



DoD INSTRUCTION 1030.04

SPECIAL VICTIMS' COUNSEL PROGRAMS

Originating Component: Office of the General Counsel of the Department of Defense

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Approved by: Caroline Krass, General Counsel of the Department of Defense

Purpose: In accordance with DoD Directive 5145.01, this issuance:

- Establishes policies, assigns responsibilities, and prescribes procedures for minimum training standards and reporting requirements for the Military Services' special victims' counsel (SVC) programs.
- Establishes the Interservice Special Victims' Counsel Coordination Committee (ICC) to review this issuance's implementation, examine best practices from the Military Services' SVC programs, and recommend improvements to those programs.
- Provides guiding principles for the Military Services' SVC programs.

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD.

1.2. POLICY.

a. In accordance with Section 1044e of Title 10, United States Code (U.S.C.), each Military Department will designate legal counsel to provide representation, legal consultation, and assistance to those eligible victims of alleged sex-related offenses under Chapter 47 of Title 10, U.S.C. (also known and referred to in this issuance as the “Uniform Code of Military Justice” (UCMJ)) who choose to form an attorney-client relationship with such counsel, regardless of whether a report of such an offense is restricted or unrestricted.

b. The Secretaries of the Military Departments may authorize SVC representation of individuals not included within the scope of Section 1044e(a) of Title 10, U.S.C., including eligible victims of alleged domestic violence-related offenses under the UCMJ, in accordance with Section 548 of Public Law 116-92.

c. SVCs will provide representation, legal consultation, and assistance to their clients pursuant to Section 1044e(b) of Title 10, U.S.C., subject to the rules of professional conduct governing the practice of law.

d. Pursuant to Section 1044e(b) of Title 10, U.S.C., SVCs are authorized to provide legal representation regarding the responsibilities and support provided to the victim of an alleged offense by the Sexual Assault Prevention and Response (SAPR) Program in accordance with DoD Directive 6495.01, and the Family Advocacy Program (FAP) in accordance with DoD Instruction (DoDI) 6400.01, and the Military Departments’ victim witness assistance programs, including any privileges that may exist regarding communications between those programs’ personnel and the victim of the alleged offense. SVCs are also authorized to provide legal representation concerning all victims’ rights or entitlements pursuant to statute and DoD policies concerning SAPR, FAP, victim and witness assistance, medical and mental health entitlements, and reviews during military personnel separations.

e. Nothing in this issuance will infringe on the statutory independence and authority of the Office of Inspector General of the Department of Defense in accordance with Chapter 4 of Title 5, U.S.C., also known and referred to in this issuance as the “Inspector General Act of 1978,” as amended. In the event of any conflict between this issuance and the statutory independence and authority of the Office of Inspector General of the Department of Defense, the Inspector General Act of 1978 takes precedence.

SECTION 2: RESPONSIBILITIES

2.1. GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE (GC DoD).

The GC DoD:

- a. Designates an advisor to the ICC.
- b. Receives and evaluates the Military Services' reports required by this issuance.

2.2. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)).

The USD(P&R):

- a. Designates an advisor to the ICC and determines whether to designate a DoD Sexual Assault Prevention and Response Office (DoD SAPRO) liaison to the ICC if the USD(P&R)'s advisor to the ICC is not from DoD SAPRO and whether to designate a Military Community Advocacy directorate liaison to the ICC if the USD(P&R)'s advisor to the ICC is not from that directorate.
- b. Receives and evaluates the Military Services' reports required by this issuance.
- c. Requests information from the Military Departments to support distribution of resources to the Military Services' SVC programs.

2.3. SECRETARIES OF THE MILITARY DEPARTMENTS.

The Secretaries of the Military Departments:

- a. Direct their respective Judge Advocate General and, in the case of the Secretary of the Navy, the Staff Judge Advocate to the Commandant of the Marine Corps, to carry out the responsibilities in this issuance, including designation of members of the ICC.
- b. Ensure that the SVC program or programs within their respective Military Departments are evaluated and monitored pursuant to Section 1044e(e)(3)(C) of Title 10, U.S.C.
- c. Ensure that military criminal investigators and trial counsel provide notice of the availability of SVC before interviewing, or requesting a statement from, any person who satisfies one or more eligibility standard in Section 1044e(a)(2) of Title 10, U.S.C., regarding an alleged sex-related offense, and prescribe exceptions for exigent circumstances exempting military criminal investigators and trial counsel from providing such notice.
- d. Prescribe procedures for the determination of whether exigent circumstances related to military activities preclude an SVC from being made available to a Service member at a military

installation not later than 72 hours after such a Service member's request and prescribe procedures to ensure that an SVC is thereafter made available to such Service member as soon as is practical under such circumstances.

e. Issue policy, which may be in the form of regulations, to govern the SVC program or programs within their respective Military Departments.

f. Provide information to the USD(P&R) or his or her designee in response to requests for information to support distribution of resources to the Military Services' SVC programs and, on an annual basis, provide an accounting of how any funds provided by USD(P&R) or his or her designee were used.

