

<p>VOLUME 4</p> <p>“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”</p> <p>SUMMARY OF VOLUME 4 CHANGES</p> <p>Hyperlinks are denoted by <i>bold, italic, blue and underlined font.</i></p> <p>The original publication date of this Marine Corps Order (right header) will not change unless/until a full revision of the MCO has been conducted.</p> <p>The date denoted by blue font (left header) will reflect the date this Volume was last updated.</p> <p>All Volume changes denoted in blue font will reset to black font upon a <u>full revision</u> of this Volume.</p>			
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VOLUME 4: MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION

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REFERENCES

- (a) SECNAVINST 5430.7R CH-2
- (b) SECNAVINST 5430.27E
- (c) SECNAVINST 5430.25F
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1408(h), 1565b, 1588, and 8046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial (2019)
- (h) U.S. Navy Regulations (1990)
- (i) MCO 5800.16 – V16
- (j) MCO 1001.62B
- (k) MCO 1200.18
- (l) MCO 1752.5C
- (m) SECNAVINST 1920.6D
- (n) Uniform Code of Military Justice (2019)
- (o) MCO 1610.7A
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7G
- (s) SECNAVINST 5211.5F
- (t) 5 U.S.C. 552a
- (u) JAGINST 5801.2B
- (v) DoDI 5505.18
- (w) SECNAVINST 5370.7E
- (x) 31 U.S.C. § 1342
- (y) DoD Instruction 1100.21
- (z) MCO 5354.1E
- (aa) National Defense Authorization Act for Fiscal Year 2020
- (bb) DoDD 1030.01
- (cc) DoDI 1030.02
- (dd) DoDI 6400.07
- (ee) Deputy SecDef Memo dated 2 Sep 2016
- (ff) SecDef Memo dated 17 Apr 2014
- (gg) DoDI 5505.19
- (hh) DoDI 5525.03
- (ii) DoD 5500.07-R
- (jj) 18 U.S.C. § 202
- (kk) SECNAVINST 5800.11B

“REFERENCES”

As changes are made within this MCO Volume, the References list will also update. Annotation of each update/change/addition to the References list is required.

The original publication date of this MCO (right header) will not change unless/until a full revision of the MCO has been conducted.

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VOLUME 4

“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”

SUMMARY OF SUBSTANTIVE CHANGES

Hyperlinks are denoted by ***bold, italic, blue and underlined font.***

The original publication date of this Marine Corps Order (MCO) Volume (right header) will not change unless/until a full revision of the MCO has been conducted.

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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MARINE CORPS VICTIMS' LEGAL COUNSEL ORGANIZATION0101. PURPOSE

This Volume prescribes the organization, roles, and responsibilities of the Marine Corps Victims' Legal Counsel Organization, as provided for in law, regulations, and rules of professional conduct.

0102. GENERAL010201. Purpose of Marine Corps Victims' Legal Counsel Organization (VLCO)

The VLCO provides victims' legal services to eligible persons who are victims of sexual assault, domestic violence, and other crimes in accordance with 10 U.S.C. §§ 1044, 1044e and 1565b. This Volume, which implements these statutes as they relate to victims of crime, provides Service policy regarding the delivery of victims' legal services within the Marine Corps. On behalf of the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC), the Chief Victims' Legal Counsel (CVLC) of the Marine Corps serves as the Officer in Charge of the VLCO (OIC, VLCO) and is responsible for the delivery of victims' legal services throughout the Marine Corps. The CVLC will publish additional policy and administrative procedures necessary for the delivery of such services.

010202. Supervision

Marine Corps victims' legal services are performed under the supervision of the CVLC and provided by commissioned officers who are licensed attorneys, certified under Article 27(b) and sworn under Article 42(a) of the Uniform Code of Military Justice (UCMJ), assigned to VLCO billets, and certified by the SJA to CMC in accordance with 10 U.S.C. § 1044e as qualified to serve as Victims' Legal Counsel (VLC). The VLC serve at locations throughout the Marine Corps and are administratively attached to Legal Services Support Sections (LSSS). The VLC are under the functional supervision of, and responsible and accountable to, the CVLC and the responsible Regional Victims' Legal Counsel (RVLC) for the delivery of victims' legal services within their respective regions.

010203. Duty

The VLC must exhibit unfettered professional independence in representing their clients. The VLC's primary duty is to provide zealous, ethical, and effective representation to Marines and other eligible clients. This duty is limited only by applicable laws, regulations, and the Rules of Professional Conduct as found in JAGINST 5803.1E.

010204. Other Resources

Victims' legal services supplement, but do not replace, services provided by other entities such as the Family Advocacy Program (FAP), the Sexual Assault Prevention and Response (SAPR) program, victim advocates (VAs), the Victim-Witness Assistance Program (VWAP), the Legal Assistance Program, and services provided by chaplains and medical personnel.

