

VOLUME 4

“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”

SUMMARY OF VOLUME 4 CHANGES

Hyperlinks are denoted by *[bold, italic, blue and underlined font.](#)*

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.

The date denoted by *[blue font](#)* (left header) will reflect the date this Volume was last updated.

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VOLUME 4: MARINE CORPS VICTIMS' LEGAL COUNSEL ORGANIZATION

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REFERENCES

- (a) SECNAVINST 5430.7R
- (b) SECNAVINST 5430.27D
- (c) SECNAVINST 5430.25E
- (d) 10 U.S.C. §§ 806, 1044, 1044e, 1059, 1072, 1565b, 1588, and 5046
- (e) MCO 5430.2
- (f) JAGINST 5803.1E
- (g) Manual for Courts-Martial, (2016 ed.)
- (h) U.S. Navy Regulations, (1990)
- (i) MCO 5800.14
- (j) MCO 1001.62A
- (k) MCO 1200.18
- (l) JAGINST 5803.2B
- (m) SECNAVINST 1920.6C
- (n) Uniform Code of Military Justice, (2016)
- (o) MCO 1610.7
- (p) MCO 1300.8
- (q) MCO 1000.6
- (r) JAGINST 5800.7F
- (s) SECNAVINST 5211.5E
- (t) 5 U.S.C. §§ 101, 552a, and 3111
- (u) JAGINST 5801.2
- (v) 37 U.S.C. §§ 601-604
- (w) 38 U.S.C. §§ 4301-4334
- (x) DoD Instruction 1205.12
- (y) 31 U.S.C. § 1342
- (z) DoD Instruction 1100.21
- (aa) 8 U.S.C. § 1400
- (bb) Executive Order 13269, (July 3, 2002)
- (cc) DoD Directive 2311.01E
- (dd) MCO 3300.4A
- (ee) DoD Directive 2310.01E
- (ff) DoD Directive 5146.13
- (gg) Executive Order 12333, (December 4, 1981)
- (hh) DoD Directive 5240.01
- (ii) DoD 5240.1-R
- (jj) DoD Instruction 3025.21
- (kk) DoD Instruction 5525.03
- (ll) SECNAVINST 5710.25B
- (mm) 1 U.S.C. § 112b
- (nn) 22 CFR Part 181
- (oo) DoD Directive 5530.3
- (pp) DoD 5500.07-R
- (qq) 18 U.S.C. § 202
- (rr) 5 C.F.R. § 2634

“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.

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“MARINE CORPS VICTIMS’ LEGAL COUNSEL ORGANIZATION”

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CHAPTER VERSION	PAGE PARAGRAPH	SUMMARY OF SUBSTANTIVE CHANGES	DATE OF CHANGE

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MARINE CORPS VICTIMS' LEGAL COUNSEL ORGANIZATION

0101 PURPOSE

The purpose of this Volume is to describe the organization, roles, and responsibilities of the Marine Corps Victims' Legal Counsel Organization (VLCO), as provided for in law, regulations, and rules of professional conduct.

0102 GENERAL

010201. Purpose of Victims' Legal Counsel Organization (VLCO)

Victims' legal services are provided to eligible service members and dependents who are victims of sexual assault 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. The Officer in Charge of the VLCO (OIC, VLCO) will publish further policy and administrative procedures applicable to Marine judge advocates serving as Victims' Legal Counsel (VLC).

010202. Supervision

Marine Corps victims' legal services are performed under the supervision of the OIC, VLCO 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 Judge Advocate General of the Navy in accordance with 10 U.S.C. § 1044e as qualified to serve as VLC. Marine VLC serve at locations throughout the Marine Corps and are administratively attached to Legal Services Support Sections (LSSS). However, Marine VLC are under the functional supervision of, and responsible and accountable to, the OIC, VLCO and the responsible Regional Victims' Legal Counsel (RVLC) for the delivery of victims' legal services within their respective regions.

010203. Duty

A Marine VLC must exhibit unfettered loyalty and professional independence in representing his or her client, and is ultimately responsible for acting in the client's best interest. A Marine VLC's primary duty is to provide zealous, ethical, and effective representation to Marines and other eligible clients. This duty is limited only by law, regulation, and the Rules of Professional Conduct (JAGINST 5803.1E).

010204. Other Resources

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

010205. Guiding Principles

A. Independence

The Marine Corps VLCO and all VLC must be independent of unlawful pressure or influence.

B. General Funding

Funding for training, resources, and facilities shall be consistently provided across the Marine Corps legal community, and there shall be equitable distribution, commensurate with mission requirements, between the services provided by Victims' Legal Counsel, defense counsel, and trial counsel with respect to the following: access to resources, capabilities, and facilities; seats at continuing legal education courses; training funds; and support staff.

C. 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.

D. Client Access

Marine 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.