2.4. CHIEF, NATIONAL GUARD BUREAU (NGB).

The Chief, NGB:

a. Establishes policy to govern the National Guard SVC program, consistent with applicable policies issued by the Secretary of the Air Force or Secretary of the Army, as appropriate. On behalf of and with the approval of the Secretary of the Army or Secretary of the Air Force, as appropriate, the Chief, NGB issues policies defining who is eligible for National Guard SVC legal representation.

b. Ensures that Air and Army National Guard SVCs perform their duties consistently with policies established by the Secretaries of the Air Force and Army, respectively, and NGB policies.

c. Ensures that the General Counsel of the NGB designates a member of the ICC.

SECTION 3: GENERAL PRINCIPLES

3.1. PRINCIPLES.

The Judge Advocates General of the Military Departments or, in the case of the Marine Corps, the Staff Judge Advocate to the Commandant of the Marine Corps, will:

- a. Oversee selection and certification of SVCs. SVCs should possess litigation skills, professionalism, maturity, judgment, and interest in providing high-quality legal representation to clients.
- b. Ensure that, before representing clients, new SVCs successfully complete a certification course or equivalent training that meets the requirements in this issuance.
- c. Require a mandatory annual joint training meeting between all SVC curriculum developers and DoD SAPRO and the Military Community Advocacy directorate to develop training materials that would impart an expertise in the DoD, Military Department, and Military Service programs dealing with the SAPR program and domestic violence prevention and response to judge advocates or DoD civilian attorneys performing the roles of SVCs. The specialized training will include victim rights or entitlements provided by statute, including Article 6b of the UCMJ, Subsection 806b of Title 10, U.S.C., and DoD policies concerning SAPR, FAP, and healthcare, including DoD Directive 6495.01 and DoDIs 6310.09, 6400.01, and Volumes 1 and 3 of 6495.02.
- d. Assign SVCs to locations that maximize the opportunity for face-to-face communication between the counsel and their clients.
- e. Provide means of effective communication to permit counsel-client interactions when face-to-face communication is not feasible.
- f. Ensure that the number of SVCs serving in their respective Military Departments or Military Services, as applicable, is sufficient to ensure that the average caseload is, to the extent practicable, 25 or fewer cases at any given time.
- g. Ensure that an SVC is available to a Service member at a military installation within 72 hours of the member's request, subject to an exception for exigent circumstances prescribed pursuant to Paragraph 2.3.d.
- h. Ensure that when an exigent circumstance related to military activities prevents making an SVC available to a Service member at a military installation within 72 hours of the Service member's request, an SVC is made available to such Service member as soon as is practical under such circumstances.

3.2. POLICIES GOVERNING SVC PROGRAMS.

a. Requirement for Policies.

The Secretaries of the Military Departments will ensure that policies, which may be in the form of regulations, exist to govern the SVC program or programs within their respective Military Departments.

b. SVCs' Assignment Length.

The policies issued in accordance with Paragraph 3.2.a. will provide that:

(1) SVCs serving in their first tour as a judge advocate will be assigned as an SVC for at least 18 months, with appropriate exceptions for personal or operational reasons. The policies may establish longer minimum periods of assignment subject to appropriate exceptions for personal or operational reasons.

(2) All other judge advocates serving as SVCs will be assigned as an SVC for at least 24 months, with appropriate exceptions for personal or operational reasons. The policies may establish longer minimum periods of assignment subject to appropriate exceptions for personal or operational reasons.

c. SVCs' Performance Evaluations.

The policies issued in accordance with Paragraph 3.2.a. will provide that SVCs' performance evaluations will include at least one evaluation by a rating official who is an SVC, with such exceptions as may be appropriate for the senior SVC in a Military Service or head of an SVC program office, for part-time SVCs, and for former SVCs who continue representing a client after changing duties.

d. Termination of Representation.