010205. Guiding PrinciplesA. Independence

The VLCO and all VLC shall be independent and free from unlawful pressure or influence in the execution of their duties.

B. Case-Specific Funding

Requests for specific case-related funding submitted to the convening authority shall be considered and processed consistent with the Manual for Courts-Martial, the Manual of the Judge Advocate General (JAGMAN), and other applicable authorities.

C. Client Access

The VLC shall be provided sufficient time and access to clients to achieve a full and confidential exchange of legal, procedural, and factual information. To ensure confidential communications, private meeting spaces must be available at offices, confinement facilities, in the vicinity of the courtroom, and all other places where clients and counsel must confer in confidence.

D. Workload and Client Obligations

To ensure VLC workload is not too large as to interfere with competent representation of and ethical obligations to any individual client, supervisory attorneys shall consider factors such as an individual counsel's experience and caseload, case complexity, anticipated end of tour date, and traditional officer duties when assigning counsel to a particular case. Pursuant to 10 U.S.C. § 1044e(g), every effort shall be made to ensure the average caseload of a VLC does not exceed, to the extent practicable, 25 cases at any given time.

E. Experience and Qualifications of VLC

Generally, prior to appointment, a VLC will have at least six months of litigation experience, including at least one contested case, and must have attended an approved certification course. Only certified VLC will be detailed to represent clients. When detailing VLC, supervising attorneys will consider the complexity of the case, other case-specific considerations, and the VLC's ability, training, and experience. Supervisory attorneys will only assign counsel who are properly qualified to handle a particular case.

0103. ORGANIZATION AND PERSONNEL010301. Marine Corps Victims' Legal Counsel Organization

The VLCO encompasses all VLC and VLCO support personnel assigned to Marine Corps commands. The VLCO operates under the supervision of, and is responsible and accountable to the CVLC who serves as the OIC, VLCO. For purposes of this Volume, "supervision" includes professional responsibility oversight, VLC specific training, assignment of VLC to particular cases, and execution of the day-to-day operations of the VLCO. All judge advocates and support personnel nominated to serve in VLCO billets must meet the requirements and satisfy sensitive position screening criteria provided below.

010302. Chief Victims' Legal Counsel of the Marine Corps

As the OIC, VLCO, the CVLC is the head of the VLCO and is responsible for supervision of all assigned personnel and the delivery of victims' legal services throughout the Marine Corps.

A. Qualifications

The CVLC shall be an experienced judge advocate serving in or selected to the grade of O-6/Colonel. The SJA to CMC should, when possible, take into consideration the following when selecting the CVLC:

1. Additional Military Occupational Specialty (AMOS). Designation with the Additional Military Occupational Specialty (AMOS) of 4409 (criminal law).

2. Military Justice Experience. Prior military justice experience, particularly litigation experience as a trial counsel, defense counsel, victims' legal counsel, or a military judge.

3. Leadership Experience. Prior leadership experience in criminal or civil litigation (e.g., senior trial/defense counsel, RVLC, Officer in Charge of a Legal Services Support Team/Section, and regional trial/defense counsel).

B. Appointment

Upon assignment, the SJA to CMC will provide the CVLC with an appointment in writing on behalf of the Commandant of the Marine Corps (CMC). The CVLC's reporting senior and reviewing officer is the SJA to CMC.

C. Assignment

The CVLC is assigned to Judge Advocate Division, Headquarters Marine Corps (HQMC) and receives administrative support from HQMC.

D. Support Personnel

The CVLC is supported by an active duty field grade officer who serves as the Deputy OIC, VLCO/Director, Victims' Legal Counsel Assistance Program (VLCAP), and a civilian paralegal specialist.

E. Supervision

The CLVC serves as the supervisory attorney for the Deputy OIC/Director, VLCAP, as well as all RVLC and VLC.

F. Specific Duties

The CVLC duties include:

1. Establishing standard operating procedures for the delivery of victims' legal services throughout the Marine Corps.

2. Conducting, at a minimum, one site inspection at each VLC office annually.
3. Assessing, through personal observations, inspections, reports of others, and records reviews, the practice, procedure, and techniques of VLC and support personnel in the performance of their duties.
4. Assessing the adequacy of facilities and assets provided to VLC.
5. Supervising the training of VLC, and ensuring each VLC is certified by the SJA to CMC in accordance with both statutory and regulatory requirements.
6. Monitoring the experience levels of judge advocates assigned as VLC relative to judge advocates assigned as trial counsel or defense counsel.
7. Reporting to the SJA to CMC annually regarding the delivery of victims' legal services within the Marine Corps.
8. Detailing VLC and Auxiliary VLC to cases consistent with paragraph 0107 of this Volume.
9. Ensuring that the organizational structure of the VLCO is sufficient to accomplish the VLCO mission.
10. Advising the SJA to CMC on congressional and DoD initiatives concerning the legal representation of crime victims in the Marine Corps.

