

Headquarters  
U.S. Army Maneuver Support Center of Excellence  
Fort Leonard Wood, Missouri 65473  
16 March 2016

\*Fort Leonard Wood Regulation 27-10

## Legal Services

### MILITARY JUSTICE

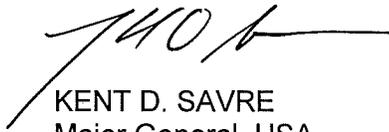
**Summary.** This regulation prescribes policies and procedures governing the administration of military justice for all units within the general court-martial (GCM) jurisdiction of the Commander, U.S. Army Maneuver Support Center of Excellence (MSCoE) (herein, "the CG") and Fort Leonard Wood. The policies and limitations set forth herein are for local application only and are not intended to be procedural prerequisites in cases involving nonjudicial punishment (NJP) or trial by court-martial.

**Applicability.** This regulation applies to all Army units, organizations, and personnel subject to the general court-martial authority or otherwise assigned or attached to this command for Uniform Code of Military Justice (UCMJ) and adverse administrative actions. Other service components located on Fort Leonard Wood follow procedures for the administration of military justice promulgated by their respective chains of command.

**Supplementation.** Supplementation of this regulation by subordinate commanders is prohibited without prior approval from this headquarters.

**Proponent.** The proponent for this regulation is the Office of the Staff Judge Advocate (OSJA).

**Suggested improvements.** Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) through command channels to Office of the Staff Judge Advocate, Fort Leonard Wood, Missouri 65473.



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\*This regulation supersedes FLW Reg 27-10, Installation Discipline (7 August 2002).

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## **Chapter 1 Introduction**

**1-1. Purpose.** This regulation prescribes policies and procedures pertaining to the administration of military justice at Fort Leonard Wood and is intended to improve the administration of military justice across MSCoE. This regulation does not confer any rights on individual Soldiers. Paragraph 1-3d, concerning Trial Defense Service personnel, is intended to be descriptive only.

### **1-2. References.**

- a. Manual for Courts-Martial, United States (current edition) (MCM).
- b. AR 25-50 (Preparing and Managing Correspondence), 17 May 13.
- b. AR 27-10 (Military Justice), 3 Oct 11.
- c. AR 600-8-2 (Suspension of Favorable Personnel Actions (Flag)), 23 Oct 12.
- d. AR 600-8-24 (Officer Transfers and Discharges), 12 Apr 06, including RAR 3 issued 13 Sep 11.
- e. AR 635-200 (Active Duty Enlisted Administrative Separations), 6 Jun 05, including RAR 3 issued 6 Sep 11.
- f. Army Directive 2013-21 (Initiating Separation Proceedings and Prohibiting Overseas Assignment for Soldiers Convicted of Sex Offenses), 7 Nov 13.
- g. DA Pam 27-7 (Guide for Summary Court-Martial Trial Procedure), 2 Apr 14.
- h. DA Pam 27-17 (Procedural Guide for Article 32 Preliminary Hearing Officer), 18 Jun 15.
- i. DoD Instr 6490.04 (Mental Health Evaluations of Armed Forces Members), 4 Mar 13.

### **1-3. Responsibilities.**

a. The Staff Judge Advocate (SJA) is the CG's legal advisor and is responsible for the overall supervision and administration of military justice across MSCoE and Fort Leonard Wood. The SJA has primary responsibility for the assignment of all military legal personnel on Fort Leonard Wood in military occupational specialty (MOS) of 27A (Judge Advocate), 270A (Legal Administrator), and 27D (Paralegal Specialist/Paralegal Noncommissioned Officer), regardless of unit assignment. To ensure timely and efficient processing of military justice and related adverse administrative actions, the SJA has authority to direct reassignment of all military legal personnel within this command after notice to the affected commanders. Commanders communicating with the CG concerning military justice issues should courtesy-copy the SJA.

b. The Chief, Military Justice Division, is responsible for the supervision of trial counsel, assignment of individual cases, processing of courts-martial and administrative separation boards, and administration of military justice at Fort Leonard Wood, as directed by the SJA.

