



PERSONNEL AND
READINESS

UNDER SECRETARY OF DEFENSE

4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000

February 12, 2014

Incorporating Change 3, December 15, 2016

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

SUBJECT: Directive-type Memorandum (DTM) 14-003, "DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support"

References: See Attachment 1

Purpose. In accordance with the authority in DoD Directive 5124.02 (Reference (a)), section 573 of Public Law 112-239 (Reference (b)), and Under Secretary of Defense for Personnel and Readiness Memorandum (Reference (c)), this DTM:

- Establishes policy for implementation of an SVC across the Department of Defense by providing a distinct, recognizable group of appropriately skilled personnel to prosecute covered offenses.
- Requires the designation of specially trained prosecutors, paralegals, administrative support personnel, and victim witness assistance personnel to:
 - Provide related legal support, in accordance with Reference (c) and chapter 47 of Title 10, United States Code (Reference (d)), also known and referred to in this DTM as the "Uniform Code of Military Justice (UCMJ)".
 - Collaboratively work with military criminal investigative organizations (MCIOs) to provide advice, guidance, and support during the investigatory and military justice process of all reported criminal cases involving:
 - Unrestricted reports of adult sexual assault.

- Unrestricted reports of domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm.
 - Child abuse involving sexual assault and/or aggravated assault with grievous bodily harm.
- This DTM is effective February 12, 2014; it will be incorporated into DoD Directive 1030.01 (Reference (e)) and DoD Instruction 1030.2 (Reference (f)). This DTM will expire effective ~~February 12, 2017~~ August 12, 2018.

Applicability. This DTM 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 the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (referred to collectively in this DTM as the “DoD Components”).

Definitions. See Glossary.

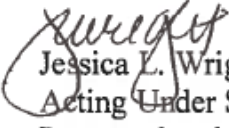
Policy. It is DoD policy that:

- MCIO investigators, judge advocates, paralegals, administrative legal support personnel, victim witness liaisons, and other personnel involved in special victim cases play critical and interconnected roles in the investigation and prosecution of criminal offenses, and ensure that the rights of victims are protected.
- DoD is committed to:
 - Treating all victims with dignity and respect.
 - Providing an immediate, coordinated, and comprehensive response in the investigation and, if appropriate, prosecution of special victim cases.
 - Administering the military justice system in accordance with the principles of fairness and due process of the United States Constitution.

Responsibilities. See Attachment 2.

Procedures. See Attachment 3.

Releasability. **Unlimited.** This DTM is approved for public release and is available on the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.


Jessica L. Wright
Acting Under Secretary of Defense for
Personnel and Readiness

Attachments:

As stated

ATTACHMENT 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R)), June 23, 2008
- (b) Section 573 of Public Law 112-239, "The National Defense Authorization Act for Fiscal Year 2013," January 2, 2013
- (c) Under Secretary of Defense for Personnel and Readiness Memorandum, "Department of Defense Working Group to Implement Special Victims Capability," October 29, 2012
- (d) Title 10, United States Code
- (e) DoD Directive 1030.01, "Victim and Witness Assistance," April 13, 2004
- (f) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
- (g) DoD Instruction 6495.02, "Sexual Assault Prevention and Response (SAPR) Program Procedures," March 28, 2013
- (h) Under Secretary for Defense for Personnel and Readiness Memorandum, "Legal Assistance for Victims of Crimes," October 17, 2011
- (i) DoD Instruction 6400.06, "Domestic Abuse Involving DoD Military and Certain Affiliated Personnel," August 21, 2007, as amended

ATTACHMENT 2

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS. The Under Secretary of Defense for Personnel and Readiness serves as the point of contact in the OSD for victim witness assistance policy and procedures, including the implementation of an SVC.

2. SECRETARIES OF THE MILITARY DEPARTMENTS. The Secretaries of the Military Departments ensure that the military justice process is responsive, transparent, and accessible to all victims and witnesses, and that all participants are treated with dignity and respect. Commensurate with their unique missions, structures, and resources, the Secretaries of the Military Departments each establish an SVC.

a. At a minimum, the SVC will provide for specially trained prosecutors, victim witness assistance personnel, paralegals, and administrative legal support personnel who will work collaboratively with specially trained MCIO investigators.

b. Designated SVC personnel will collaborate with local Military Department sexual assault response coordinators (SARCs), sexual assault prevention and response victim advocates (SAPR VAs), family advocacy program managers (FAPMs), and domestic abuse victim advocates (DAVAs) during all stages of the investigative and military justice process to ensure an integrated capability, to the greatest extent possible.