E. Workload and Client Obligations

To ensure that a Marine VLC's workload is not too large as to interfere with his or her 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.

F. Victims' Legal Counsel Experience and Qualification

A Marine VLC's ability, training, and experience should match the complexity of the case. Supervisory attorneys will only assign counsel who are properly qualified to handle a particular case.

0103 ORGANIZATION AND PERSONNEL

010301. Marine Corps Victims' Legal Counsel Organization (VLCO)

The Marine Corps 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 OIC, VLCO for the delivery of victims' legal services throughout the Marine Corps. 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 provided below and satisfy sensitive position screening criteria.

010302. Officer in Charge, Victims' Legal Counsel Organization (OIC, VLCO)

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

A. Officer in Charge, Victims' Legal Counsel Organization (OIC, VLCO)Qualifications

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

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.

B. Appointment

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

C. Assignment

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

D. Support Personnel

The OIC, VLCO is supported by a Deputy OIC and civilian paralegal specialist.

E. Supervision

The OIC, VLCO serves as the supervisory attorney for the Deputy OIC, RVLC and VLC.

F. Specific Duties

Specific OIC, VLCO duties include, but are not limited to:

1. Establishing standing 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 VLCs and support personnel in the performance of victims' legal counsel functions.

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 Judge Advocate General of the Navy in accordance with 10 U.S.C. § 1044e.
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.

010303. Deputy Officer in Charge, Victims' Legal Counsel Organization (Deputy OIC, VLCO).

The Deputy OIC assists the OIC, VLCO in exercising his or her responsibilities for the supervision of all assigned personnel and the delivery of victims' legal services throughout the Marine Corps.

A. Deputy Officer in Charge, Victims' Legal Counsel Organization (OIC, VLCO)
Qualifications

The Deputy OIC, VLCO 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 complex case, six months or more of military justice experience, and will normally possess the NMOS of 4409 (criminal law), unless waived by the OIC, VLCO.

B. Specific Duties

Specific Deputy OIC, VLCO duties include, but are not limited to:

1. Acting as the OIC, VLCO in the OIC's absence.
2. Ensuring compliance with policies and standing operating procedures issued by the OIC, VLCO.
3. Monitoring the performance of RVLC and VLC and advising the OIC, VLCO of such observations, as well as recommending modifications to VLCO policies and standing 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 OIC, VLCO.

6. Attending appropriate meetings of Department of Defense, Department of the Navy, HQMC, and other organizations on behalf of the OIC, VLCO as directed.

7. Coordinating with external agencies as necessary to accomplish the mission of the VLCO.

8. Providing legal advice and assistance to the RVLC, VLC, and support staff throughout the Marine Corps.

9. Maintaining and updating web-based support, including the VLCO SharePoint site and VLCO case management system.

10. Providing legal advice and representation to clients when detailed by the OIC, VLCO.

010304. Regional Victims' Legal Counsel (RVLC).

A RVLC is directly responsible to the OIC, VLCO for the delivery of victims' legal services within a region. There will be one RVLC assigned to each LSSS whose region corresponds to the LSSS Legal Services Support Area. A legal services specialist or civilian paralegal specialist with prior criminal law experience is assigned to each RVLC office.

A. Regional Victims' Legal Counsel (RVLC) Qualifications

RVLC are Marine judge advocates serving in or selected to the grade of O-4/Major, who normally have at least two years combined experience as a trial counsel or defense counsel or military judge, to include experience in at least one contested general court-martial case, and will normally possess the NMOS of 4409 (criminal law).

B. Reporting Relationships

RVLC are administratively attached to the LSSS, but are responsible and accountable to the OIC, VLCO for the delivery of victims' legal services in their region.

C. Supervisory Responsibility

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

D. Victims' Legal Counsel (VLC) Assignment

RVLC coordinate with the Officers in Charge of the LSSS and LSST in the assignment of judge advocates as VLC and auxiliary VLC.

E. Specific Duties

Specific RVLC duties include, but are not limited to:

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 OIC, VLCO 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 OIC, VLCO on the adequacy of support, assets, and facilities provided to VLC offices within the region.
5. Conducting site visits to subordinate VLCO offices within the 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 and annually to supported commands.
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 to ensure that VLC and support personnel receive appropriate training.

010305. Victims' Legal Counsel (VLC).

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

A. Victims' Legal Counsel (VLC) Qualifications

VLC are Marine judge advocates, serving in or selected to the grade of O-3/Captain, preferably with six months or more military justice experience and at least one contested case.

B. Reporting Relationships

VLC are administratively attached to the LSST, but are responsible and accountable to their RVLC and the OIC, VLCO for the delivery of victims' legal services by 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 OIC, VLCO. VLC also perform other duties as prescribed by the RVLC or OIC, VLCO.