010303. Deputy Officer in Charge, Victims' Legal Counsel Organization and Director of the Victims' Legal Counsel Assistance Program

The Deputy OIC, VLCO assists the CVLC in exercising his or her responsibilities for the supervision of all assigned personnel and the delivery of victims' legal services throughout the Marine Corps. The Deputy OIC, VLCO is also designated as the Director of the VLCAP. The Deputy OIC/Director VLCAP may maintain a caseload that does not interfere with their responsibilities within the VLCO.

A. Qualifications

The Deputy OIC, VLCO/Director VLCAP shall be a judge advocate serving in the grade of O-4/Major, or O-5/Lieutenant Colonel, with expertise in military justice matters, to include experience in at least one contested special victim general court-martial, at least two years or more of combined military justice experience, and will normally possess the AMOS of 4409 (criminal law), unless waived by the CVLC or SJA to CMC.

B. Deputy OIC, VLCO Duties

Deputy OIC, VLCO duties include:

1. Acting as the OIC, VLCO in the CVLC's absence.
2. Ensuring compliance with policies and standard operating procedures issued by the CVLC.
3. Monitoring the performance of all RVLC and VLC and advising the CVLC of such observations, as well as recommending modifications to VLCO policies and standard operating procedures.
4. Training, mentoring, and supervising the civilian paralegal specialist assigned to the VLCO headquarters element.
5. Assessing the adequacy of facilities and assets provided to VLC and reporting findings to the CVLC.
6. Attending appropriate meetings of Department of Defense, Department of the Navy, HQMC, and other organizations on behalf of the CVLC as directed.
7. Coordinating with external agencies as necessary to accomplish the mission of the VLCO.
8. Providing advice and assistance to the RVLC, VLC, and VLCO support staff throughout the Marine Corps.

C. Victim's Legal Counsel Assistance Program

The Deputy OIC, VLCO, concurrently serves as the Director, VLCAP, and reports directly to the CVLC. The VLCAP is responsible for developing, publishing, and organizing all required annual training and service level VLC certification course material. The VLCAP further assists RVLC in the development of quarterly regional training evolutions and other training as required or directed.

D. Director, VLCAP Duties and Responsibilities

1. Planning and coordinating VLCO-wide and other training events to ensure that VLC and support personnel receive appropriate training.
2. Training, mentoring, and assisting RVLC and VLC in the field on pending litigation matters.
3. Providing legal advice and representation to clients when detailed by the CVLC.
4. Maintaining and updating web-based support systems, such as the VLCAP SharePoint site and VLCO public website.

5. Analyzing and providing assessments of the impact proposed legislation, orders, directives, and instructions will have on VLCO operations.

010304. Regional Victims' Legal Counsel

A RVLC is directly responsible to the CVLC for the delivery of victims' legal services within their region. There is one RVLC assigned to each LSSS whose region corresponds to the LSSS Legal Services Support Area.

A. Qualifications

A RVLC is a Marine judge advocate serving in or selected to the grade of O-4/Major, who normally has at least two years combined experience as a victims' legal counsel, trial counsel, defense counsel, or military judge, to include experience in at least one contested general court-martial case, and will normally possess the AMOS of 4409 (criminal law).

B. Reporting Relationships

All RVLC are administratively attached to their respective LSSS, but are operationally responsible and accountable to the CVLC for the delivery of victims' legal services in their region.

C. Supervisory Responsibility

All RVLC serve as the supervisory attorney within their assigned region, and are responsible for the training, mentoring, and supervision of all VLC and support personnel within it.

D. Victims' Legal Counsel Assignment

All RVLC shall coordinate with the OICs of their regional LSSS and LSSTs to identify judge advocates who are eligible to serve as VLC and Auxiliary VLC (AVLC). A judge advocate will only be approved for assignment as a VLC or AVLC upon approval of the CVLC.

E. Specific Duties

RVLC duties include:

1. Supervising and monitoring the performance of subordinate VLC through personal observation, reading records of trial and briefs, and meeting and corresponding with senior judge advocates, military judges, sexual assault response coordinators (SARCs), and VAs.

2. Detailing VLC within their region, provided that authority has been delegated by the CVLC consistent with paragraph 0107 of this Volume.

3. Providing legal counsel and representation to victim clients. The RVLC's case load should not interfere with the RVLC's responsibilities for training, mentoring, and supervising personnel within the region.

