

Legal Assistance & Victims

SERVICES PROVIDED TO VICTIMS OF SEXUAL ASSAULT

CAPTAIN SINNOTT

LEGAL ASSISTANCE ATTORNEY

VICTIM'S LEGAL COUNSEL

What am I? What do I do?

- ▶ Legal Assistance Office, National Capital Region (LAO) provides a full range of legal services related to **civil** matters affecting Marines, their dependents and “other eligible clients.”
 - ▶ **We are authorized, but not mandated, by Congress to do this.**
- ▶ Estate Planning: Wills & Trusts, Powers of Attorney, Advance Medical Directives
- ▶ Family Law: Separation & Divorces, Family Mediation Program, Custody/Support/Visitation Agreements, Adoptions, etc...
- ▶ Consumer Law: Landlord Tenant disputes, Fair Debt Collection, Automobile problems
- ▶ Military Rights: SCRA, USSERA



Why Talk to Us?

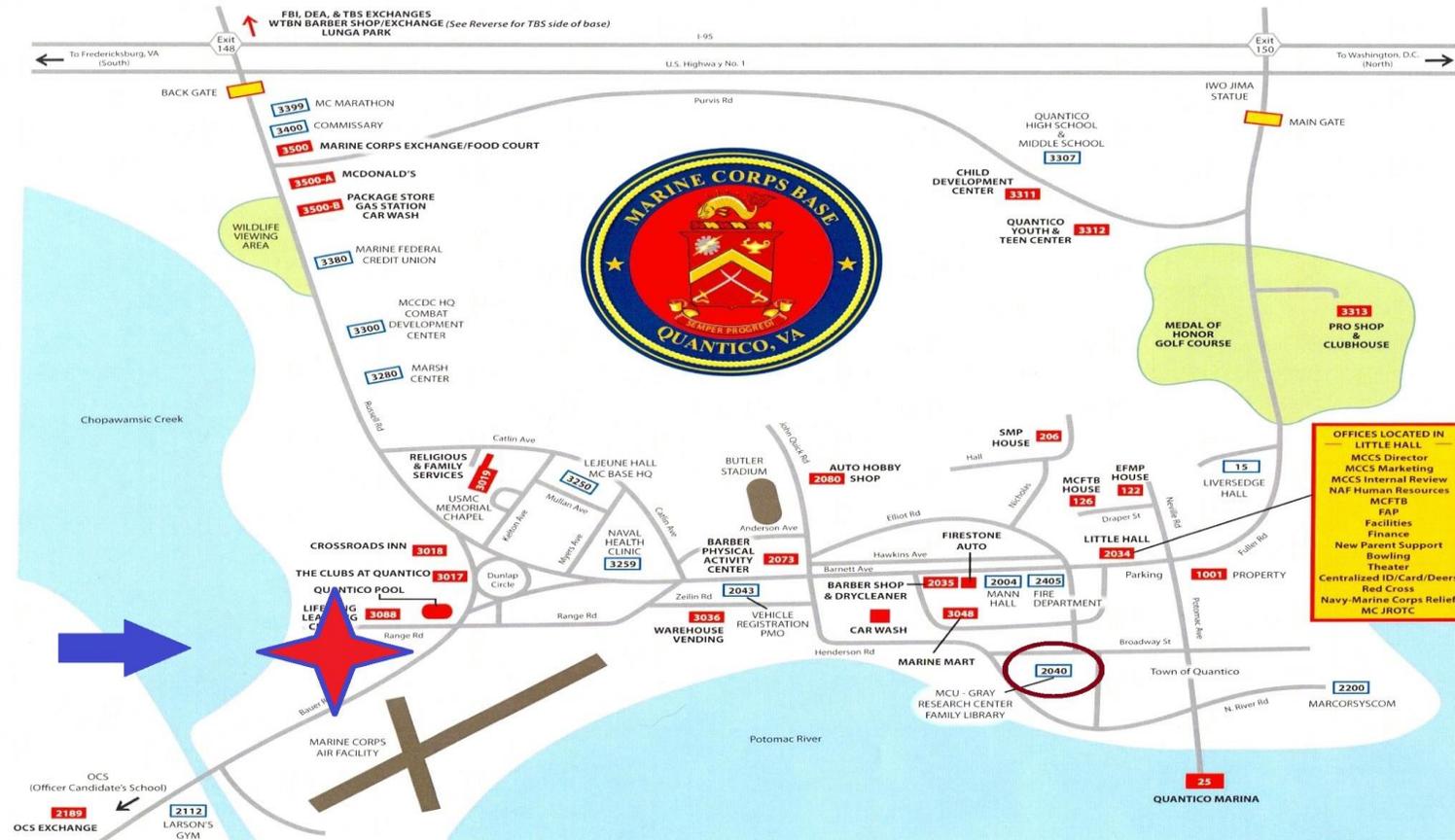
Pros / Capabilities

- ▶ **Confidentiality**
- ▶ **Attorney / Client Privilege**
- ▶ **Free services**

Cons / Limitations

- ▶ Cannot litigate out in town
- ▶ We are lawyers
- ▶ Office is hidden

Where am I?