010306. Auxiliary Victims' Legal Counsel (AVLC)

A. Selection

The OIC of each LSSS and LSST shall nominate a judge advocate available to serve as an Auxiliary Victims' Legal Counsel (AVLC). The AVLC may be detailed by the OIC, VLCO as needed to meet high caseloads or to serve when there is a conflict of interest.

B. Auxiliary Victims' Legal Counsel (AVLC) Qualifications

AVLC must possess at least six months military justice experience and satisfy sensitive selection screening criteria. Staff judge advocates, deputy staff judge advocates, trial counsel, defense counsel, or review officers may not serve as AVLC.

C. Auxiliary Victims' Legal Counsel (AVLC) Client Representation

AVLC who are 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 LSSS or LSST, but becomes supervised by and accountable to the RVLC and OIC, VLCO for victims' legal matters.

D. Auxiliary Victims' Legal Counsel (AVLC) Performance Evaluation

AVLC concurrently performing VLC and non-VLC duties should ordinarily receive simultaneous fitness reports, as provided in paragraph 2010.3 of MCO 1610.7, Performance Evaluation System. The respective 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 VLC, RVLC, and the OIC, VLCO in the performance of their duties. Support personnel must ensure strict confidentiality of all VLCO matters.

B. Reporting Relationships

VLCO support personnel are administratively assigned to the LSST, but once assigned to a VLCO billet, they are responsible and accountable to his or her supervising VLC, RVLC, and the OIC, VLCO.

C. Civilian Paralegal

One civilian paralegal specialist shall be assigned to assist the OIC, VLCO.

D. Regional Victims' Legal Counsel (RVLC) Support Personnel

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

010308. Reserve Support

Victims' Legal Counsel Organization Branch augments the active duty structure and provides surge capability to meet increases in demand for VLCO services, as well as the ability to handle conflicts of interest.

010309. Sensitive Screening Process

The Secretary of Defense requires there be 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 judge advocate's Official Military Personnel File to determine appropriate experience and temperament. Further, an individual that has a conviction for, a substantiated incident of, or is currently facing an open investigation into any of the following offenses is expressly prohibited from serving as a VLC: (1) sexual assault, (2) domestic violence, (3) child abuse, or (4) any other felony-level offense.

0104 ELIGIBILITY

Victims of sexual assault 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 5800.7F (JAGMAN)), and pursuant to guidance published by the OIC, VLCO. Approval authority may be delegated and exercised in accordance with policy and procedures published by OIC, VLCO.

010401. Victim Definition

A victim is a person who alleges to have 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 may, and the military judge shall, 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, all eligible victims shall be informed of the right to, and when a victim so elects, 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.

0105 SCOPE OF SERVICES

010501. Legal Counseling and Advice

VLC will provide confidential legal counseling and advice to eligible victims, including, but not limited to the following topics:

A. Other Services

VWAP, SAPR program, 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 VLC.

B. Report Types

The differences between restricted and unrestricted types of reporting in sexual assault cases.

C. 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 MRE 412, 513, and 514.

D. Testimony

The ability of the government to compel testimony.

E. Counseling and Medical Services

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

F. Protective Orders

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

G. 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. VLC will assist victims to initiate requests for transitional compensation when eligible.

H. Benefits

Other rights or benefits provided to victims under 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, VLC may be detailed to:

A. Sexual Assault

All eligible victims of sexual assault.

B. Domestic Violence and Child Abuse

Eligible victims of domestic violence and child abuse, subject to counsel availability.

C. Other Crime Victims

Other crime victims with an opportunity to be heard under MRE 412, 513, 514, or regarding other rights provided by statute, regulation, or case law.

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 seeking testimonial or transactional immunity. Victims may be referred to the Marine Corps Defense Services Organization to consult with a defense counsel as appropriate for misconduct committed that may require defense counsel services.

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, leases, taxes, consumer affairs, estate planning, and powers of attorney.

0106 ATTORNEY-CLIENT RELATIONSHIP

010601. General

A Marine VLC will not establish attorney-client relationships with any individual unless detailed, assigned, or otherwise authorized to do so by his or her detailing authority. In cases where the victim files an unrestricted report or has already made a formal report to law enforcement, 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, and criminal investigative departments

involved in the case, including both Naval Criminal Investigative Service and Criminal Investigation Division.

010602. Duration

A Marine VLC shall continue to represent a victim post-trial until the convening authority takes action on the case. 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. Further representation of a victim after the convening authority takes action will be determined on a case-by-case basis by the OIC, VLCO.

010603. Severance

Once established, the attorney-client relationship may only be severed under the provisions of the 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 detailing authority.

C. Victim End of Military Service

If the victim leaves military service, the attorney-client relationship may be terminated under the Rules of Professional Conduct by the detailing authority, unless the victim satisfies other eligibility requirements under 10 U.S.C. § 1044 or if approved by the RVLC after consultation with the OIC, VLCO.