4. Assessing and reporting to the CVLC on the adequacy of support, assets, and facilities provided to VLC offices within their region.

5. Conducting site visits to subordinate VLCO offices within their region and to supported military installations. The frequency of visits required will vary, but at a minimum should be conducted at least twice per year to each subordinate office.

6. Coordinating with local agencies and individuals, including the SARC and VAs, to ensure the efficient and effective delivery of victims' legal services.

7. Coordinating with local commands, LSSS and LSST OICs, and with the CVLC to ensure that VLC and support personnel receive appropriate training.

010305. Victims' Legal Counsel

A VLC is directly responsible to the RVLC and CVLC for the delivery of victims' legal services in support of eligible victims serviced by their LSST or an element thereof.

A. Qualifications

A VLC is a Marine judge advocate, serving in or selected to the grade of O-3/Captain, with six months or more military justice experience and at least one contested court-martial, and must have attended an approved certification course. The CVLC is the waiver authority for both the six month military justice requirement and the contested court-martial requirement for VLC assignment. The CVLC waiver of any of these requirements is a critical information requirement to the SJA to CMC.

B. Reporting Relationships

All VLC are administratively attached to the LSST, but are operationally responsible and accountable to their RVLC and the CVLC for the delivery of victims' legal services within their LSST.

C. Duties

A VLC's primary duties are to advise and represent victims as required by law, regulation, and policies and procedures issued by the CVLC. The VLC shall also perform other duties as may be prescribed by the RVLC or CVLC.

010306. Auxiliary Victims' Legal Counsel

A. Selection

The OIC of each LSSS and LSST shall nominate a judge advocate available to serve as an AVLC. The AVLC may be detailed by the CVLC, or by the responsible RVLC in the region in accordance with this order and any supplemental guidance from the CVLC, as needed to meet high caseloads or to serve when there is a conflict of interest.

B. Qualifications

The AVLC will have at least six months military justice experience and at least one contested court-martial, and must have attended an approved certification course. The CVLC is the

waiver authority for both the six month military justice requirement and the contested court-martial requirement for AVLC assignment. The CVLC waiver of any of these requirements is a critical information requirement to the SJA to CMC. Staff judge advocates, deputy staff judge advocates, trial counsel, defense counsel, or Post-Trial Administrative Officers (PTAO) may not serve as AVLC.

C. Client Representation

An AVLC who is assigned victim clients may simultaneously continue to serve in their primary billet, but shall in all cases avoid conflicts of interest. When assigned a case, the AVLC remains administratively assigned to their respective command, but becomes supervised by and accountable to the responsible RVLC in the region and CVLC for victims' legal matters.

D. Performance Evaluation

An AVLC concurrently performing VLC and non-VLC duties should ordinarily receive simultaneous fitness reports, as provided in paragraph 2010.3 of MCO 1610.7A, Performance Evaluation System. The AVLC is accountable to the responsible RVLC in the region and CVLC for VLC duties, but remains responsible to their primary reporting chain for all other duties. The responsible RVLC may determine that a simultaneous VLC fitness report is unnecessary where the AVLC did not serve sufficient time performing VLC duties during the reporting period.

010307. Support Personnel

A. Duties

The primary duty of civilian paralegal specialists and enlisted legal services specialists (MOS 4421) assigned to VLCO is to support the VLCO mission by assisting the VLC, RVLC, and CVLC in the performance of their duties. Support personnel must ensure strict confidentiality of all VLCO matters.

B. Reporting Relationships

The VLCO support personnel are administratively assigned to the LSST, but are operationally responsible and accountable to their supervising VLC, RVLC, and the CVLC.

C. CVLC Paralegal

One civilian paralegal specialist shall be assigned to Headquarters, VLCO.

D. RVLC Support Personnel

One civilian paralegal specialist or enlisted legal services specialist in the rank of E- 5/Sergeant or above shall be assigned at each RVLC office. One civilian paralegal specialist or dedicated enlisted legal services specialist in the rank of E-4/Corporal or above shall be assigned to all other VLCO offices.

010308. Reserve Support

The VLCO, Reserve Branch, augments the active duty structure and provides surge capability to meet increases in demand for VLCO services, conduct training, and assist with cases where other counsel may be unavailable due to potential conflicts of interest.

010309. Sensitive Screening Process

The Secretary of Defense requires a “sensitive screening process” for “sensitive positions” within all the Services. Individuals considered for such positions must undergo an “enhanced screening” process before being selected. VLC assignments are “sensitive positions.” The sensitive screening process for a judge advocate nominated to assume the assignment of a VLC will, at a minimum, consist of a review of the Officer Disciplinary Notebook (ODN) and the judge advocate’s Official Military Personnel File (OMPF). The responsible RVLC will also conduct an initial interview of the nominated VLC, with a follow on interview conducted by Headquarters, VLCO, to assess maturity and temperament. Further, an individual that has a conviction for, a substantiated incident of, or is currently subject of an open investigation into any violation of MCO 5354.1E, or any of the following offenses is expressly prohibited from serving as a VLC: (1) sexual misconduct, (2) domestic violence, (3) child abuse, or (4) any other felony-level offense.