Services Broken into Two Paths:

- ▶ When a Client comes into the Legal Assistance Office first, and we identify that they are a Victim.
 - ▶ We explain – as best we can – the entire system and give overviews on resources and options. We do not get these things done for the client, but we get them to who can.
 - ▶ Proverbial “warm hand-off”
- ▶ When a client has already been identified as a Victim and is actively using those available resources and is referred to us for our core, legal assistance competencies.
 - ▶ Normally a Victim’s Legal Counsel (more to follow) will identify a need and refer them over to Legal Assistance

Victim Service's Overview

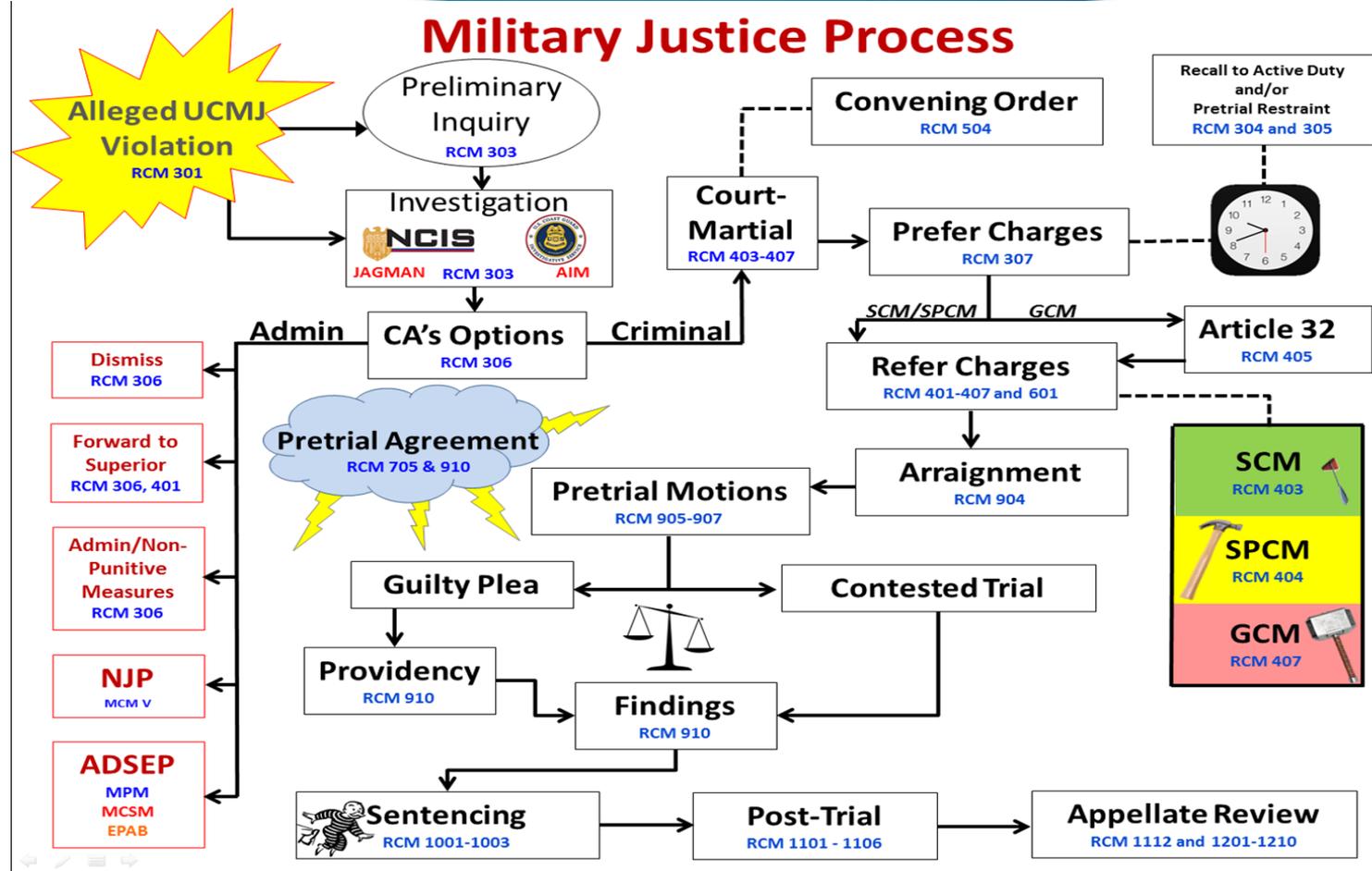
- ▶ The most immediate service we provide to victims is walking them through the process. We discuss legal aspects such as:
 - ▶ The Military Justice System
 - ▶ New Victim's rights
 - ▶ Availability of Victim's Legal Counsel and what they do
 - ▶ Restricted v. Unrestricted Reporting options and considerations
 - ▶ Military & Civilian Protective Orders
 - ▶ VWAP – Victim Witness Advocate Program
 - ▶ Expedited Transfers
 - ▶ Mitigating Reprisal and Retaliation
 - ▶ Transitional Compensation