3. THE JUDGE ADVOCATES GENERAL (TJAGs) OF THE ARMY, AIR FORCE, AND NAVY, AND THE STAFF JUDGE ADVOCATE (SJA) TO THE COMMANDANT OF THE MARINE CORPS (CMC). TJAGs of the Army, Air Force, and Navy, and the SJA to the CMC are accountable for and have statutory authority to regulate the activities of their legal personnel and the provision of legal services. Therefore, the Military Departments, through their TJAGs and the SJA to the CMC, establish a timely, effective, worldwide SVC to support the investigation and prosecution of covered offenses within their respective Military Services. TJAGs and the SJA to CMC will:

a. Oversee the provision of professional legal services by Service judge advocates, civilian attorneys, enlisted and civilian paralegals, and additional civilian employees who provide legally related victim witness assistance program (VWAP) support services to implement an SVC.

b. Supervise and inspect the administration of military justice within the respective Military Services, and enforce ethical standards in the military legal practice and standards for training, selection, and certification of personnel who will perform these duties in accordance with Article 6 of the UCMJ.

c. Be responsible and accountable for the recruitment, selection, certification, professional development, assignment, and training of judge advocates to serve as qualified trial counsel in courts-martial involving covered SVC offenses in accordance with Article 27 of the UCMJ.

d. Supervise paralegal and administrative legal support personnel and detailed VWAP liaisons in accordance with References (e) and (f) in support of covered SVC offenses.

e. Implement appropriate policies, procedures, and regulations to establish an SVC that includes specially trained prosecutors, victim witness assistance personnel, and administrative or paralegal support personnel in accordance with the guidance in this DTM.

f. Ensure that the SVC legal personnel collaborate closely with SARCs, SAPR VAs, FAPMs, DAVAs, and other appropriate support organizations and personnel in special victim cases.

ATTACHMENT 3

PROCEDURES

1. ESTABLISHMENT OF STANDARDS FOR THE SELECTION, CERTIFICATION, AND TRAINING OF SVC PROSECUTORS AND LEGAL SUPPORT PERSONNEL. The Military Departments will:

a. Establish a distinct, recognizable group of professionals to provide effective, timely, and responsive worldwide victim support, and a capability to support the investigation and prosecution of special victim offenses within the respective Military Departments.

b. Establish policies and procedures to establish SVC. At a minimum, these Service-level policies and procedures will include provisions regarding, as applicable:

(1) General planning to establish Service SVC policies and regulations. After Service policies and regulations are established, widespread distribution, training, necessary manpower, and dedicated resources will be required.

(2) Activation protocol and procedures to ensure that the MCIO will notify the responsible legal office and other appropriate individuals within 24 hours of determining that an allegation meets the criteria of a special victim offense. The SVC legal representative will promptly meet or consult with MCIO SVC members within 48 hours after the designation of an investigation as meeting SVC requirements. The SVC legal representative will meet or consult with MCIO SVC members at least monthly to assess progress in the investigation or prosecution of a covered offense, including ensuring any matter raised by the victim or a person designated to assist or represent the victim is properly addressed.

(3) Integrated professional development and training initiatives focused on enhancing the prosecution of special victim offenses. Additional SAPR training requirements for interacting with adult sexual assault victims are detailed in DoD Instruction 6495.02 (Reference (g)).

(4) Case reporting, response, and victim access to care and services.

(5) Other items as deemed essential by the Military Service concerned.

c. Establish and maintain selection, certification, and training standards aimed towards achieving fully integrated investigation, prosecution, and victim support. These SVC standards will:

(1) Enable the selection of SVC prosecutors to competently litigate or assist in the prosecution of SVC cases and VWAP personnel and paralegals to competently support the prosecution of covered offenses.

(2) Enable SVC personnel to support local SJAs and responsible legal offices in the provision of candid, professional, and independent legal advice to commanders and convening authorities in special victim cases.

(3) Require appropriate training for all SVC legal personnel to provide victims with a comprehensive understanding of their rights and information required to be provided during the investigation and court-martial process, in accordance with References (e) and (f). SVC legal personnel must answer all victims' questions in a competent and sensitive manner.

