

# Victims' Legal Counsel Organization (VLCO)



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# Background



- **10 U.S.C. § 1044**, *Traditional Legal Assistance*, (enacted 30 Oct 2000)
- **USD Memo**, *Legal Assistance for Crime Victims*, (17 Oct 2011)
- **10 U.S.C. § 1565b**, *Legal Assistance to Victims of Sexual Assault*, (enacted 31 Dec 2011)
- **U.S. Air Force SVC Program**, Jan 2013
- **LRM v. Kastenberg**, Established right to be heard “through counsel,” decided by the Court of Appeals for the Armed Forces, 18 Jul 2013
- **SECDEF Memo**, Directed Services to Establish Special Victim’s Advocacy Programs, 14 Aug 2013
- **Establishment of Marine Corps VLCO**, MARADMIN 583/13, 31 Oct 2013

# Mission Statement



The Marine Corps Victims' Legal Counsel Organization is fully committed to provide legal advice and, when detailed, representation to victims of sexual assault and other crimes, and to protect victims' rights at all stages of the military justice process.

# VLCO



- VLC replaced Legal Assistance Attorneys regarding advice and counseling victims of sexual assault and other crimes.
- VLCO services supplement, not replace, existing victim support (VWAP, SAPR Program, FAP, SARC, victim advocate).
- VLCO Chain-of-Command functionally independent of CAs, TCs, and DCs, and will report to SJA to CMC (similar to the Defense Services Organization (DSO)).
- VLCO are trained and qualified judge advocates with military justice experience who have completed a certified VLC course.

# Statistics (Current Cases)



- **Total Number of Current Cases:** **54**
  - Female 48
  - Male 5
  - Minors 1
  
- **Sexual Assault** **47 (87%)**
  - ✦ Female – 45
  - ✦ Male – 1
  - ✦ Minor - 1
  
- **Other Crimes** **7 (13%)**
  - ✦ Domestic Violence – 7
  
- **Locations**
  - Quantico, VA
  - Norfolk, VA
  - San Diego, CA
  - New Orleans, LA
  - Fort Leonardwood, MI
  - Parris Island, SC

# Who is eligible?



BLUF: It depends, let VLCO make the determination.

- Members of the armed forces who are on active duty;
- Reservists serving on active duty;
- Reservists on inactive-duty training, or when circumstances of the alleged sex-related offense have a nexus to the military service of the victim.
- Members and former members entitled to retired or retainer pay;
- Military dependents of members and former members;
- Others provide by statute and regulation

# 10 U.S.C. §1565b



- A member of the armed forces or dependent who is the victim of sexual assault shall be informed of the availability of assistance from a VLC “as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator, a Sexual Assault Victim Advocate, a military criminal investigator, a victim/witness liaison, or a trial counsel.”
- Assistance is available regardless of whether the victim elected Restricted or Unrestricted Report.

# Victim Rights



BLUF: Right to be heard, to be present, and consulted regarding disposition of case.

Victim rights specifically provided for in the Manual for Courts-Martial:

- Right to attend and be heard regarding admissibility of sexual behavior or predisposition evidence in sexual assault cases (M.R.E. 412)
- Right to be present at military justice proceedings (M.R.E. 615)
- Right to provide victim's view to convening authority regarding initial disposition of an offense (R.C.M. 306)
- Right not to be compelled to make statements or produce evidence when not material and tends to degrade the person (M.R.E. 303)
- Right to receive a copy of the Record of Trial when victim testified in case involving sexual assault (Article 54, UCMJ)
- Right to be heard through counsel in court-martial proceedings (LRM v Kastenber, decided 18 July 2013)

# Scope of Services



## Legal Advice & Counseling

- Privileged, confidential communication with VLC.
- VLC can provide information and guidance regarding any crime committed in violation of the UCMJ.
- VLC will refer victims to Defense and/or Legal Assistance when appropriate.

## Representation (Detailing)

- Only for offenses subject to trial by court-martial.
- All victims of sexual assault when requested.
- All cases with issues arising under M.R.E. 412, 513, 514, when requested.
- Representation ends at convening authority action in the case, although additional assistance may be approved by OIC VLCO.

# VLC Advice & Counseling



- Provide overview of the military justice system, including investigation of crimes, preferral and referral of charges, Article 32 hearing, trial convening authority role, and post-trial role.
- Explain roles and responsibilities of the trial counsel, defense counsel, and investigators (PMO, CID, NCIS, etc).
- Explain civilian restraining orders and military protective orders.
- Explain the difference between Restricted and Unrestricted reporting of sexual assault.
- Advise victim of right to be present at military justice proceedings in accordance with Military Rules of Evidence (M.R.E.) 615 and Rules for Court-Martial (R.C.M.) 806.

# VLC Advice & Counseling (Cont'd)



- Explain Government's authority to request and compel production of evidence from the victim including social media, email, text messages, journals, and other evidence.
- Explain M.R.E. 412 on sexual behavior evidence; M.R.E. 513 regarding psychotherapist-patient privilege; and M.R.E. 514 on victim advocate-victim privilege.
- Explain potential consequences of collateral misconduct and options including exercising Article 31b rights, obtaining testimonial or transactional immunity, and right to defense counsel.

# VLC Representation



VLC detailed to a case represent the victim's interests throughout the military justice process until the convening authority takes action.

- Advocate victim's position regarding pretrial confinement of accused.
- Accompany victim to all interviews related to the crime against them, including with trial counsel, defense counsel, and law enforcement officers.
- Accompany victim to Article 32 preliminary hearing.
- Protect the victim's rights under M.R.E. 412, 513, or 514, by filing appropriate motions or amicus curiae pleadings with the court.
- Attend pretrial, trial, and post-trial proceedings as necessary to protect the interests of the victim.
- Guide the victim through the post-trial process, including assisting the victim prepare matters for consideration by the convening authority in accordance with R.C.M. 1105.

# VLCO Impact



## Positive victim responses to legal services

- Confidence to report crimes
- Increased satisfaction with military justice process
  
- **Success protecting victims' privacy rights**
  - Mental health records
  - Sexual history/sexual predisposition
  
- **Legal services provided are based on individual client goals**
  - Administrative separation
  - Expedited transfer
  - Transitional compensation
  - Declination to participate in court-martial



**QUESTIONS?**