010604. Communication with Victims Represented by Victims' Legal Counsel (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, and criminal investigators acting on behalf of the trial counsel.

010605. Documents Provided to Victims' Legal Counsel (VLC)

Trial counsel shall provide the following material to the detailed VLC unless otherwise directed by a court:

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.

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

B. Upon Referral of Charges

1. A copy of the charge sheet, redacted for PII, setting forth the preferred specifications pertaining to that victim.

2. The date, time, and location of any preliminary hearing pursuant to Article 32, UCMJ, and any request 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 pertaining to that victim.

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, 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 pretrial agreement negotiations, and an opportunity to express the views of the victim regarding all proposed terms of the agreement relevant to that victim.

7. A copy of any approved pretrial 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.

0107 DETAILING

010701. Officer in Charge, Victims' Legal Counsel Organization Authority

The OIC, VLCO 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 OIC, VLCO 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) the needs of the local commands are taken into consideration; (3) every victim receives zealous representation by a fully qualified counsel; and (4) every victim is detailed counsel in a timely manner.

010704. Timing

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

010705. Notice of Representation

VLC detailed to a case shall immediately provide notice of representation to the client's command, the investigating law enforcement agency, and the cognizant prosecution and defense sections. A notice of appearance shall be filed with the military judge upon referral.

010706. Detailing of Officer in Charge, Victims' Legal Counsel Organization

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

010707. Regional Victims' Legal Counsel Detailing

If delegated the authority, RVLC may detail VLC assigned to their region, including themselves, to cases supported by their regional LSSS, LSST, or an element thereof, based upon geography or a specific request for legal services. However, RVLC who write fitness reports on subordinate VLC may not detail themselves to cases that involve clients with a conflict of interest with clients of a VLC for whom the RVLC is the reporting senior. Such matters must be brought to the attention of the OIC, VLCO.

010708. Additional Detailing Considerations

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 on a case-by-case

basis. 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 OIC, VLCO for resolution in consultation with the staff judge advocate of the convening authority. If the funding issue cannot be resolved, it will be forwarded to the SJA to CMC for final decision.

0108 TOUR LENGTH

010801. Establishment of Date

After consultation with the RVLC and OIC, VLCO, the OIC of the LSSS or LSST will establish an anticipated end date for a Marine's tour with the VLCO, which normally will be at least 18 months for RVLC, at least 12 months for VLC billets, and 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 OIC, VLCO.

010802. Termination of Duties

The RVLC will ensure, as far as practicable, that the agreed upon tour length for 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 OIC, VLCO 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 OIC, VLCO 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 OIC, VLCO. The SJA to CMC may intervene and override the OIC's decision; otherwise, the cognizant OIC's decision is final.

010805. Termination of Representation

Judge advocates assigned as VLC shall continue representing the victim until the convening authority acts in all cases to which the VLC is detailed unless the attorney-client relationship has been severed in compliance with JAGINST 5803.1E and consistent with paragraph 0106.

0109 REASSIGNMENT

010901. Coordination

The reassignment of a VLC requires careful planning and coordination between the RVLC, OIC, VLCO 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, 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 OIC, VLCO and OIC, LSSS or LSST. If the OIC, VLCO and the OIC, LSSS cannot reach an agreement on the detailing decision involving a case that will likely extend beyond the VLC's anticipated rotation date, the matter will be forwarded to the SJA to CMC for final decision.

010903. Reassignment Prior to Completion of Representation

If a VLC is pending reassignment, including discharge or retirement, prior to the completion of victims' legal counsel 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 OIC, VLCO, 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)

The OIC, VLCO is the determining authority for requests for Marine VLC to serve as individual military counsel (IMC) to defend a service member. Marine VLC are normally considered not “reasonably available” under the meaning of JAGMAN section 0131. Notwithstanding this limitation, the OIC, VLCO shall have the discretion to approve an IMC request in exceptional circumstances.

0111 COLLATERAL DUTIES

VLCO 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 OIC, VLCO related to professional responsibility. VLC should request policy clarification and guidance from the OIC, VLCO 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 Marine VLC. Informal professional responsibility complaints regarding Marine VLC will be resolved within the VLCO. Formal professional responsibility complaints regarding Marine VLC will be routed via the responsible RVLC and OIC, VLCO, to the SJA to CMC for resolution.

0113 ADMINISTRATIVE AND LOGISTICAL SUPPORT

Cognizant commands will provide personnel, equipment, 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 victim and VLC travel, shall be funded by the convening authority as required by regulations, to include JAGMAN sections 0145 and 0205.

0115 APPLICABILITY

This Volume is applicable to Marine Corps judge advocates and supporting personnel.