(4) Ensure SVC legal personnel collaborate effectively with SARCs and SAPR VAs to facilitate a victim's welfare, security, and recovery from the sexual assault, and coordinate with FAPMs and DAVAs in cases involving covered offenses where the victim is eligible and has accepted support from these services.

d. Select specially-trained SVC prosecutors. Based upon the severity of cases, as determined by supervisory attorneys, SVC prosecutors will be assigned to litigate or assist in the prosecution of SVC cases consistent with Service certification requirements and when SVC training is complete.

e. Certify that nominated SVC prosecutors possess the requisite litigation skills, professionalism, and leadership to provide the highest quality of legal representation for the government and support to victims in SVC cases, in accordance with established Service certification standards. Selected SVC prosecutors must be capable of supervising, mentoring, and training junior counsel while providing candid, independent legal advice and expert prosecutorial support to responsible legal offices in SVC cases.

f. Ensure that qualified victim witness liaisons are selected, certified, and trained to administer a comprehensive VWAP to support SVC cases within their local jurisdictions, in accordance with References (e) and (f).

g. Ensure that all SVC paralegals and administrative legal support personnel possess the requisite knowledge, training, and experience to qualify them to provide the broad variety of legal support required in SVC cases under the supervision of an attorney.

h. Provide dedicated SVC trial support resources, such as military or civilian highly qualified experts to assist in training and consulting as necessary in SVC cases.

2. DEVELOPMENT OF SVC TRAINING PROGRAMS. The Military Departments will:

a. Develop comprehensive and integrated SVC training programs for SVC prosecutors, paralegals, administrative legal support personnel, and VWAP personnel, consisting of either in-residence or distance learning courses, trial advocacy courses and workshops, or on-the-job training and periodic refresher training.

b. SVC prosecutors, assistant trial counsel, and other judge advocates conducting adult sexual assault cases must be trained at a minimum on the SAPR training criteria in Reference (g). SAPR training, at a minimum, will incorporate adult learning theory, which includes interaction and group participation.

c. Establish SVC training programs that:

(1) Focus on the unique dynamics of sexual assault, aggravated domestic violence, and child abuse cases. Training for SVC prosecutors, at minimum, will include:

- (a) The elements of proof for SVC offenses.
- (b) Effective interviewing techniques and the impact of trauma on memory.
- (c) Legal issues and sensitivities associated with sexual assault victims.
- (d) Legal issues and sensitivities associated with child abuse victims.
- (e) Legal issues and sensitivities associated with victims of domestic violence.

(2) Promote methods of interacting with and supporting special victims to ensure their rights are understood and respected.

(3) Focus on building advanced litigation, case management, and technical skills.

(4) Ensure that all SVC legal personnel are capable of understanding the impact of trauma and how this affects an individual's behavior and the memory of a traumatic incident when interacting with a victim.

(5) Train SVC legal personnel to identify any safety concerns and specific needs of victims.

d. SVC legal personnel will request specially trained pediatric forensic interviewers to support the investigation and prosecution of complex child abuse and child sexual abuse cases, when appropriate, depending on the specific facts and circumstances.

e. The implementation and administration of SVC for prosecution and legal support personnel will be supervised in accordance with Article 6 of the UCMJ and applicable Service regulations.

3. STATISTICS AND MEASUREMENTS OF PERFORMANCE AND EFFECTIVENESS

a. The Military Departments will collect statistics and develop and review measures of

performance and effectiveness to objectively assess Service programs, policies, training, and services.

b. At a minimum, these Service-level review measures will include:

(1) Percentage of all preferred court-martial cases that involve SVC offenses in each fiscal year.

(2) Percentage of special victim offense courts-martial tried by, or with the direct advice and assistance of, a specially trained prosecutor.

(3) Compliance with DoD VWAP reporting requirements in accordance with References (e) and (f) to ensure victims are consulted with and regularly updated by SVC legal personnel.

(4) Percentage of specially trained prosecutors and other legal support personnel having received additional and advanced training in SVC topical areas, in accordance with section 2 of this attachment.

(5) Victim feedback on effectiveness of SVC prosecution and legal support services and recommendations for possible improvements.

(a) Participation by all victims will be voluntary and provide for confidentiality.

(b) These feedback mechanisms developed by the Military Services will be used to gain a greater understanding of the reasons why a victim elected to participate or declined to participate at trial in accordance with Enclosure 12 of Reference (g), and whether SVC prosecution and legal support services had any positive impact on this decision.

