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JAGINST 5810.3A
VLCP
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JAG INSTRUCTION 5810.3A

From: Judge Advocate General

Subj: Navy Victims' Legal Counsel Program Manual

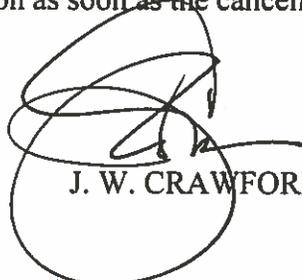
- Ref: (a) SECDEF memo of 14 Aug 2013
(b) National Defense Authorization Act of 2014
(c) JAGINST 5803.1E
(d) Uniform Code of Military Justice
(e) 10 U.S.C. § 1044a
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(i) BUPERSINST 1610.10D
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(n) OPNAVINST 5210.20
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(y) SECNAVINST 5350.16A
(z) OPNAVINST 5350.4D
(aa) JAGINST 7320.1A
(bb) SECNAVINST 7320.10A

Encl: (1) Victims' Legal Counsel Manual

1. Purpose. To promulgate policy, prescribe procedures, and assign responsibilities for execution of the Navy Victims' Legal Counsel Program (VLCP).

Subj: Navy Victims' Legal Counsel Program Manual

2. Applicability. This instruction applies to all personnel providing Victims' Legal Counsel services to eligible victims of sexual offenses under the Navy VLCP, including: active and Reserve component Navy judge advocates, administrative staff, and civilian employees.
3. Cancellation. JAGINST 5810.3 is hereby cancelled and replaced by this instruction.
4. Background. Victims of sexual offenses often suffer significant emotional, physical, and mental trauma as a result of the crimes committed against them. These victims merit specialized assistance in understanding and exercising their rights, interests, available resources, and processes that may be implicated in their recovery. This is particularly true when the victim participates in the investigation and military justice processing of the offense. While the Navy provides Victim Advocates and sexual assault counseling services to assist victims with a variety of issues, these professionals do not have the requisite legal experience necessary to assist victims in navigating the Navy's legal and administrative systems. Victims' Legal Counsel (VLC) are trained, certified, and qualified attorneys who provide support, assistance, advice, and advocacy for Navy victims of sexual offenses throughout these processes.
5. Policy. Sexual offenses remain a serious threat to the morale, good order, discipline, and readiness of the Navy. The goal of the VLCP is to assist victims by providing an understanding of the legal and administrative processes and by protecting the rights of the victim; including the right to be informed and the right to privacy.
6. Action. Per reference (a), the Secretary of Defense mandated implementation of a Victims' Counsel Program. Enclosure (1) amplifies and expands that guidance and promulgates policies and procedures to execute Navy VLCP. All personnel providing services under this program shall execute their duties in accordance with these policies and procedures.
7. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.
8. Review and Effective Date. Per OPNAVINST 5215.17A, VLCP will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, Department of Defense, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. As the instruction nears its five-year anniversary and it is still required, it will be reissued. Otherwise, if the instruction is no longer required, it will be processed for cancellation as soon as the cancellation is known following the guidance in E.O. 13526.



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**VICTIMS' LEGAL COUNSEL MANUAL
(JAGINST 5810.3A)
VICTIMS' LEGAL COUNSEL PROGRAM**

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I. Program Overview

1-1. Mission. The mission of the Victims' Legal Counsel Program (VLCP) is to provide support and advocacy on behalf of victims of sexual offenses or attempts of those offenses as defined in Article 120 (to include current and previous iterations), Article 120a, Article 120b, Article 120c, Article 125, Article 134 (Assault with intent to commit rape) and an attempt thereunder per Article 80 of the Uniform Code of Military Justice (UCMJ). VLC provide this support regardless of whether the victim makes a Restricted, Unrestricted, or no official report of suffering a sexual offense. VLC provide information and assistance regarding sexual offense reporting options, the military justice process, victim rights, victim privacy, victim privileges, information on additional support providers, basic legal assistance, and when applicable, collateral misconduct. Support and advocacy on behalf of the victim is the VLC's highest priority.

1-2. Restricted Cases. In Restricted cases, VLC will provide general information consistent with paragraph 1-1 but with focus on the medical and counseling services available to assist the victim in recovery. Advocacy and official representation of the victim will be limited to maintain the special nature of Restricted reporting. VLC must be careful to avoid any action that might undermine the report's "Restricted" status or the victim's decision to make such a report. VLC are not authorized to take an official "Restricted Report" and should coordinate with the local Sexual Assault Response Coordinator to initiate that report while cooperating with all support providers to best aid the victim.