Without interfering with the types of legal services authorized by Sections 1044e and 1565b of Title 10, U.S.C., and considering applicable professional responsibility rules, the policies issued in accordance with Paragraph 3.2.a. will:

(1) Identify when the provision of SVC services to a client will terminate, including cases involving:

(a) Restricted reports.

(b) Completed investigations resulting in neither preferral of charges nor further command action.

(c) Preferred charges that a convening authority or special trial counsel, as applicable, elects not to refer for trial by court-martial with no further command action.

(d) Referred charges.

(e) Nonjudicial punishment.

(f) Administrative actions.

(g) Military separation actions involving Service member victims of alleged offenses involving sexual assault, domestic violence, or associated retaliation.

(2) Specify who may grant an exception to policy to allow continued provision of SVC services to a client past the point when those services would otherwise be terminated under the governing policy.

(3) Require an SVC to provide written notice to the client upon the termination of representation by the SVC.

(4) Allow a client to voluntarily terminate the provision of SVC services at any time.

(5) Provide for the automatic termination of the attorney-client relationship upon an SVC's release from active duty with such exceptions as may be appropriate for counsel within the Reserve Component.

(6) Designate any duty assignments incompatible with an SVC's continued representation of a client (as a possible example, assignment as a military judge) and provide for the automatic termination of an attorney-client relationship upon an SVC assuming such an assignment.

(7) Provide for a successor SVC being made available to a client following an automatic termination of an attorney-client relationship pursuant to Paragraphs 3.2.d.(5) or (6) if the client remains eligible for representation by an SVC.

(8) Provide rules governing the provision of legal services by an SVC when a client who originally satisfied the eligibility standards in Section 1044e(a)(2) of Title 10, U.S.C. loses all eligibility under that section.

(9) Provide rules governing how a client may request continuation of representation by an SVC after losing all eligibility under Section 1044e(a)(2) of Title 10, U.S.C.

SECTION 4: TRAINING

The Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps, in consultation with one another, will develop comprehensive training programs for SVCs and, if applicable, their paralegals. Training requirements may be satisfied by attending training offered by another Military Department or Military Service. Each SVC training program will provide for, at a minimum:

a. In-residence or virtual audio and visual certification courses to provide SVCs necessary information to advise and represent their clients. The training will include:

- (1) Applicable Military Rules of Evidence and case law.
- (2) Victims' rights established by Article 6b of the UCMJ and other applicable laws, regulations, and policies.
- (3) Services available to victims of alleged offenses.
- (4) Safety issues for victims of alleged offenses, including how to seek military protective orders, no-contact orders, orders of debarment from a military installation, and civilian protection orders and responsibilities for conducting safety assessments, including high-risk protocols and response teams in accordance with Volume 1 of DoD Manual 6400.01, DoDI 6400.06, and Volume 1 of DoDI 6495.02.
- (5) Available avenues for restitution under a victim and witness assistance program, the DoD's program for transitional compensation for abused dependents in accordance with DoDI 1342.24, and other available State and Federal resources.
- (6) Factors affecting which jurisdictions may prosecute offenses.
- (7) Rules governing required notifications, and exceptions to those notification requirements, before a law enforcement agent's interview of a victim of an alleged offense.
- (8) Rules governing requests by counsel for the accused or that lawyer's representative to interview victims of alleged offenses.
- (9) Effective interviewing techniques.
- (10) The impact of trauma on memory.
- (11) Legal issues and sensitivities associated with sex-related offense cases.
- (12) Representing clients in domestic violence cases.
- (13) Professional responsibility rules concerning the role of an SVC, including confidentiality, conflicts of interest, competence, declining representation, terminating representation, professional independence, and the duty of candor.

(14) Appropriate responses to any harassment, intimidation, retaliation, reprisal, or coercion allegations the client makes.

(15) Special issues relating to representing DoD civilian employees.

(16) Practical exercises using active listening and empathic communication.

(17) The rights and services provided under DoD, Military Department, and Military Service issuances governing SAPR and sexual assault investigations.

(18) Policies applicable to victims in DoD issuances governing responses to alleged incidents of domestic violence.

(19) Applicable Safe-to-Report programs.

(20) Procedures for eligibility, entry submission, and notification of a “match” in the Catch a Serial Offender Program governed by DoDI 5505.18, Volume 1 of DoDI 6495.02, DoDI 6400.06, and the Catch a Serial Offender program’s implementation procedures.