c. The Senior Defense Counsel (SDC), Fort Leonard Wood Field Office, U.S. Army Trial Defense Service (USATDS or TDS), is responsible for the delivery of defense services and the detail and supervision of trial defense counsel in support of units in the SDC's area of responsibility. TDS counsel are supervised, managed, and rated solely by their respective TDS supervisory chain. The SDC is the direct supervisor of all trial defense counsel within the field office and acts as the primary TDS liaison with commanders and convening authorities of organizations served by the field office and with the SJA. TDS counsel wear the TDS shoulder sleeve insignia. Soldiers performing duty as defense paralegals and support personnel should normally wear the TDS shoulder sleeve insignia.

d. Special Victim Counsel (SVC) are specially appointed and trained Legal Assistance attorneys who form attorney-client relationships with qualifying individuals. They are supervised by the SJA, but each attorney represents the interests of the individual client. The scope of an SVC's representation is defined by statute and implementing regulations, and policy determinations are made by the SVC Program Manager.

e. Personnel with military occupational specialties (MOS) of 27A (Judge Advocate), 270A (Legal Administrator), and 27D (Paralegal Specialist/Paralegal Noncommissioned Officer), as well as certified civilian legal technicians working directly under the supervision of a trial counsel are the only personnel authorized to prepare and process legal actions. No other Soldier or civilian outside of the prescribed MOS or position will prepare legal actions. The term "legal actions" includes courts-martial, all types of nonjudicial punishment, letters and memoranda of reprimand UP AR 600-37, officer eliminations UP AR 600-8-24, and enlisted separations UP AR 635-200.

#### **1-4. Policy.**

a. Maintaining good order and discipline is a command responsibility. The military justice system is a commander's tool. Effective leadership that fosters high morale and instills a sense of responsibility remains the best way to avoid disciplinary problems. Commanders and supervisors who recognize and respond to their Soldiers' problems and honest grievances typically have less need to resort to the military justice system.

b. Unlawful Command Influence (UCI) corrupts the military judicial process and is expressly prohibited by Art. 37, UCMJ. At every level of command, a commander's action on NJP or recommendation regarding court-martial charges must represent the commander's own independent judgment based on the seriousness of the allegation, the evidence presented, and all other relevant factors. Senior commanders will not take

any action, directly or indirectly, that attempts or could reasonably be perceived as an attempt to influence a subordinate commander's opinion regarding a military justice matter, and no one in the chain of command will attempt to influence the testimony of a potential witness. Furthermore, commanders shall not predetermine punishments before adjudicating a case.

#### **1-5. Designation of Court-Martial Convening Authorities.**

a. General Court-Martial Convening Authority (GCMCA). The CG convenes general and special courts-martial pursuant to authority contained in General Orders No. 2010-03, Headquarters, Department of the Army, dated 23 March 2010. Unless unit attachment or assignment orders specify otherwise, the CG is the GCMCA for all units assigned or attached to MSCoE or Fort Leonard Wood for the administration of military justice.

b. Special Court-Martial Convening Authorities (SPCMCAs). The CG hereby withholds the authority of subordinate commanders to convene special courts-martial. For all purposes other than convening special courts-martial, the commanders of the following units/organizations are special courts-martial convening authorities: 1st Engineer Brigade, 3d Chemical Brigade, 14th Military Police Brigade, U.S. Army Garrison Fort Leonard Wood, U.S. Army Medical Department Activity Fort Leonard Wood, and U.S. Army Dental Activity Fort Leonard Wood. See Appendix A for a complete list of jurisdictional lines on Fort Leonard Wood.

#### **1-6. Supporting Trial Counsel.**

a. The SJA will designate a supporting trial counsel for each SPCMA. The designated trial counsel will be the primary point of contact for all military justice matters and legal actions arising from that jurisdiction.

b. Only judge advocates are authorized to provide legal advice to commanders and their staffs concerning military justice matters. Commanders will not initiate any military justice action without first coordinating with their trial counsel on at least the following two points: (1) is there sufficient evidence for the proposed action, and (2) what is the proper level of disposition. Trial counsel must concur with all charges and specifications for courts-martial, nonjudicial punishment, and bases for involuntary administrative separation.

(1) Legal actions will not be routed through other staff sections, to include the S-1, prior to the completed distribution phase.

(2) To ensure the efficient administration of justice, trial counsel will have unrestricted access to their supported commanders. Trial counsel or their paralegals normally hand-carry all legal actions directly to the commander and retrieve signed actions from the commander.