1-3. Unrestricted Cases. In Unrestricted cases, VLC will provide support, advice, and guidance for the victim throughout the investigative, pre-trial, trial, and post-trial and administrative processes. This includes, where appropriate, advocacy and representation for the victim where the victim's rights and interests are implicated.

1-4. Authority. In reference (a), the Secretary of Defense issued a memorandum dated 14 August 2013 directing the military departments to "establish a special victim's advocacy program that provides legal advice and representation to the victim throughout the justice process." This direction was codified in § 1716 of reference (b). The VLCP is the Navy's response to that direction.

II. Supervision of Victims' Legal Counsel

2-1. Authority of the Judge Advocate General

a. All active duty, reserve and civilian personnel who provide services and support through the VLCP are subject to the supervision and regulation of the Judge Advocate General and the rules and procedures set forth in this Manual.

b. All VLC practice under the supervision of the Judge Advocate General and shall conform to the Rules of Professional Conduct as set forth in reference (c).

2-2. Chain of Command

a. VLCP personnel report to Commander, Naval Legal Service Command (CNLSC) via the Chief of Staff, VLCP (COS VLCP). COS VLCP is responsible for the oversight, formal evaluation, training, and mentoring of VLCP personnel. The Deputy Chief of Staff or Civilian Executive Director, Navy Victims' Legal Counsel Program (DCOS or ED VLCP) shall assist COS VLCP in execution of these duties.

b. COS VLCP shall promulgate policy requirements; supervise and manage VLCP personnel; establish practices and instructions to support and enhance the VLCP mission; ensure proper support of VLC throughout the Fleet; coordinate with other victims support programs both internal and external to the Department of Navy (DON) and the Department of Defense (DoD); and inspect VLCP operations as needed to ensure policy compliance and effective mission execution.

c. The Navy VLCP is divided into five regions. Each region is staffed with a supervising attorney (Officer in Charge (OIC)). These supervising attorneys report to the DCOS VLCP and then to the COS VLCP as the Program Manager. Supervising Attorneys monitor and support the operations of their subordinates, ensure standardized program policies are followed, guide, mentor and ensure a balance of client caseloads among subordinate VLC.

III. VICTIMS' LEGAL COUNSEL ATTORNEYS

3-1. Definitions

a. "Victims' Legal Counsel" (VLC) is any Active Duty or Reserve Component judge advocate, certified by the Judge Advocate General or his or her designee as a VLC attorney, authorized or directed by appropriate authority to provide VLC services. VLC are required to provide support to and advocate on behalf of victims of sexual offenses as defined below.

b. A "Client" is an individual eligible for VLCP services, as defined in Section 5-1 of this Manual, who has executed the standardized VLC Scope of Representation Letter (Appendix A).

c. "Unauthorized practice of law" (UPL) occurs when an individual who is not authorized to practice law provides client services without proper supervision by a properly authorized attorney.

3-2. Qualifications. VLC shall be certified in accordance with Article 27(b) and sworn under Article 42(a) of reference (d). VLC shall be licensed attorneys in good standing with the state bar of any state of the United States or the District of Columbia, shall have satisfactorily completed a specialized course of study as prescribed by COS VLCP and been certified by the Judge Advocate General of the Navy as a practicing VLC. As a general rule, VLC must be in their second tour at the time of applying for a VLC billet. First tour applicants with significant civilian litigation experience (direct accessions/lateral conversions) will be considered for a VLC billet on a case-by-case basis.

3-3. VLC Responsibilities

a. Independent Judgment. VLC shall exercise independent professional judgment on behalf of their clients within the scope of the VLCP. Each attorney is professionally responsible for his/her work product and for that of any VLCP administrative or legal support staff to whom functions are delegated.

b. Attorney Control. All client services within the VLCP shall be provided by or under the supervision of a VLC as described in this Manual. Client services are services that call for the professional advice and expertise of a VLC and give rise to an attorney-client relationship. Generally, anytime an eligible person has a question about his or her rights or responsibilities, that individual is requesting a client service.

c. VLC Delegation of Work to Support Staff

(1) The ability to effectively delegate work to support staff is essential to the efficient execution of the VLCP mission. That delegation must occur consistent with this Manual and reference (c). VLC must balance the need for effective, efficient mission accomplishment against the requirement to vigilantly guard against the unlawful practice of law by support staff and the disclosure of confidential information.

(2) VLC may delegate work to administrative support personnel as defined in Chapter IV of this Manual, as appropriate, provided the attorney:

(a) Maintains direct contact with the client and does not delegate all client contact and case work to support staff;

(b) Supervises support personnel in the performance of the delegated work;

(c) Assumes professional responsibility for the work product; and

(d) Ensures clients and third parties understand that members of the support staff are not attorneys and are never represented to clients as attorneys.