Victim Services Overview – Military Justice System

- ▶ Major players in the Military Justice System, as explained:
 - ▶ Convening Authority – First flag officer in the COC (hence “General Courts-Martial”)**
 - ▶ Trial Counsel – Prosecutor
 - ▶ Defense Counsel – Detailed to defend the accused throughout the Military Justice process
 - ▶ Victims’ Legal Counsel – attorney detailed to the Victim (more to follow)
 - ▶ NCIS – typically the lead investigatory agency.
 - ▶ Not like the show. At all.

** Or O-6 / O-6 Commanders depending on the forum

Victim Services Overview – The Military Justice System, con't



Credit: Naval Justice School, Newport, RI

Victim Services Overview – Victims' Legal Counsel

- ▶ 10 U.S.C. §1044(e), MARADMIN 583/13, and MCO P5800.16A Chapter 7 establish and implement the Victims' Legal Counsel Organization (VLCO).
- ▶ Provides any victim of sexual assault, domestic violence, child abuse, or any other crime punishable under the UCMJ a detailed uniformed attorney, known as a Victim's Legal Counsel (VLC).
- ▶ VLC is the advocate for the victim on all matters throughout the Military Justice Process.
 - ▶ Ensure that the Victim's preferences are sent to any Convening Authority / Commander for his or her consideration – Pre and Post Trial!
- ▶ Victim **MUST BE NOTIFIED about availability of VLC** before an investigator or trial counsel interviews or requests a statement from the victim regarding an alleged sex-related offense.

Victim Services Overview – Victims' Legal Counsel, con't

- ▶ VLC will be the single point of contact for the victim. All communications by the Trial Counsel, Defense Counsel, NCIS, or anybody will go through the VLC.
- ▶ VLC is an advocate for the Victim in Pre-Trial matters in submitting motions, appearance and Art. 32 (Grand Jury) hearings, and more.
- ▶ VLC is an advocate in the actual Courts-Martial proceeding by ensuring the Victim's rights are being upheld

BOTH YOU AND I MUST INFORM VICTIMS ABOUT VLC AVAILABILITY

Victim Services Overview – Military / Civilian Protective Orders

- ▶ Inform the victim about the process for establishing a Protective Order, either Civilian (CPO) or Military (MPO)
- ▶ CPO – initiated at the General District Court of the district or, if involving a family member, at the Juvenile and Family Relations District Court.
 - ▶ Emergency – 72 hours
 - ▶ Temporary – 14 days
 - ▶ Permanent – 2 years
- ▶ MPO – between the Marine's Commanding Officer and Security Battalion (Provost Marshalls Office)

Victim Services Overview – Expedited Transfers

- ▶ Victims who have made an Unrestricted Report have the option to ask for an expedited transfer.
- ▶ Although the accused may be can convicted and gone, the environment is often a bad reminder.
- ▶ As a legal assistance attorney, we simply advise of the possibility of doing this.
- ▶ A VLC or VA is more suited to advocate on behalf of their client to the Command in getting a request for an expedited transfer approved.

Victim Services Overview – Transitional Compensation

- ▶ 10 U.S.C. §1059 and DoDI 1342.24 – provide eligible clients the ability to receive temporary financial assistance to eligible victims.
- ▶ Upon adjudication of a Courts-Martial, Pre-Trial Agreement, or administrative separation, eligible victims can receive compensation for a period of 12 to 36 months.
 - ▶ Payments **generally** are \$1,154/month, which increases \$286 for each additional dependent
 - ▶ Medical/TRICARE coverage and Exchange and Commissary privileges extend for this time
- ▶ Eligibility: Legally married or dependent of a Marine who is convicted or separated as a result of a dependent-abuse act.
- ▶ DD Form 2698 Application

If a VLC sent a Victim to Legal Assistance, these are the rest of the services we provide.....