**1-7. Non-Lawyers: Prohibition on Practicing Law or Providing Legal Advice.**

Paralegal Soldiers, legal technicians, or other employees whose duties include working on various legal matters are prohibited from engaging in the practice of law or providing legal advice. Questions regarding what actions constitute the practice of law will be directed to the trial counsel.

**1-8. Location, Supervision, Evaluation and Assignment of Judge Advocates and Military Paralegals in Brigades.**

a. The Army's brigade-centric approach impacts the Judge Advocate General's Corps' provision of legal services. Brigade legal offices are not resourced nor intended to function wholly independently of higher OSJA support. Brigade legal services at Fort Leonard Wood must be tightly nested with the installation OSJA.

b. Brigade legal sections are responsible for military justice matters only, and only within their capabilities. Where the brigade's military justice needs exceed those capabilities, the brigade paralegals are responsible for coordinating with the OSJA.

c. Paralegal specialists and Noncommissioned officers will work at their respective brigade legal offices. Trial counsel will work at the OSJA Military Justice Division and will spend as much time as needed at their brigades. Because of the complexity and consequences associated with legal actions, as well as the low density of legal personnel on the installation, all paralegals within a brigade will work in a consolidated brigade legal office. This arrangement provides the necessary technical oversight needed to ensure not only that the command receives the highest quality legal work possible, but also that the legal personnel within the section receive the necessary training and mentorship to grow within their MOS.

d. Paralegal Soldiers in a brigade legal office are supervised by a brigade legal NCOIC. The brigade legal NCOIC is rated by the trial counsel and senior-rated by the Chief of Military Justice. All civilian legal technicians will be supervised and rated by the trial counsel.

e. Trial counsel are supervised and rated by the Chief of Military Justice and senior-rated by the Staff Judge Advocate. Brigade Deputy Commanders or Executive Officers may serve as intermediate raters.

f. The Chief of Military Justice is responsible for publishing the rating scheme for all judge advocates and paralegal NCOs on Fort Leonard Wood.

g. Paralegal specialists, paralegal NCOs, legal administrators, and judge advocates will not be assigned regular duties inconsistent with their MOS, because such duties can delay the processing of legal actions and potentially create conflicts of interest. Paralegal specialists, paralegal NCOs, legal administrators, and judge advocates are

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exempt from all unit detail rosters because of conflicts such details may create with their legal duties. This includes, but is not limited to charge of quarters (CQ), staff duty, casualty notification officers, casualty assistance officers, and other long-term details that delay processing of legal actions. Any request for an exception to this policy should be directed through the Deputy Staff Judge Advocate (DSJA) to the SJA.

## **Chapter 2 Nonjudicial Punishment**

### **2-1. Limitation of NJP Authority.**

a. The CG has exercised his authority to withhold from subordinate commanders the authority to dispose of certain types of allegations and misconduct by certain offenders. This withholding is contained in Fort Leonard Wood Command Policy 15, which is incorporated herein by reference.

b. Certain traffic offenses will be disposed of in the U.S. District Court at Fort Leonard Wood ("Magistrate Court"), and subordinate commanders may not take punitive action for these offenses. See Chapter 5 of this Regulation.

**2-2. Correctional Custody.** Fort Leonard Wood does not have an approved correctional custody facility. Commanders may not adjudge correctional custody as a punishment under Art. 15, UCMJ.

### **2-3. Judge Advocate Review of Nonjudicial Punishment Appeals.**

a. Appeals that require review by a judge advocate under the provisions of AR 27-10 before the appellate authority's action will be forwarded to the supporting trial counsel within 24 hours of the Soldier's electing to appeal. Any written appeal or supporting documents must be included with the original NJP file for the judge advocate review. In cases where the CG is the appellate authority, the staff judge advocate will perform the appellate review.

b. The imposing commander may comment on any point raised in the accused's appellate matters. In cases where the CG is the appellate authority, the imposing commander will provide a comment regarding the appeal. The imposing commander will also include the Soldier's local personnel file with forwarded matters.

### **Chapter 3 Civilian Confinement**

**3-1. General.** This command is committed to ensuring proper accountability for and supporting the welfare of Soldiers in civilian confinement.