(21) Victims’ rights after a conviction, available support for victims after a conviction, and post-trial representational matters.

b. Trial advocacy courses and workshops focusing on the litigation role of SVCs.

c. Appropriate courses of instruction for SVC paralegals, if applicable.

d. Periodic refresher training.

e. Upon the assignment of an SVC to a military installation in the United States, appropriate training on the law and policies of the State or States in which the military installation is located with respect to victims’ rights, prosecution of criminal offenses, sentencing for conviction of criminal offenses, and protective orders.

SECTION 5: OVERSIGHT

The Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps will supervise and inspect the SVC program or programs under their respective purviews in accordance with Article 6 of the UCMJ and applicable regulations. At a minimum, they will:

- a. Review and analyze data and identify trends in the DoD annual report on sexual assault in the military and the DoD report on child abuse and neglect and domestic abuse in the military to make improvements to SVC programs.
- b. Review and analyze statutory and regulatory changes concerning SAPR and domestic violence prevention and response to make improvements to SVC programs.
- c. Collect statistics and develop and review measures of performance and effectiveness to objectively assess programs, policies, training, and services.

SECTION 6: REPORTING REQUIREMENTS

The Judge Advocates General of the Military Departments and the Staff Judge Advocate to the Commandant of the Marine Corps will prepare annual reports on their respective SVC programs.

a. The Department of the Army's report will include relevant information concerning the Army National Guard. The Department of the Air Force report will include relevant information concerning the Air National Guard. These reports will be submitted to the Secretary of the Military Department concerned.

b. The Secretary of the Military Department concerned will forward any such report to the USD(P&R) through DoD SAPRO and to the GC DoD by December 1 of each year providing data for the previous fiscal year. These reports will include:

(1) The number of individuals assigned as SVCs during the reporting period, indicating the number who served in that position on a full-time basis and the number who served other than on a full-time basis.

(2) The number of individuals assigned as SVC paralegals during the reporting period, indicating the number who served in that position on a full-time basis and the number who served other than on a full-time basis.

(3) The number of other individuals assigned to provide supervision of or support to an SVC, divided into descriptive categories. This information will indicate any category that may be filled only by lawyers and the number who served in each position on a full-time basis and the number who served other than on a full-time basis.

(4) The total number of new attorney-client relationships formed during the reporting period broken down into the categories listed in Paragraphs 6.b.(4)(a)-(d).

(a) The total number of attorney-client relationships formed during the reporting period with clients who initially filed an unrestricted report of sexual assault.

(b) The total number of attorney-client relationships formed during the reporting period with clients who initially filed a restricted report of sexual assault.

(c) The total number of attorney-client relationships formed during the reporting period with clients who do not fall under Paragraphs 6.b.(4)(a) or (b) and who were victims of alleged acts of domestic violence.

(d) The total number of attorney-client relationships formed during the reporting period with clients who do not fall under Paragraphs 6.b.(4)(a), (b), or (c).

(5) The total number of clients represented during the reporting period who satisfied one or more eligibility standards in Section 1044e(a)(2) of Title 10, U.S.C. at the time the attorney-client relationship was formed with an SVC who were authorized to continue being represented by an SVC after no longer meeting any eligibility standard.

(6) The total number of clients represented during the reporting period who were authorized to form an attorney-client relationship with an SVC who met none of the eligibility standards in Section 1044e(a)(2) of Title 10, U.S.C. at the time the attorney-client relationship was authorized.

(7) For military justice training: A description of the training during the reporting period provided to SVCs and, if applicable, their paralegals, including the number of counsel and paralegals who received such training.

(8) For specialized training concerning DoD, Military Department, and Military Service programs dealing with the SAPR program and domestic violence prevention and response: A description of the training topics, time allocated, numbers and description of personnel trained, and dates and locations of training.

(9) Other information that the reporting official deems appropriate.

SECTION 7: ICC

7.1. ICC ORGANIZATION.

a. Purpose.

The ICC will review this issuance's implementation, examine best practices from the Military Services' SVC programs, and recommend improvements to those programs.

b. Membership.

(1) The ICC consists of:

- (a) One member designated by each Military Department's Judge Advocate General.
- (b) One member designated by the Staff Judge Advocate to the Commandant of the Marine Corps.
- (c) One member designated by the General Counsel of the NGB.
- (d) One advisor designated by the GC DoD.
- (e) One advisor designated by the USD(P&R).

