

VICTIM NOTIFICATION OF SIGNIFICANT COURT-MARTIAL EVENTS

This Sidebar announces new victim and witness notification requirement: Beginning 17 June 2020, RLSOs and LSSS must notify all alleged victims of significant events in the military justice process and document these notifications. The Appellate Victims Witness Program (VWAP) Manager will provide notification of significant appellate events and document those notifications as well. Although there are some overlap with these requirements and existing laws and regulations, these new requirements do not replace the victim and witness rights contained in Article 6b, UCMJ, the VWAP regulations, and other rights and requirements.

Background. On April 30, 2019, the Sexual Assault Accountability and Investigation Task Force (SAITF) provided recommendations to improve the accountability process, specific to the investigation and disposition of cases in which members of the Armed Forces are either alleged victims or accused of sexual assault, while ensuring due process for the accused. SAITF recommendation 1.5.1 provides that alleged victims be notified of key and significant events during the military justice process and that all notification procedures are documented. This recommendation was enacted by FY20 National Defense Authorization Acts (FY20 NDAA), Sec. 538. Of note, these Sec. 538 requirements were directed **in addition to** preexisting requirements for victim and witness notification pursuant to DoD Instruction 1030 .2, SECNAVINST 5800.11, OPNAVINST 5800.7A, MCO 5800.14, and JAG/COMNAVLEGSVCCOMINST 5800.4A.

Requirement. Beginning 17 June 2020, the RLSOs and LSSSs must ensure that **all alleged victims and witness who elect to be notified of these events** are provided reasonable, timely, and accurate notification of significant events in the military justice process. Additionally, the cognizant RLSO or LSSS are required to document the date of each notification and any additional input resulting from such notification in the electronic Case Management System (CMS). The following is a list of significant events that require victim notification:

- Conclusion of the investigation (requirement limited to Special Victim Cases as defined below)
- Initial disposition decision made in accordance with R.C.M. 306 (requirement limited to Special Victim Cases as defined below)
- Pre-trial confinement hearings
- Preferral of charges
- Article 32 hearings
- Referral of charges
- All court proceedings
 - Arraignment
 - Motions hearings
 - Trial dates
 - Post-trial hearings
- Withdrawal of charges
- Dismissal of charges

- Vacation hearings
- Clemency submissions.
- The Convening Authority's Action concerning the court-martial findings and sentence; to include an explanation of any clemency granted.
- The disposition of a case, if other than at court-martial.

Special Victim Cases are defined as a case involving an allegation of child abuse, domestic violence, or adult sexual assault or rape. See DoDI 5505.19; SECNAVINST 1752.4C and OPNAVINST 1752.1C.

The responsibility of the RLSOs and LSSSs to notify victims of significant events in the court-martial process ends at the completion of the court-martial or withdraw/dismissal of charges. If the RLSO or LSSS make a recommendation to the commander NOT to prefer charges to a court-martial, this notification requirement ends once the commander makes the initial disposition decision NOT to proceed with a court-martial.

Additionally, **all alleged victims** must be provided notice of significant events throughout the appellate process. The Appellate VWAP Program Manager is responsible for providing notice of the following significant events and documenting the notification in CMS:

- Appellate filings
- Appellate hearings
- Appellate decisions

Also, confinement facilities remain required to provide victims and witnesses with information about the confinement status of the accused pursuant to 42 U.S.C. 10607 et seq.; 18 U.S.C. 1512 et seq; DoDI 1325.07; DoDI 1030.2; and DoDD 1030.1.

These notification requirements are in addition to the requirements and victim rights set forth in Article 6b, UCMJ, R.C.M. 705, UCMJ, DoDI 1030.2, SECNAVINST 5800.11, OPNAVINST 5800.7A, MCO 5800.14, and JAG/COMNAVLEGSVCCOMINST 5800.4A. Completion of these requirements must also be entered into CMS. Additionally, these notifications will be inspected by the JAG Inspector General and the Staff Judge Advocate to the Commandant as part of the Article 6 inspection process. Marine Corps VWAP requirements will also be inspected by the Marine Corps Inspector General's inspection process.

This Sidebar and support references have been posted to Code 20's page on the JAG Portal at:
<https://portal.secnav.navy.mil/orgs/JAG/20/SitePages/Home.aspx>.

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