#### **3-2. Responsibilities.**

a. Commanders will immediately report the confinement of members of their commands by civilian authorities by electronic message to their supporting trial counsel and the MSCoE and Fort Leonard Wood Director of Emergency Services. The message will include the Soldier's unit, DTG for being placed into confinement, place of confinement, the charges or allegations on which the Soldier is being held, and status of the case. A situation report will be submitted every 30 days or upon change in status of the case until the Soldier is released, acquitted, or convicted and sentenced. Commanders will maintain communication with members of their commands who are confined in military or civilian confinement.

b. Following any civil conviction, whether or not the conviction results in confinement, the commander will consult supporting trial counsel and the supporting Military Personnel Office (MILPO), to determine, IAW AR 635-200, and AR 600-8-19, what action, if any, to take based on the conviction. In any case where a Soldier has been convicted of a civil offense that results in a sentence of over 6 months confinement, the Soldier will ordinarily be reassigned to a Personnel Control Facility.

## **Chapter 4 Courts-Martial**

### **4-1. Pretrial Restraint.**

a. Pre-trial restraint is an extreme measure and must be carefully considered IAW Rule for Courts-Martial 305 before being ordered. The imposition of pretrial restraint or pretrial confinement can trigger time limitations for bringing an accused Soldier to trial. The limitations will vary depending on the triggering event.

b. Because pretrial restraint may trigger an accelerated court-martial timeline, commanders will not impose any form of pretrial restraint without prior coordination and consultation with their supporting trial counsel. Commanders will only order pretrial restraint in writing. Actions such as placing a Soldier on "line-of-sight," increased sign-in procedures, and revocation of pass privileges are all forms of pretrial restraint and must be discussed with trial counsel. Additionally, once a commander imposes pretrial restraint, he/she must inform the trial counsel both of the date the restraint is actually imposed and the conditions of the restraint.

c. Pretrial confinement is not authorized until the SJA approves the commander's intent to place the accused in pre-trial confinement. Commanders must coordinate for pretrial confinement through their trial counsel.

d. The commander ordering pretrial confinement IAW RCM 305 must inform the trial counsel of the alleged offenses and complete a DA Form 5112, Checklist for Pretrial Confinement.

**4-2. Court-Martial Charges.** An accuser will coordinate potential court-martial charges with the supporting trial counsel before drafting or preferring charges against an accused Soldier. Although any person subject to the UCMJ may prefer charges, charges are drafted by trial counsel and must be approved by the Chief of Military Justice before referral is authorized.

### **4-3. Witness Considerations.**

a. Subpoenas, invitational travel orders, payment vouchers, and travel arrangements for all witnesses, civilian and military, required to testify at courts-martial or Art. 32 preliminary hearings are processed by the Military Justice Division. Requests from other installations for witnesses located at or near Fort Leonard Wood will also be processed by the Military Justice Division.

b. Unit commanders will release court-martial witnesses under their command from all other military duties and provide adequate transportation for the witnesses to attend trial. Unit commanders will ensure that all witnesses under their command are in the designated uniform prior to appearing in a court-martial or preliminary hearing.

c. The accused's unit is responsible for providing licensed military drivers and adequate transportation resources for witnesses, before, during, and after a court-martial. The Military Justice Division will notify the accused's commander of all necessary information to execute this task. The Military Justice Division will provide all necessary training for the personnel identified to drive witnesses no later than one week before trial. The driver(s) will be responsible for transporting witnesses to and from the airport before and after trial, to and from lodging to the courtroom each day, and to and from meal locations.

d. Commanders will not approve passes, ordinary leave, or temporary duty (TDY) orders for potential court-martial witnesses (including witnesses for Art. 32 preliminary hearings) without prior coordination with the supporting trial counsel. Commanders are also encouraged to coordinate with their trial counsel before approving emergency leave for court-martial witnesses or preliminary hearing witnesses.

e. If the PCS or extended TDY of a witness appears likely before trial, the unit commander will consider requesting an administrative hold through the Military Justice Division (supporting trial counsel) to the supporting MILPO. The request should name the case for which the testimony is needed and the date and place of the witness' prospective reassignment. If it appears that a military witness will terminate active service before trial (e.g. ETS or otherwise be administratively separated), the witness's commander will immediately notify the supporting trial counsel.

