 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

Special Victim Counsel 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 of Third Parties by SVC

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

4-8. Access to Information

Special Victim Counsel's right to access records is no greater than their client's access rights. A victim's right to notification of information pertaining to the military justice process is discussed in para. 4-1b and AR 27-10. A victim's request for investigative reports and other military justice documents during the pretrial phase must be processed under applicable Freedom of Information Act or Privacy Act Procedures IAW AR 27-10, para. 17-25. In addition to these access rights, a Special Victim Counsel may request information directly from the Trial Counsel under the "need to know" exception of the Privacy Act. In this case, the Trial Counsel may, but is not required to, disclose information and records to the SVC. Information and records obtained by the SVC under the "need to know" exception are for the SVCs use only and may not be shared with the victim. If the SVC or victim's civilian counsel attends court proceedings from which the client is excluded under MRE 615 as a witness, the SVC or victim's civilian counsel will not inform the client about the testimony of any other witness. SVCs should consult with victims and advise them that additional information may be obtained by the SVC with the victim's consent that may assist the SVC in representing the victim.

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.

The OSD/GC memo states that “criminal proceedings against the perpetrator of a sexual assault can be said to involve the ‘personal civil legal affairs’ of the victim, who faces no criminal liability.” The OSD/GC memo addresses the issue of whether 10 U.S.C. §§ 1044 and 1565b prohibits representational legal assistance. The OSD/GC memo does not address whether the scope of SVCs may include collateral misconduct. While TJAG has the authority under Article 27, UCMJ, to authorize SVCs to provide defense services, it is Army policy that USATDS will be utilized for collateral misconduct.

5-1. Referral of Victim to USATDS

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-punitive 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 he or she **will not** 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 Senior Defense Counsel (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.

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

When contacting third parties, legal assistance attorneys must avoid creating the impression that they represent the Army interests in resolving the client’s concerns or that the Army has an interest in the outcome of the matter.

6-1. Off Installation Advocacy by SVC

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

Department of Veterans Affairs. Special Victim Counsel 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 of Third Parties by SVC

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

Chapter 7

Interaction with Media

A lawyer, who is participating or has participated in the investigation or litigation of a matter, shall not make an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication if the lawyer knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Army Rule of Professional Conduct 3.6. Although SVCs are not a "party" under this Rule, SVCs will comply as a matter of policy.

A SVC may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made shall be limited to such information as is necessary to mitigate or correct information that is the subject of recent publicity. Army Rule of Professional Conduct for Lawyers, Rule 3.6. This Rule will enable SVC to defend a client's interests in the media.

Army Rule of Professional Conduct 3.6 outlines other statements lawyers may make to the media, including stating the claim, offense or defense involved, the scheduling or results of any step in the process, and information contained in the public record.

Chapter 8

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 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."

8-1. UCMJ Article 27(b) Certification Required

Only Judge Advocates who are certified under Article 27(b) and sworn under Article 42(a), UCMJ, are authorized to serve as a SVC. Victim's civilian counsel must possess the same qualifications as civilian counsel representing an accused. SVCs and victim's civilian counsel need not be detailed to a court-martial, but will be required to state their qualifications on the record, as directed by the Trial Judiciary.

8-2. 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.

8-3. Special Victim Counsel's Ability to Deploy

Special consideration should be given to ensure that continuity is not broken between a SVC and the victims represented. Thus, care must be given when making deployment determinations that involve a SVC who is actively representing victims.

Chapter 9 Oversight and Reporting Structure

18 U.S.C. § 205(a) prohibits an attorney from acting against the United States "other than in the proper discharge of his official duties." As such, like military defense counsel, SVC would not be acting in violation of 18 U.S.C. § 205 because they have been detailed to represent victims within a defined scope. Those defined duties are the SVC's official duty. Additionally, Army senior leadership has determined that it is in the Army's best interest to provide sexual assault victims with legal representation; therefore, 18 U.S.C. § 205(a) would not be violated when an SVC performs his/her function as directed by TJAG.

9-1. Professional Oversight of SVCs

Staff Judge Advocates will provide professional oversight of SVCs. Generally, the interests of the victim are in concert with the interests of the command. If a situation arises in which the interests are not in concert, the SVC will turn to the SVCP Manager for technical advice and supervision for professional responsibility per AR 27-26.

9-2. Functional and Policy Oversight of SVC Program

Functional and policy oversight of SVCs will be provided by the SVCP Manager, Office of The Judge Advocate General (OTJAG).

a. Appointment Responsibility. Staff Judge Advocates will make the initial appointment to the position of Special Victim Counsel. In general, CLAs will make individual appointments of SVCs to victims who request a SVC IAW Appendix 3 and internal OTJAG guidance.

b. Tracking System. A tracking system will be used to track SVCs and their workload.