3-4. Foreign Local Counsel. In Outside the Continental United States (OCONUS) locations, a victim of a sexual offense committed by a civilian may require the services of local counsel in order to avail him or herself of the host nation's court system. Assistance may include help in giving a statement, identifying the offender, testifying, or other related matters. If outside counsel has been contracted by VLCP to assist eligible victims in the local court system, the VLC stationed in the area will become familiar with the contract parameters and any limitations to representation, will maintain a working relationship with the host national counsel, and will work closely on all cases where local counsel is engaged on behalf of the victim. If a case arises in an OCONUS location requiring local counsel where no VLCP contract exists for outside counsel services, the regional OIC will have a process for seeking local counsel via the regional commander, if applicable, or privately by the victim. This procedure will include information on funding, a list of pre-approved host national attorneys, details regarding local court processes such as making a statement, appearing in court, being interviewed by law enforcement, and any other matters related to reporting a sexual offense in the OCONUS jurisdiction. Regional OICs are responsible for training VLC under their cognizance on procedures involving employment of local counsel.

IV. VLCP Support Staff

4-1. VLCP Support Staff. The terms “Victims’ Legal Counsel Support Staff,” “VLCP Support Staff,” “VLC clerks,” and “support staff” refer to VLCP clerical and administrative personnel performing official duties supporting the VLCP mission.

4-2. Duties. Duties of VLCP Support Staff assigned to VLCP offices depend on the specific needs of the office, the experience and training of support personnel and the availability of adequate supervision.

a. Generally. Support Staff perform duties in support of the VLCP as directed by the supervising VLCP attorney, within legal and ethical bounds.

b. Office Administration. VLCP support staff will, as part of the administration of the VLCP office, greet clients; answer phones; draft general correspondence; make copies, scan, and mail or transmit documents; conduct client screening for program eligibility and conflicts of interest; supervise and maintain master calendars and tracker systems; input statistical data regarding clients; prepare responses to data calls; supervise and maintain office file systems and conduct file searches; assist in Defense Travel System travel reservations; draft and track purchase requests; develop and implement information retrieval systems; and, perform other duties as assigned.

c. Case Correspondence. VLCP administrative personnel may draft routine case correspondence, including Scope of Representation Letters, Detailing Letters, Notices of Representation, Notices of Appearance, and other general documentation related to representation of a victim.

4-3. Prohibition against Unauthorized Practice of Law. VLCP support staff personnel are critical to the timely and efficient provision of support to eligible clients. They are however, restricted by ethical rules of the legal profession from engaging in the unauthorized practice of law.

4-4. Prohibition against Accepting Unauthorized Compensation. Apart from their government compensation, support staff personnel are prohibited from accepting any form of compensation or gratuity from or on behalf of a client for services rendered to a VLCP client.

4-5. Client Confidentiality. VLC and support staff shall maintain confidentiality of client information. Adequate steps must be taken to prevent unauthorized disclosures, including: training all VLCP personnel in the ethical requirements of confidentiality; proper safeguarding of any work-product that contains confidential information; physical security; proper disposal of records, finalized documents, and drafts of documents; and, respect for privacy during client screening and interviews. Initial screening of VLCP clients shall be accomplished in a manner which ensures confidentiality. Administrative personnel will avoid conducting screening or client interviews in public waiting areas and avoid placing Personally Identifiable Information (PII) on publicly available forms or waiting lists.

4-6. Safeguarding Client Confidences. Support staff must safeguard client confidences and privileged information at all times. Support staff may disclose such information to others only at the direction of a supervising VLCP attorney. A breach of client confidentiality may be grounds for civil, administrative, or criminal sanctions.

V. OPERATING POLICIES FOR VICTIMS' LEGAL COUNSEL

5-1. Eligibility

a. General Eligibility. In accordance with references (e) through (g), victims of sexual offenses eligible for VLCP services include active-duty and reserve personnel; other DoD service personnel, retirees, and DoD civilians when assaulted by an active-duty service member; dependents, including spouses and children of active-duty Navy members when assaulted by an active-duty service member. Eligible individuals may receive limited assistance when assaulted by a non-military offender.