#### **4-4. Availability of Accused for Pre-Trial Preparation and Trial.**

a. The accused's commander will ensure that the accused is present for all scheduled meetings with defense counsel and for trial.

b. Guards and vehicles to transport the accused from confinement to the courtroom are provided by the accused's unit. The accused will arrive at trial at the time requested by defense counsel, but no later than thirty minutes prior to the trial start time.

#### **4-5. Uniform of Accused at Court-Martial Sessions.**

a. The accused's commander will ensure that the accused is in the correct, complete, clean and properly fitting uniform for trial.

b. The accused, like any Soldier, is expected to maintain a complete, clean, and properly fitting uniform. Defense counsel who anticipate needing assistance in assembling the proper uniform for an accused should notify the trial counsel as early as possible.

c. Unit commanders should coordinate with the trial counsel and defense counsel well in advance of trial to ensure that the accused has the correct uniform in the correct condition.

d. Upon preferring charges, commanders should establish the whereabouts of and consider securing the uniforms and insignia that an accused will need for trial.

**4-6. Bailiff and Escorts.**

a. During trial, the accused's unit will provide:

(1) two escorts to accompany the accused. The escorts will be senior to the accused by either grade or rank and no less than the grade of Sergeant (E-5). Escorts will wear the duty uniform, and they will uncover in the courtroom even if under arms.

(2) two bailiffs. The bailiffs will be senior to the accused by either grade or rank and no less than the grade of Sergeant (E-5). The bailiffs will wear the uniform designated for trial by the military judge.

b. Soldiers assigned escort and bailiff duty will report to the Military Justice Division for training no later than one week before trial.

## **Chapter 5**

### **U.S. District Court at Fort Leonard Wood (Magistrate Court)**

#### **5-1. Offenses Handled in Magistrate Court**

a. Minor Traffic Offenses. Authority to impose NJP or to initiate UCMJ action for minor traffic offenses occurring on Fort Leonard Wood is withdrawn from all subordinate commanders. Minor on-post traffic offenses will be handled in Magistrate Court.

b. Other Traffic Offenses. Authority to impose NJP or initiate UCMJ action for the offenses listed below and occurring on Fort Leonard Wood is withdrawn from all subordinate commanders:

- (1) Driving while intoxicated (DWI) by alcohol or drugs.
- (2) Driving with excessive blood alcohol content (BAC).
- (3) Refusal to submit to a chemical test of breath or blood (implied consent violation).
- (4) Driving with revoked or suspended post driving privileges.
- (5) Driving with revoked or suspended state driving privileges.
- (6) Offenses committed under circumstances amounting to reckless driving committed in a civilian vehicle.
- (7) Driving without a license, registration, or insurance.

These listed offenses will be adjudicated through the Magistrate Court process.

c. Requests for Exception. Commanders may request an exception to adjudicate a traffic related offense. Requests should be submitted through the chain of command to the CG after consultation with trial counsel and/or the staff judge advocate as necessary.

d. Offenses involving a government vehicle, cases involving military-specific offenses arising from the same transaction as a DWI offense, cases involving multiple offenses in which a traffic offense is incidental to certain non-traffic offenses, and offenses which are otherwise not appropriate for disposition in Magistrate Court will ordinarily be adjudicated under the UCMJ. Commanders will seek trial counsel advice before proceeding with UCMJ action.

e. Trial of an offense in Magistrate Court precludes UCMJ punishment for the same act. It does not preclude adverse administrative actions such as memoranda of reprimand, administrative reduction, or involuntary administrative separation.

## **5-2. Court Procedures.**

a. Magistrate Court is designated to dispose of offenses which are charged by the issuance of a violation notice (DA Form 1805), or by the filing of an information or Federal criminal complaint by the U.S. Attorney.

b. If a defendant is unable to appear in U.S. District Court due to some compelling reason (e.g., extended TDY, emergency leave, civilian confinement, etc.), the defendant, or the defense attorney if one has been retained, must contact the OSJA's Magistrate Court Clerk before the scheduled court date to formally request a delay. The Magistrate Court Clerk will assist the defendant in preparing a written request to the clerk of the U.S. District Court, Western District of Missouri, asking that the court date be rescheduled. The Magistrate Court Clerk will submit the request and notify the defendant of the new court date.