9-3. Communication Between SJA and SVC

Special Victim Counsel 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.

9-4. Office Space and Other Support

Staff Judge Advocates that host SVCs (usually the installation where the alleged perpetrator's court-martial will be convened) will host SVC within the legal assistance office and ensure adequate administrative support for the SVC.

9-5. Funding

Centralized funding through an OTJAG fund-code will be used to pay associated travel and other costs using a code that will allow for tracking and future reimbursement sought from Sexual Assault Prevention and Response funds.



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	



REPLY TO
ATTENTION OF:

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

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.

DAJA-ZA

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

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!



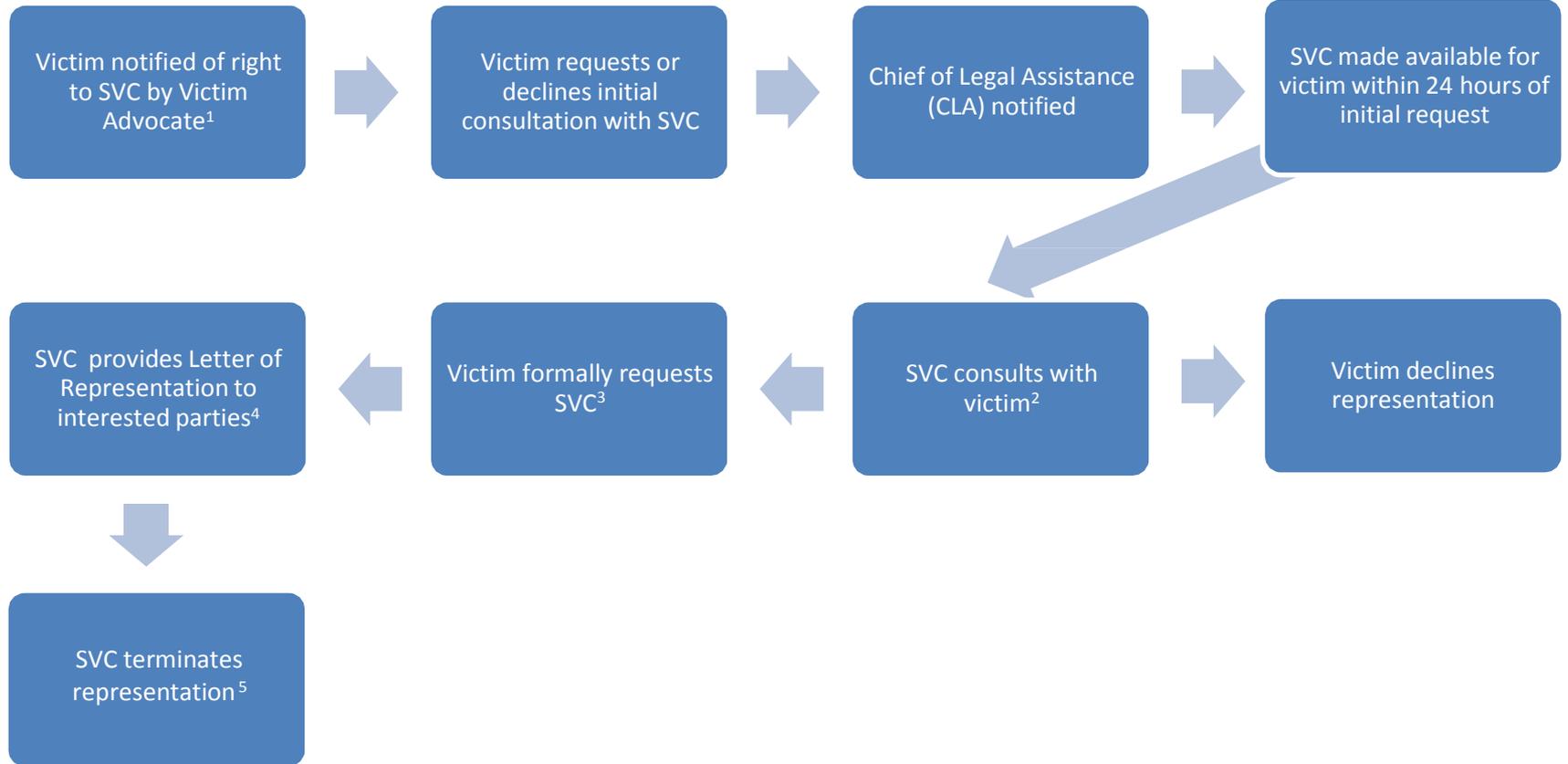
FLORA D. DARPINO
Lieutenant General, USA
The Judge Advocate General