0104. ELIGIBILITY

Victims of sexual assault, domestic violence, and other crimes under the UCMJ may seek assistance from a VLC as permitted by 10 U.S.C. §§ 1044, 1044e, and 1565b, the Manual of the Judge Advocate General (JAGINST 5800.7G (JAGMAN)), and pursuant to guidance published by the CVLC. Approval authority may be delegated and exercised in accordance with policy and procedures published by the CVLC.

010401. Victim Definition

In accordance with 10 U.S.C. § 806b (Article 6b, UCMJ), a victim is an individual who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the UCMJ.

010402. Appointment of Representative

In the case of a victim who is incompetent, incapacitated, deceased, or a non-service member under 18 years of age, the convening authority or the military judge may appoint a representative to assume the victim’s rights under Article 6b, UCMJ. When a representative is appointed, the victim remains the VLC’s client per Rule 1.14 of JAGINST 5803.1E. However, because the representative is appointed to make decisions on behalf of the victim, all communications among the representative, victim, and detailed VLC are privileged pursuant to M.R.E. 502 and the representative is further covered by Rule 4.2 of JAGINST 5803.1E.

010403. Notification Requirement

Pursuant to 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 right to, and when a victim so elects, given the opportunity to consult with a VLC as soon as the member or dependent seeks assistance from a SARC, SAPR or FAP VA, military criminal investigator, victim-witness liaison or coordinator, or trial counsel. All victims

of domestic violence and other serious crimes shall also be informed of the availability of a VLC. Other serious crimes include actual, suspected, or alleged major criminal offenses punishable under the UCMJ by more than one year of confinement. While a victim is informed of VLC services, they cannot be mandated to contact the VLC. No external entity may make an eligibility determination on behalf of the VLCO.

0105. SCOPE OF SERVICES

010501. Legal Counseling and Assistance

A VLC will provide confidential legal counseling and assistance to eligible victims in accordance with 10 U.S.C. §§1044 and 1044e, including:

A. Other Services

VWAP, SAPR program, mental health, and FAP, including the rights and benefits afforded the victim (including those under 10 U.S.C. § 1565b), the role of the victim advocate and what privileges do or do not exist between the victim and the victim advocate, and the nature of the communication made to the victim advocate as opposed to those made to the VLC.

B. Report Types

The differences between restricted and unrestricted types of reporting in sexual assault cases, and the ability to participate in the Catch a Serial Offender (CATCH) program.

C. Jurisdiction

Information pertaining to the choice of jurisdiction, if applicable, between local and state government and the military.

D. Military Justice System

Information concerning the military justice system, including the roles and responsibilities of the convening authority, trial counsel, defense counsel, and investigators, and applicable Military Rules of Evidence (MRE), to include MREs 412, 513, and 514.

E. Testimony

The ability of the government to compel testimony, and a victim's rights and responsibilities with regard to testimony.

F. Counseling and Medical Services

The services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.

G. Protective Orders

The availability of and protections offered by military protective orders and civilian restraining orders.

H. Transitional Compensation

Eligibility for and benefits potentially available as part of the transitional compensation benefits established in 10 U.S.C. § 1059 and in other State and federal victims' compensation programs, including 10 U.S.C. § 1408(h). The VLC will assist victims to initiate requests for transitional compensation when eligible.

I. Benefits

Other rights or benefits provided to victims under military, state, and federal law or regulation, to include statute, Department of Defense Directives or Instructions, Secretary of the Navy Instructions, and Marine Corps Orders.

010502. Representation

Representation involves the formation of an attorney-client relationship and is only authorized when a VLC is detailed, assigned, or otherwise authorized to do so by his or her detailing authority and in accordance with paragraph 0107 of this Volume. When requested, a VLC may be detailed to:

A. Sexual Assault

All eligible victims of an alleged sex-related offense as defined in 10 U.S.C. § 1044e(h).

B. Domestic Violence

All eligible victims of domestic violence offenses.

C. Other Crime Victims

Other crime victims with an opportunity to be heard under MRE 412, 513, or 514, or regarding other rights provided by statute, regulation, or case law, subject to counsel availability and if approved by the CVLC.

010503. Collateral Misconduct

If a victim appears to have committed collateral misconduct related to the crime of which he or she is a victim, the VLC may advise the victim on his or her legal options, including invoking their Article 31 rights, and seeking testimonial or transactional immunity. Victims should be referred to the Marine Corps Defense Services Organization to consult with a defense counsel as appropriate.