Family Law Services – Separation & Divorce

General

- ▶ Separation and Divorces
 - ▶ Separation Agreement and Court Pleadings
 - ▶ Family Mediation Program
 - ▶ Civilian Attorney Referrals
- ▶ Grounds
 - ▶ ***Living Separate and Apart*** only
- ▶ Time Limits
 - ▶ 6 months if no children
 - ▶ 1 year if there are children

Victims

- ▶ Form a relationship with just one party and draft the Separation Agreement and Court Pleadings
- ▶ We do not institute Fault and Grounds Based divorce
 - ▶ No Cruelty, Adultery, Desertion, etc...
- ▶ Only uncontested divorces

Family Law – Monetary Support

- ▶ **MCO P5800.16A, Chapter 15** states, “the Marine Corps will not serve as a safe haven for those who fail to provide adequate and continuous support to their family members.”
- ▶ Upon a complaint of non-support, a Marine’s Commanding Officer can order the Marine to provide sufficient financial support to his or her family.
 - ▶ Court Order
 - ▶ Written Agreement
 - ▶ Chapter’s own “Interim Support” Guidelines
- ▶ Any violation or failure to do so is punitive in nature

Family Law – Monetary Support, Interim Support Guidelines

Set Amount, Per Family Member

- ▶ 1 Family Member - \$350/month
- ▶ 2 Family Members - \$286/month
- ▶ 3 Family Members - \$233/month
- ▶ 4 Family Members - \$200/month
- ▶ 5 Family Members - \$174/month
- ▶ 6 or more - \$152/month

Percentage of BAH, Per Family Member

- ▶ 1 Family Member – 1/2 BAH/month
- ▶ 2 Family Members – 1/3 BAH/month
- ▶ 3 Family Members – 1/4 BAH/month
- ▶ 4 Family Members – 1/5 BAH/month
- ▶ 5 Family Members – 1/6 BAH/month
- ▶ 6 or More – 1/7 BAH/month and so on

WHICHEVER IS THE HIGHER OF THESE FIGURES WINS

Family Law – Miscellaneous

- ▶ Name Changes
 - ▶ Most often seen in the case of a divorce
 - ▶ After effectuating a divorce from an accused, victims will often want this.
- ▶ Custody, Visitation, and Support Agreements
 - ▶ Short of a divorce, is seen when a victim does want to stay with an accused but set up an agreement for Child Custody, Visitation, and Support
- ▶ Adoptions
 - ▶ A victim with a child from an accused who remarries may want to have the new spouse adopt the stepchild.
- ▶ Legitimations
- ▶ Guardianship

Landlord Tenant Services

- ▶ We help Clients deal with problems arising from their homes/apartments, leases, landlords or tenants, and a variety of other matters.
- ▶ What we look to:
 - ▶ VRLTA (Virginia Residential Landlord Tenant Act)
 - ▶ SCRA (Servicemember Civil Relief Act)
 - ▶ Lease Agreements
 - ▶ Common Law
- ▶ We can help a victim break a lease or at least get removed from a lease if they are living with the accused, if the accused is a landlord/tenant, and/or if they are getting an expedited transfer.

Estate Planning – Wills and Trusts

- ▶ Clients have the ability to do Estate Planning with us. This includes:
 - ▶ Last Will & Testament
 - ▶ Testamentary Trusts
 - ▶ Advance Medical Directives and Appointment of Agents for Healthcare
 - ▶ Powers of Attorney – Special, General, Springing, and/or Durable
- ▶ Victims may have their Estate set up already. We can assist them in creating new ones or modify them as needed.
 - ▶ For example, creating a new will after we do their divorce, or disinheriting certain individuals.



Conclusion

- ▶ When a Client comes into Legal Assistance first, we provide them guidance on the system at large and get them in contact with you all, to include VLCs and Victim Advocates
 - ▶ General guidance and point them in the right direction
- ▶ When a Victim is already in the system and being provided the resources, send them to Legal Assistance when you identify one of our core competencies that we can provide them, tailored to their situation.
 - ▶ We get in the weeds for them

EVERYTHING WE DO IS CONFIDENTIAL AND PROTECTED BY PRIVILEGE

Time on Deck is are there any questions?

- ▶ Questions?
- ▶ Comments?
- ▶ Concerns?