c. U.S. Marshals are authorized to execute warrants for the arrest of individuals who fail to appear in U.S. District Court. Commanders, when presented with a warrant for a Soldier, will ensure the Soldier is delivered into custody of the arresting officer. Military duties will not interfere with the execution of a federal warrant.

d. Commanders having administrative control over Reservist Soldiers who are prosecuted in U.S. District Court for offenses other than minor traffic offenses will notify the individual's Reserve unit of the offense charged and the scheduled court appearance date.

e. A Soldier who fails to appear in U.S. District Court when lawfully ordered to do so may be punished under the UCMJ or face adverse administrative action.

## **Chapter 6**

### **Victim/Witness Assistance Program and Other Victim Services**

#### **6- 1. General.**

a. The Fort Leonard Wood Victim/Witness Assistance Program provides assistance and guidance for the treatment of persons who are victims of offenses under the UCMJ and persons requested as witnesses in proceedings conducted pursuant to the UCMJ.

b. Objectives. The objectives of the Victim/Witness Assistance Program are to mitigate the physical, psychological, and financial hardships suffered by victims and witnesses of offenses investigated by Department of the Army authorities, to foster the full cooperation of victims and witnesses within the military criminal justice system, and to ensure victims and witnesses are advised and accorded rights under the UCMJ, AR 27-10, and all other applicable statutes and regulations, subject to available resources.

c. Policy. All persons working with and in support of the military justice system must ensure victims of and witnesses to crimes under the UCMJ are treated with dignity and respect. Interference with personal privacy and property rights will be kept to an absolute minimum. Special treatment consideration will be given when the victim is a child, or the case involves domestic abuse or sexual misconduct.

#### **6-2. Victim/Witness Liaison.**

a. The Victim/Witness Liaison (VWL) for Fort Leonard Wood is located within the Military Justice Division. The VWL is the point of contact through which victims and witnesses may obtain services and information regarding the status of a pending case.

b. Military law enforcement and investigative personnel will promptly inform all victims about the Victim/Witness Assistance Program and provide assistance in contacting the VWL.

#### **6-3. Victim Services.**

a. At the earliest opportunity after the detection of a crime, but no later than the appointment of an Art. 32 preliminary hearing officer or referral of charges to court-martial, the VWL will provide a Victim Information Packet to all known victims.

b. The VWL will assist victims in obtaining financial, legal, and other social services, as appropriate, by providing the victims with information concerning the sources of such services and, if necessary, by arranging for appointments with relevant service agencies.

**6-4. Consultation with Victims.** When required by law or regulation, or when otherwise appropriate, trial counsel, VWL, or commanders of Soldiers suspected of crimes, shall consult with victims of serious offenses concerning the following:

- a. decisions not to prefer charges;
- b. decisions concerning pretrial restraint or release from pretrial confinement of the alleged offender;
- c. dismissal of court-martial charges; and/or
- d. negotiation of pretrial agreements and their potential terms.

This list is not exhaustive; commanders will consult regularly with their trial counsel to ensure that victims' rights are being protected. Nothing in this chapter limits the responsibility and authority of commanders to take such action they deem appropriate for the administration of justice.

**6-5. Special Victim Counsel Program.**

a. The Special Victim Counsel Program (SVCP) was developed to strengthen the Army's support of victims of sexual assault and to enhance their rights within our military justice system, while neither causing unreasonable delay nor infringing upon the rights of the accused. The role of the Special Victim Counsel (SVC) is to zealously represent the client's interests throughout the military justice process within the limits of established case law, statute, and regulation.

b. The SVCP at Fort Leonard Wood is co-located with the Client Services Division of the Office of the Staff Judge Advocate. The first responsible party to make contact with a victim, e.g., Victim Advocate, SARC, SAPR, FAP, criminal investigator, VWL, or trial counsel will use DD Form 2701 (Initial Information for Victims and Witnesses of Crime), to inform victims of their right to the services of an 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. It is not necessary for the victim to sign an acknowledgment or waiver of services.

c. If charges are preferred as a result of the sexual assault, trial counsel will provide an eligible victim who does not have an SVC with an additional notification of their right to the services of an SVC.