010504. Traditional Forms of Legal Assistance

If a victim requires traditional legal assistance services, the VLC will refer the victim, when appropriate, to the Legal Assistance Office. Traditional forms of legal assistance are those matters

without a direct nexus to the crime of which he or she is a victim, and include areas such as family law, immigration law, landlord-tenant law, taxes, consumer law, estate planning, and powers of attorney. There may be situations, especially in cases involving domestic violence, where the victim receives assistance from both a VLC and a legal assistance attorney.

0106. ATTORNEY-CLIENT RELATIONSHIP

010601. General

A VLC will not establish an attorney-client relationship with any individual unless detailed, assigned, or otherwise authorized to do so by the detailing authority. In cases where the victim files an unrestricted report or has already made a formal report to law enforcement, the VLC shall provide a Notice of Representation to the commands of the victim and accused, staff judge advocates to the command of the victim and accused, senior trial counsel, detailed trial counsel, senior defense counsel, detailed defense counsel, SARC, VA, victim witness liaisons, criminal investigative departments involved in the case, including both Naval Criminal Investigative Service and Criminal Investigation Division as applicable to each case, as well as the FAP or any other person as applicable to each case.

010602. Duration

A VLC will normally continue to represent a victim post-trial until finality of the statutorily established matter or matters warranting representation or when the client voluntarily no longer desires and thereby requests for a release and termination of further VLC services. Where a case or matter is resolved at non-judicial punishment, administrative separation proceedings or other administrative means, a VLC may continue to represent the victim's interests and assert any applicable victim's rights at such proceedings until the matters are resolved. A VLC may represent a victim at any time, regardless of the procedural posture or status of the case, pursuant to an incident of retaliation. Further representation of a victim, including advocacy at the appellate level, will be determined on a case-by-case basis by the CVLC.

010603. Severance

Once established, the attorney-client relationship may only be severed under the provisions of the applicable Rules of Professional Conduct or by statute, other regulation, or case law. The following guidance applies:

A. Transfer or End of Military Service

If the VLC transfers or leaves military service, the attorney-client relationship may be terminated under the Rules of Professional Conduct by the detailing authority, subject to the requirements in paragraph 0109.

B. Victim Transfer

If the victim transfers to a new duty station and the case remains active with military authorities at the victim's prior duty station, the VLC may continue representation at the victim's request. The victim may also request a replacement VLC at his or her new duty station, subject to approval by the applicable detailing authority.

C. End of Victims' Military Service

For applicable victims who leave military service, the attorney-client relationship may be terminated under the Rules of Professional Conduct by the detailing authority, unless they satisfy other eligibility requirements under 10 U.S.C. § 1044 or continued representation is approved by the RVLC after consultation with the CVLC.

010604. Communication with Victims Represented by VLC

Communication with represented victims related to the subject of representation requires notice to the detailed VLC, unless otherwise authorized by law or court order. This requirement includes requests to interview the victim by trial counsel, defense counsel, or any person acting on behalf of trial or defense counsel, and criminal investigators.

010605. Documents Provided to VLC

Trial counsel shall provide the following material to the detailed VLC unless otherwise directed by a court, or exempted by specific statutory or regulatory authority:

A. Upon Notification of Representation

1. A copy of all statements and documentary evidence, in possession of the trial counsel, produced or provided by the victim. This includes copies of all recorded interviews with military law enforcement entities.

2. The date, time, and location of any pretrial confinement review pursuant to R.C.M. 305.

3. Point of contact information for all assigned trial counsel on the case including applicable supervisors.

B. Upon Preferral of Charges

1. A copy of the charge sheet, redacted for personally identifiable information (PII), setting forth the preferred specifications.

2. The date, time, and location of any preliminary hearing pursuant to Article 32, UCMJ, and any request(s) for continuance.

C. Upon Receipt or Filing by the Government

1. A transcript or summarized transcript of the victim's testimony at the preliminary hearing.

2. A copy of the charge sheet, redacted for PII, setting forth the referred specifications.

3. Any docket requests, as well as docketing or scheduling orders, including deadlines for filing motions and the date, time, and location for any session of trial.

4. A copy of any filing pre or post-referral, including attachments, that may limit a victim's ability to participate in the court-martial, affect the victim's possessory rights in any property, concern the victim's privileged communications or private medical information, or involve the victim's right to be heard.

5. Any request to interview the victim received from defense counsel.

6. Notice of plea agreement negotiations, and an opportunity to express to the convening authority the views of the victim regarding all proposed terms and conditions of the agreement.