(c) SVC feedback mechanisms will be coordinated and standardized within each Military Service so that victims do not have to unnecessarily complete multiple questionnaires.

4. LEGAL ASSISTANCE FOR CRIME VICTIMS. Designated SVC legal personnel should ensure victims of crimes entitled to military legal assistance are able to consult with legal assistance attorneys, in accordance with sections 1044 and 1565 of Reference (d) and Under Secretary of Defense for Personnel and Readiness Memorandum (Reference (h)). These legal assistance services will include confidential advice and assistance addressing:

a. Rights and benefits afforded to the victim under law and DoD policy.

b. Role of the VWAP.

- c. The distinctive role of the victim's advocate (VA) in the SAPR and family advocacy programs (FAPs).
- d. Privileges existing between the victim and a VA.
- e. The differences between restricted and unrestricted reporting. This information should be consistent with the information provided by SARCs, SAPR VAs, FAPMs, and DAVAs.
- f. An overview of the military justice system.
- g. Services available from appropriate agencies for emotional and mental health counseling and other medical services. This information should be consistent with the information provided by SARCs, SAPR VAs, FAPMs, DAVAs, and VWAP liaisons.
- h. Requests for expedited transfer.
- i. Availability of and protections offered by civilian and military protective orders.
- j. Availability of a safety assessment conducted by trained personnel.
- k. Availability of appeal of an administrative separation action to the general officer of the Service separation authority following an unrestricted report of a sexual assault.

5. COORDINATION WITH KEY ORGANIZATIONS AND VICTIM SUPPORT SERVICES

- a. Consistent with applicable laws and regulations, TJAGs and the SJA to the CMC will ensure that responsible legal offices establish active liaisons with the following organizations and key individuals to ensure victim care:
 - (1) Local military and civilian law enforcement agencies.
 - (2) SARCs and SAPR VAs.
 - (3) FAP clinicians, FAPMs, and DAVAs.
 - (4) Military chaplain offices.
 - (5) Medical and mental health care providers.
 - (6) Unit commanding officers.
 - (7) Other persons designated by the Secretaries of the Military Departments as necessary to provide a continuum of care in special victim cases.

b. In addition to or in conjunction with SVC meetings, in cases of adult sexual assault the SJA or designated representative of the responsible legal office will participate in case management group meetings, in accordance with Reference (g), on a monthly basis to review individual cases. Cases involving victims who are assaulted by a spouse or intimate partner will be reviewed by FAP.

c. The SJA or designated representative of the responsible legal office will participate in FAP case review meetings of domestic violence, spouse or intimate partner sexual assault, and child abuse cases in accordance with DoD Instruction 6400.06 (Reference (i)).

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

CMC	Commandant of the Marine Corps
DAVA	domestic abuse victim advocate
DTM	Directive-type Memorandum
FAP	family advocacy program
FAPM	family advocacy program manager
MCIO	military criminal investigative organization
SAPR	sexual assault prevention and response
SARC	sexual assault response coordinator
SJA	staff judge advocate
SVC	special victim capability
TJAG	The Judge Advocate General
UCMJ	Uniform Code of Military Justice
VA	victim advocate
VWAP	victim witness assistance program

PART II. DEFINITIONS

These terms and their definitions are for the purposes of this DTM.

covered offenses. The designated criminal offenses of sexual assault, domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm, and child abuse involving sexual assault and/or aggravated assault with grievous bodily harm, in accordance with the UCMJ.

on-the-job training. Hands-on, supervised training conducted to certify personnel in both upgrade (skill level award) and job qualification (position certification training).

specially trained prosecutors. Experienced judge advocates detailed by Military Department TJAGs, the SJA to the CMC, or other appropriate authority to litigate or assist with the prosecution of special victim cases and provide advisory support to MCIO investigators and responsible legal offices. Before specially trained prosecutors are detailed, their Service TJAG, SJA to CMC, or other appropriate authority has determined they have the necessary training, maturity, and advocacy and leadership skills to carry out those duties.

SVC. In accordance with Reference (b), a distinct, recognizable group of appropriately skilled professionals, consisting of specially trained and selected MCIO investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel who work collaboratively to:

Investigate allegations of adult sexual assault, domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm, and child abuse involving sexual assault and/or aggravated assault with grievous bodily harm.

Provide support for the victims of such covered offenses.

VWAP. A program that provides policies and responsibilities for assisting victims and witnesses of crimes committed in violation of the UCMJ or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by a DoD Component.