



April 30, 2014

Dear Chairwoman Jones,

It has come to our attention that you have requested feedback from Victims' Counsel and their clients on the program and ways to improve it.

Protect Our Defenders has supported the Special Victims' Counsel program from its inception, and believe in its potential to make a tangible difference in the experience of victims within the military. We filed an [Amicus Brief](#) in *L.R.M v. Kastenberg*--[opposed](#) by the US Army, Navy, Coast Guard and Marines--in support of the Air Force Special Victims Counsel program to protect victims' right to legal representation, and this Brief was quoted by the Court of Appeals for the Armed Forces in their decision in support of victims' right to representation in court, in which the court made it clear that Congress bears the responsibility for codifying this right.

We are encouraged that you have requested input from the Victims' Counsels and their clients. However, we have learned that the process by which at least some of the military leadership is preparing to respond to your request will not be unbiased and transparent. Under the current process, responses are not anonymous and it is our understanding that, at least in some cases, superiors have been requesting information from the SVCs and victims and then submitting the information on their behalf. Our concern stems directly from conversations with victims' counsel across the services. Many fear reprisal for speaking out, and report that their efforts to bring forward victims to speak to the panel have been ignored. We believe it is important for the panel to speak directly to a randomly selected cross section of victims' Counsel and victims in a manner that both assures and protects them so that their career will not be adversely affected.

While some victim's counsel are supported by their command and allowed by the judge to effectively represent their clients, others report difficulties. Through our Pro Bono Legal Network, we have spoken and worked with many Victims' Counsel, whose clients have reached out to us for additional support, and we have noticed a troubling trend across the service branches. Despite CAAF's ruling that victims have standing in court, and despite DoD's directive mandating each service branch provide representation to victims of sexual assault, Victims' Counsel frequently report that they have been precluded from appropriately representing their clients. Victims' Counsel are required to seek permission from each judge before they are allowed to represent their clients in court. They are routinely denied access to court documents, and are not consulted during the scheduling of hearings. In addition, they are: ignored by investigators who directly contact clients instead of through counsel; denied access to motions, orders, and discovery; excluded from

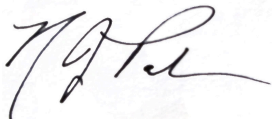
evidentiary hearings; denied the right to speak on behalf of their client during Article 32 hearings as well as MRE 513 and 412 hearings; and they face an overall lack of respect from legal offices, trial counsel, and other members of their command.

Further, when they try to advocate for their clients outside of the courtroom, they are labeled troublemakers, and told to “watch their rank.” Victims’ Counsel are being mocked and discouraged from speaking out in support of the victims they have been assigned to represent, and are facing retaliation for attempting to do their jobs. Because of the current environment, many Victims’ Counsel justifiably fear that their careers will be in jeopardy if they speak out or try to raise concerns about the barriers they are facing when trying to do their jobs.

The lack of support for Victims’ Counsel undermines the very purpose of the program—to ensure that victims are adequately represented throughout the investigation and adjudication process, and to combat retaliation from within. As long as Victims’ Counsel are disempowered, victims will not be fully protected.

Victims’ Counsel must be afforded the opportunity to speak anonymously and candidly to the panel without the fear of reprisal and so should their clients. We urge you to ensure you are receiving the full, and accurate account of how the program is functioning in practice, and where it is both succeeding and failing to serve its purpose.

Sincerely,

A handwritten signature in black ink, appearing to read "N. Parrish", written over a light grey rectangular background.

Nancy Parrish