1. If the advisor designated by the USD(P&R) is not from DoD SAPRO, the USD(P&R) may also designate a DoD SAPRO liaison to the ICC.

2. If the advisor designated by the USD(P&R) is not from the Military Community Advocacy directorate, the USD(P&R) may also designate a Military Community Advocacy directorate liaison to the ICC.

(2) The ICC chair will invite the Judge Advocate General of the Coast Guard to designate one advisor to the ICC.

(3) All members of and advisors to the ICC will be active duty Service members, full-time or permanent part-time Federal civilian officers or employees, or members of a Reserve Component voluntarily serving on active duty for a period of more than 130 days.

c. ICC Chair.

(1) The ICC chair rotates on the first day of each fiscal year in the following order:

- (a) The Army.
- (b) The Department of the Air Force.
- (c) The Navy.

(d) The Marine Corps.

(e) The NGB.

(2) The chair's Military Service, or, when the ICC is chaired by the NGB, the NGB, will provide an executive secretary for the ICC.

d. Subcommittees.

A subcommittee charter will create any subcommittee. Only the GC DoD or the GC DoD's designee may approve a subcommittee charter. The ICC may request that the GC DoD create a subcommittee. Unless its charter forbids it, a subcommittee may include members who do not serve on the ICC.

7.2. INTERNAL OPERATION.

a. Internal Rules.

The ICC may establish internal rules governing its operation. Those rules may not be contrary to or inconsistent with this issuance.

b. Recordkeeping.

The ICC will create an internal records management system and maintain records that the chair designates for preservation. This records management system will comply with all applicable requirements of DoDI 5015.02.

7.3. MEETINGS.

The ICC will meet at least quarterly.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
DoDI	DoD instruction
DoD SAPRO	DoD Sexual Assault Prevention and Response Office
FAP	Family Advocacy Program
GC DoD	General Counsel of the Department of Defense
ICC	Interservice Special Victims' Counsel Coordination Committee
NGB	National Guard Bureau
SAPR SVC	sexual assault prevention and response special victims' counsel
UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

G.2. DEFINITIONS.

Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
alleged sex-related offense	An allegation of a violation of Article 120, 120b, 120c, or 130 of the UCMJ or an attempt to commit one of those offenses in violation of Article 80 of the UCMJ.
military installation	A base, camp, post, station, yard, center, or homeport facility for any ship under the jurisdiction of the DoD.
restricted reporting	Defined in DoD Directive 6495.01.
SAPR program	Defined in DoD Directive 6495.01.
SVC	A legal counsel designated under Section 1044e of Title 10, U.S.C., regardless of the title of such legal counsel in a particular Military Service.

TERM

DEFINITION

unrestricted reporting Defined in DoD Directive 6495.01.

REFERENCES

- DoD Directive 5145.01, “General Counsel of the Department of Defense (GC DoD),” December 2, 2013, as amended
- DoD Directive 6495.01, “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012, as amended
- DoD Instruction 1342.24, “Transitional Compensation (TC) for Abused Dependents,” September 23, 2019
- DoD Instruction 5015.02, “DoD Records Management Program,” February 24, 2015, as amended
- DoD Instruction 5505.18, “Investigation of Adult Sexual Assault in the Department of Defense,” March 22, 2017, as amended
- DoD Instruction 6310.09, “Healthcare Management for Patients Associated with a Sexual Assault,” May 7, 2019
- DoD Instruction 6400.01, “Family Advocacy Program (FAP),” May 1, 2019
- DoD Instruction 6400.06, “DoD Coordinated Community Response to Domestic Abuse Involving DoD Military and Certain Affiliated Personnel,” December 15, 2021, as amended
- DoD Instruction 6495.02, Volume 1, “Sexual Assault Prevention and Response: Program Procedures,” March 28, 2013, as amended
- DoD Instruction 6495.02, Volume 3, “Sexual Assault Prevention and Response: Retaliation Response for Adult Sexual Assault Cases,” June 24, 2022
- DoD Manual 6400.01, Volume 1, “Family Advocacy Program (FAP): FAP Standards,” July 22, 2019
- Public Law 116-92, Section 548, “National Defense Authorization Act for Fiscal Year 2020,” December 20, 2019
- United States Code, Title 5, Chapter 4 (also known as the “Inspector General Act of 1978,” as amended)
- United States Code, Title 10