



JUDGE ADVOCATE GENERAL'S PRACTICE MEMORANDUM 15

SERVICE IMPACT STATEMENTS IN SENTENCING PROCEEDINGS

Introduction

1.1 A Service Impact Statement (SIS) provides a Service court with evidence of the Service-related impact of a defendant's offending, and will generally provide evidence of the effect of offending on matters such as:

- Operational effectiveness
- Morale
- Discipline, including the prevalence of the type of offending within the unit
- The reputation of the Armed Forces, including, where relevant, impact on issues such as recruiting and retention of personnel.

1.2 The impact will usually relate to a specific unit. In cases where there is impact to more than one unit, a SIS may be required from each unit.

Request for a Service Impact Statement

2.1 A SIS will normally be requested by the Judge Advocate, who may give guidance on specific aspects to be covered in the statement.

2.2 The Service Prosecuting Authority may also request a SIS, but its use in sentencing proceedings will be determined by the Judge Advocate.

Authorship of a Service Impact Statement

3.1 A SIS should be signed by the Commanding Officer (CO) with knowledge of the impact of the offending. If a CO has been appointed since the incident who has little or no direct knowledge of the impact of the offence, the previous CO should provide the SIS. If it is not possible or considered appropriate for the CO to sign the SIS, the court should be informed as soon as possible. An explanation for why the CO has not signed should be provided within the SIS.

Sources of Information

4.1 The SIS may be based on information which has been provided to the CO by others. Concerns about hearsay evidence do not apply. For example, a CO may have consulted their

subordinate commanders, Adjutant and Regimental Sergeant Major, or may have spoken to other personnel. The CO should identify what sources have been used to compile the statement – eg “I have discussed the impact of this case with the Adjutant, Company Commander of the Company concerned, the Unit Welfare Officer and Padre”.

Format of a Service Impact Statement

5.1 A SIS should comply with the requirements of Section 9 of the Criminal Justice Act 1967. A draft form is at Annex A.

Content of a SIS

6.1 The SIS will form part of the evidence in sentencing proceedings in the Court Martial. Although in most cases the statement will be read to the court by the Prosecuting Officer, the court or the defence may require the author to attend court to answer questions from the court or to be cross-examined by the defence. The information contained in a SIS must therefore be provided honestly, objectively and without prejudice or bias, even if an offence has had a significant impact on the author’s unit. The temptation to use the SIS to secure a more severe sentence must be resisted. Similarly, authors must not be affected by any undue influence in favour of the defendant facing sentence, such as the effect of a particular sentence on the defendant’s family, career or pension or the effectiveness of their own unit. Such matters will be properly dealt with in mitigation by the defence legal representative.

6.2 Unless provided with specific guidance by the Judge Advocate or SPA, the SIS should cover the following areas:

- Impact on operational effectiveness
- Impact on morale
- Impact on discipline, including the prevalence of the type of offending within the unit
- Impact on the reputation of the Armed Forces including, where relevant, impact on issues such as recruiting and retention of personnel

If there is no impact on a particular area, enter “None”. Space is available for any additional observations.

6.3 Generalised and wide-ranging observations should be avoided. Instead, comments should be supported, as far as possible, with evidence. By way of example, “A number of junior soldiers have spoken to me and the Adjutant about how they feel let down by the Sergeants and Corporals in the Regiment, and it will take some time for them to regain full confidence” rather than “I sense the junior ranks feel let down”, and “The offender was removed from the unit when he was arrested and placed on special leave. Another Sergeant was posted into the unit at short notice causing disruption for him and his family. The operational effectiveness of my unit was diminished whilst the new Sergeant settled in, which led to a reduced performance in the exercise being undertaken at the time, and I am aware that sending unit has not been able to replace the Sergeant they have lost”, rather than “the offence had a significant effect on personnel”.

6.4 Prevalence of a particular type of offending within a unit will only be relevant to sentence if supported by evidence, made available to the parties in good time so that meaningful representations can be made. The court will only treat prevalence of offending as an aggravating factor if it is satisfied that¹:

- a. the level of harm caused in a particular unit is significantly higher than that caused elsewhere (and thus already inherent in the guideline levels);
- b. that the circumstances can properly be described as exceptional and
- c. that it is just and proportionate to increase sentence for such a factor in the particular case.

6.5 Assertions such as, “This case reflects the fact that soldiers continue to drink to excess on social occasions” will not assist, whereas observations such as, “there was a particular problem with alcohol consumption during the exercise, which has led to an increase in drunken offending, including violent and anti-social behaviour, and adversely affected the relationship of the unit with the local community. This is demonstrated by the fact that the Community Police Officer has engaged with the Adjutant”.

6.6 A SIS should not include reference to any other offending (suspected or proved) by the defendant, or give a view on the appropriate sentence.

Timing

7.1 Once requested, a SIS must be submitted as soon as possible, and not later than five working days before the sentencing hearing, in order to allow time for any necessary clarification or further enquiries. Statements submitted after this date may be excluded by the Judge Advocate.

Legal Advice

8.1 Commanding Officers may, but are not required to, seek guidance from single Service Formation Legal Offices/Officers.

Single Service Procedures

9.1 The Services may introduce procedures for the production of a SIS, which should comply with this Practice Memorandum.

¹ [R v Bondzie \[2016\] EWCA Crim 556 at para 11](#)

**ANNEX A TO JUDGE ADVOCATE
GENERAL'S PM15**

<p style="text-align: center;">SERVICE IMPACT STATEMENT <i>(Criminal Justice Act 1967, s. 9)</i></p>
<p>This statement is made by:</p> <p>Full name.....</p> <p>Rank.....</p> <p>Position (eg CO).....</p> <p>Age of witness (if over 18, enter "over 18"):</p> <p>This statement (consisting of pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.</p>
<p>REFER TO GUIDANCE FOR COMPLETING SERVICE IMPACT STATEMENTS IN PRACTICE MEMORANDUM 15</p>
<p>Introduction – Author's role, sources of information, level of knowledge etc</p>
<p>Impact on Operational Effectiveness</p>
<p>Impact on Morale</p>

Impact on discipline including, if appropriate, evidence of high level prevalence of the offence in the unit (see guidance in Practice Memorandum 15 6.4)
Impact on reputation of Armed Forces including, where relevant, impact on issues such as recruiting and retention of personnel
Any additional observations regarding impact
<p>Signature of person making statement.....</p> <p>Date:</p>