7. A copy of any approved plea agreement.

8. Upon request, counsel for the government shall provide the victim access to, or a copy of, the recording of the Article 32, Preliminary Hearing. Such access or copy shall be provided to the victim not later than a reasonable time following dismissal of the charges, unless charges are dismissed for the purpose of re-referral, or court-martial adjournment. Nothing in this Volume shall be construed to create an obligation to retain records beyond the period specified by SECNAV M-5210.1 or other applicable authority.

9. Upon confirmation of command disposition, a copy of any disposition report or summary from the command, as applicable.

0107. DETAILING

010701. Detailing Authority

As the OIC, VLCO, the CVLC is the detailing authority for the VLCO, permitting VLC to represent victims as provided in paragraph 0105 of this Volume. Detailing authority includes the authority to remove a counsel from a case for good cause. The CVLC may further delegate detailing authority to RVLC, but no lower, subject to the restrictions set forth below.

010702. Detailing Factors

Prior to detailing a VLC to a particular case, the detailing authority will consider such factors as: the geographic locations of the victim and counsel, the expected location of the hearing, the anticipated rotation date of the counsel, the counsel's caseload and experience, any applicable conflict-of-interest analysis, the case complexity, collateral duties, and the counsel's training and education requirements.

010703. Detailing Procedure

When detailing a VLC to a particular case, the detailing authority shall ensure that: (1) standard detailing criteria are used; (2) every victim receives zealous, competent, and ethical representation by a fully qualified counsel; and (3) every victim is detailed counsel in a timely manner.

010704. Timing

The responsible detailing authority shall detail a VLC in writing to an eligible victim requesting representation as soon as practicable and in accordance with guidance published by the CVLC.

010705. Notice of Representation

The VLC detailed to a case shall, as soon as is practicable, provide notice of representation to the client's command, the investigating law enforcement agency, and the cognizant prosecution and defense sections as noted in paragraph 010601. A notice of appearance shall be filed with the military judge upon referral of applicable charges.

010706. Detailing of CVLC

With the consent of the SJA to CMC, the CVLC may be detailed to a case.

010707. RVLC Detailing Authority

If delegated the authority, the RVLC may detail themselves and/or subordinate VLC assigned to their region, to cases supported by their regional LSSS, LSST, or an element thereof, based upon geography or a specific request for legal services. The RVLC may detail VLC not assigned to their regions in specific cases when authorized by the Deputy OIC or CVLC. However, the RVLC may not generally detail themselves to a client who may have a conflict of interest with another client represented by a subordinate VLC for whom that RVLC is the reporting senior. Such matters must be brought to the attention of the CVLC.

010708. Additional Detailing Considerations

A VLC will normally be detailed to represent a victim assigned to an organization that is supported by that VLC's LSSS, LSST, or an element thereof. However, a VLC may be detailed to represent a victim assigned to an organization not normally supported by the VLC's LSSS or LSST, to include victims of other services, on a case-by-case basis. Representation of a victim of another service will only be done with the approval of the other service's Special Victims' Counsel/VLC Program. Factors that may necessitate such detailing include: unique requirements of the case; location of victim due to transfer; change of convening authority due to reassignment of accused; supporting units and organizations without VLC; conflict-of-interest cases; and gaps in VLC coverage. If such detailing decision results in non-local travel costs beyond those implicit in the request for legal services, and the convening authority will not agree to fund the non-local travel costs associated with the detailing decision, the issue will be forwarded to the CVLC for resolution in consultation with the staff judge advocate of the convening authority.

0108. TOUR LENGTH010801. Establishment of End Date

After consultation with the RVLC and CVLC, the cognizant OIC of the LSSS or LSST will consider manpower constraints and establish an anticipated end date for a Marine's tour with the VLCO, which to the extent practicable should be two years for a Marine judge advocate and at minimum 12 months for enlisted support personnel. When assigning a Marine to the VLCO, the OIC

of the LSSS or LSST will memorialize the anticipated end of tour date in writing and provide a copy of the assignment letter to the RVLC and CVLC.

010802. Termination of Duties

The RVLC will ensure, to the extent practicable, that the agreed upon tour length for a VLC coincides with the termination of that VLC's duties and responsibilities.

010803. Early Termination

If circumstances arise that require curtailing a VLC's tour before the previously established end of tour date, the OIC of the LSSS or LSST shall coordinate with the RVLC and CVLC to establish a new end of tour date.

010804. Termination Decision Authority

If the parties cannot mutually agree upon a new end of tour date, the cognizant OIC shall forward the matter to the CVLC for consideration. If still unable to reach a mutual agreement, the cognizant OIC shall report, in writing, the circumstances requiring the tour curtailment to the SJA to CMC via the CVLC. The SJA to CMC may intervene and override the OIC's decision; otherwise, the cognizant OIC's decision is final.