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 at time of the offense) Army National Guard (Title 10) (Title 32 > 30 days)	Yes
Adult dependants of the above	Yes
Active Duty other Services Other Services Reserve (active at the time of offense) Air National Guard (Title 10) (Title 32 > 30 days)	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 the suspect is a Soldier
OCONUS DoD civilian employees and accompanying adult dependants	Yes, if the suspect is a Soldier
Foreign military personnel assigned to the United States and accompanying adult dependants	Yes, if the 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 a 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 a 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

[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

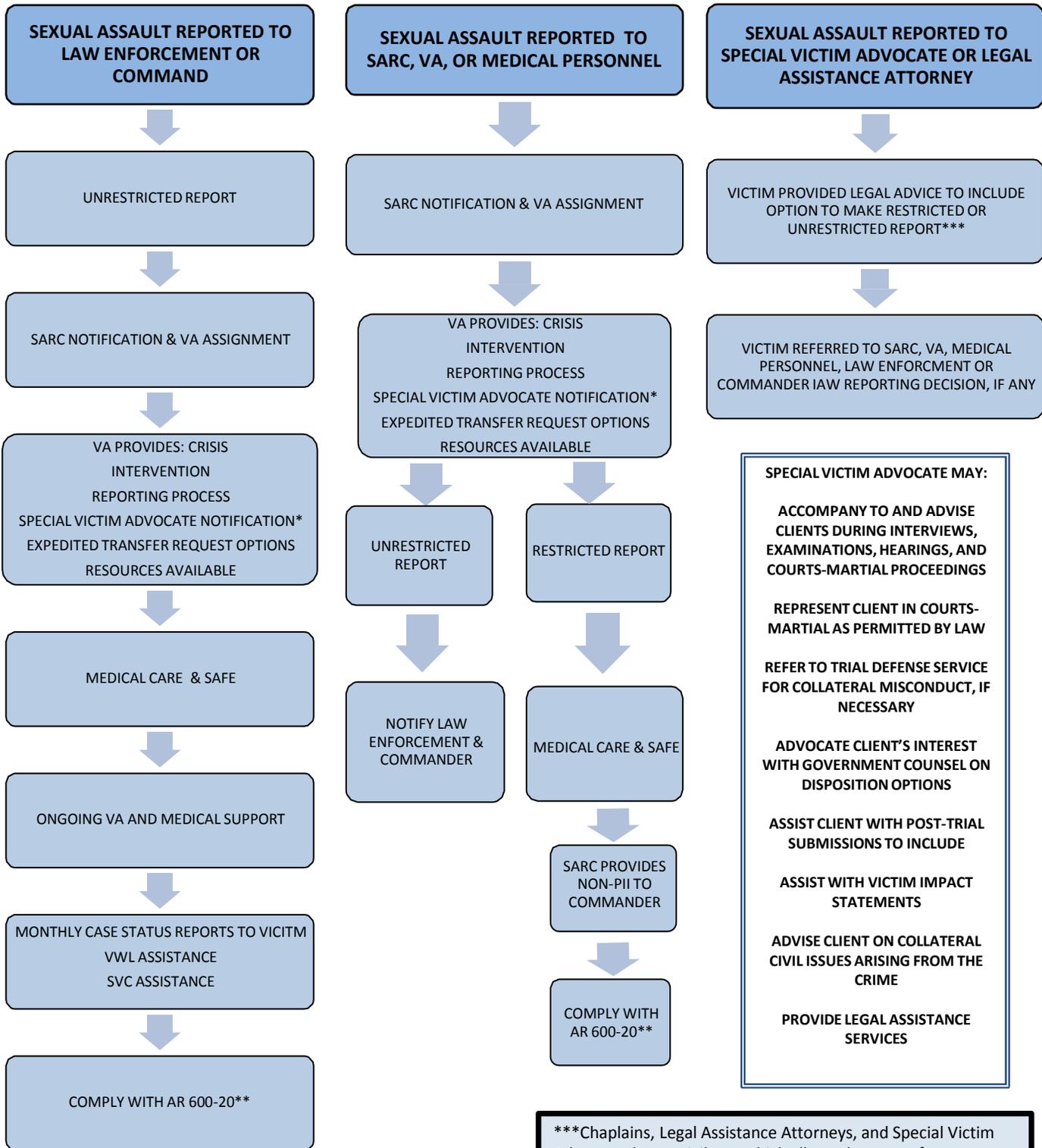
Criminal Investigative Division
Chief of Justice
Senior Defense Counsel
Victim's Commander

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 Advocates have privilege, which allows them to refuse to disclose confidential communications. Victims may disclose sexual assaults to chaplains, legal assistance attorneys, or special victim advocates 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