010805. Termination of Representation

Unless the attorney-client relationship is severed in compliance with JAGINST 5803.1E and consistent with paragraph 0106, judge advocates assigned as VLC will normally continue to represent the victim post-trial until finality of the statutorily established matter or matters warranting representation in all cases to which the VLC is detailed, to include restricted reports; completed investigations resulting in neither referral of charges nor further command action; preferred charges that a convening authority elects not to refer for trial by court-martial with no further command action; referred charges; nonjudicial punishment; and administrative actions.

0109. REASSIGNMENT

010901. Coordination

The reassignment of a VLC requires careful planning and coordination between the RVLC, CVLC and the OIC of the LSSS and LSST.

010902. Reassignment and Client Representation

Once a VLC is slated for reassignment by the OIC of the LSSS or LSST, or is in receipt of orders to a follow-on change of station or assignment, the responsible RVLC must ensure that the VLC is not detailed to a client with a case anticipated to extend beyond the targeted reassignment date without first seeking the permission of the CVLC and OIC, LSSS or LSST. Subject to DoD regulation, the CVLC is the final arbiter for detailing decisions involving a case that will likely extend beyond the VLC's anticipated reassignment date.

010903. Reassignment Prior to Completion of Representation

If a VLC is pending reassignment, including discharge or retirement, prior to the completion of his or her VLC duties, the responsible RVLC must ensure the VLC has:

- A. Notified all remaining clients and any co-counsel in writing of the pending reassignment.
- B. Informed all remaining clients of their options with regard to the pending reassignment.
- C. Offered for the client to consult with another conflict-free counsel about the matter.
- D. Ensured that the client’s understanding of VLC’s reassignment is memorialized in writing, and signed by the client and counsel.
- E. If applicable, notified the military judge, trial counsel, and defense counsel detailed to any ongoing courts-martial of the VLC’s pending reassignment.

010904. Concurrent Service

Absent a knowing and affirmative waiver by the client of an apparent conflict of interest, and approval by the CVLC, judge advocates may not serve concurrently, including periods of transition between billets, as a judge advocate assigned to the VLCO or an auxiliary VLC and as:

- A. A trial counsel or defense counsel on any case.
- B. The deputy staff judge advocate or staff judge advocate to the convening authority of any case in which the VLC is still performing VLCO duties.
- C. The OIC or assistant OIC of an LSSS or LSST.
- D. Other billets which would create a conflict of interest with concurrent service as a VLC.

0110. REQUEST FOR INDIVIDUAL MILITARY COUNSEL (IMC)

Marine VLC are victims’ counsel and therefore not “reasonably available” under JAGMAN section 0131.

0111. REQUIRED TRAINING AND COLLATERAL DUTIES

VLC shall perform routine non-VLC duties, such as unit PT, training, and standing duty, so long as those collateral duties do not have a military justice connection or conflict with their statutory and ethical obligations to their clients.

0112. PROFESSIONAL RESPONSIBILITY

011201. Compliance

Judge advocates assigned to the VLCO shall act in full compliance with JAGINST 5803.1E, ethical rules of jurisdictions in which they are a member of the bar, and other legal practice guidance published by the Judge Advocate General of the Navy, the SJA to CMC, or the CVLC related to professional responsibility. A VLC should request policy clarification and guidance from the CVLC in all cases where there are potential ethical issues.

011202. Complaints

The SJA to CMC is the Rules Counsel for all Marine judge advocates, including VLC. Informal professional responsibility complaints regarding VLC will be resolved through the supervisory chain of command within the VLCO. Formal professional responsibility complaints regarding VLC will be routed via the responsible RVLC and CVLC, to the SJA to CMC for resolution.

0113. ADMINISTRATIVE AND LOGISTICAL SUPPORT

Cognizant commands, LSSSs, and LSSTs will provide personnel, equipment, and administrative and logistical support, commensurate with mission requirements, to VLC offices equitably with that provided to military justice and defense sections. The LSSS shall ensure that VLCO personnel are provided appropriate office-space that facilitates walk-in clients, including a reception area and private offices for VLC to conduct attorney-client meetings.

0114. BUDGETING AND FUNDING GUIDANCE

011401. Administrative and Logistical Support

Funding for administrative and logistical support and training expenses for RVLC, VLC, and their support personnel will be provided by the local command or LSSS/LSST to which they are administratively attached. VLC specific training shall be funded by the VLCO.

011402. Case-Related Expenses

All case-related expenses, including all necessary victim and VLC travel, including victim and VLC travel for in-person victim meetings, pre-trial hearings, and court-martial / administrative board hearings, shall be funded by the convening authority as required by regulations, to include JAGMAN sections 0145 and 0205.