In addition, former dependents of active duty service members who made a report of a sexual offense while eligible for VLC services remain eligible for the same services without the need for an eligibility waiver from COS, VLCP (a process otherwise outlined below in section 5-1.e). In the event a former dependent seeks VLC services and is not a current or former VLC client, the VLC will need to verify the former dependent status and eligibility prior to providing services to the victim. Verification of former dependent status and eligibility can be established through any kind of reliable documentation, including but not limited to: a copy of the initial report, NCIS investigation file, DEERS records, SAPR/SARC records, or any other documentation that establishes that the report was made while the victim was eligible for VLC services.

b. Victims of Sexual Offenses. The client must advise the VLC that they are the victim of an offense enumerated under Article 120, 120a, 120b, 120c, 125, 134 (Assault with intent to commit rape), or an attempt thereunder per Article 80, UCMJ. Clients may have made a Restricted, Unrestricted, or no official report of suffering a sexual offense. In the instance of no report, VLC will provide only general information without forming an attorney-client relationship unless and until the victim files a Restricted/Unrestricted report of sexual assault or an allegation of another sexual offense. The report of the victim is sufficient to satisfy VLCP eligibility, consistent with section 5-1.a above, regardless of command, law enforcement or prosecutorial opinion, action, or inaction.

c. Ineligible Victims or Non-sexual Offense Victims. Those not eligible for VLC services based on their status or because they are non-sexual offense victims should be referred to the local Region Legal Service Office (RLSO) or other Victim Witness Assistance Program (VWAP) providers, including civilian or host nation agencies if appropriate, for victim support services.

d. Focus on Navy Victims. While other DoD service personnel may be provided a Navy VLC when assaulted by an active-duty Navy member, by agreement of the services, each service will have right of first action to advise and represent its own personnel. Navy VLC may represent Sailors assaulted by other service offenders. In those cases, also by agreement between the services, the service of the offender will, if possible and as needed, provide a Special Victims' Counsel (SVC) to advise the Navy VLC in engaging with the offender's command and military justice personnel. Any non-Navy victim requesting Navy VLC services must be advised of his or her right to a VLC/SVC from his or her own service. If he or she elects a VLC/SVC from his

or her own service, Navy VLC will make direct contact with the other service VLC/SVC office and ensure a “warm hand-off” to that office. Requests from victims of other services (or VLC/SVC from other services on behalf of a victim) for either provision of a Navy VLC in non-Navy cases or where a Navy victim requests non-Navy VLC/SVC, shall be forwarded as follows: from field VLC receiving the request, to the region OIC who will forward to DCOS with a recommendation for approval or denial of the request. DCOS may approve routine requests after coordination on the deputy level between the services, however in the event the request is unusual or complex, COS VLCP approval will be required prior to assignment of Navy VLC.

e. Eligibility Waivers. COS VLCP is authorized to make eligibility determinations and grant exceptions to general eligibility standards when warranted for good cause and to further the goals of the VLCP mission. VLC who believe an exception is warranted should complete and forward an Eligibility Waiver Request (template at Appendix B) to COS VLCP via his or her OIC and DCOS VLCP with a recommendation of approval or disapproval. A determination by COS VLCP is required prior to formation of an attorney-client relationship with an otherwise ineligible victim. Factors that may be considered in an eligibility waiver include but are not limited to:

- (1) type of service requested and how long continued VLCP support is likely to occur;
- (2) the victim’s active and ongoing participation in a Navy investigation or military justice proceeding;
- (3) timing of the reported sexual offense and the victims’ desired outcome;
- (4) the identity of the offender as an active-duty Navy member;
- (5) reasons why extension of services furthers the mission of the local command and the Navy; and,
- (6) other circumstances relevant to the case.

5-2. Case Management and Tracking. VLC and respective OIC shall ensure all subordinate attorneys and support staff properly utilize the VLCP case-tracking system in accordance with established business rules to record VLCP services. VLC are responsible for ensuring support staff are adequately trained to input data from the standardized client intake sheet into the selected case-tracking system. More information is provided in section 12-5.c.

5-3. Correspondence. VLC shall prepare all official correspondence in accordance with the Uniform Rules of Court, Local Rules of Court, reference (h), and the provisions of this Manual, as relevant to the particular matter. VLC preparing Officer Fitness Reports or Enlisted Performance Evaluations shall refer to reference (i). Additional guidance regarding performance evaluations is provided in Section 12-4.f.

5-4. Communications

a. Professional Consultations. Unless a client has expressly requested information remain confidential to a particular attorney or attorneys, or in cases where another attorney has an actual or apparent conflict of interest, VLC may communicate on matters of substantive law as well as procedural law among themselves and with their VLCP Chain of Command regarding the execution of their duties. See Rule 1.6 of reference (c). VLC are advised not to reveal the identity of the client to fellow counsel, unless required to do so for professional assistance and guidance.

b. Sharing Information about VLCP Appointments. Once an attorney-client relationship has been formed, information concerning a client's appointments or meetings with a VLC or VLCP staff shall not be disclosed to anyone, including a service member's own Chain of Command, without the express informed consent of the client or without a legal exception to the rules of confidentiality. This includes confirmation of the appointment itself.

c. Client Requests for Restricted Information Sharing. In any situation where a client requests limited information sharing, the servicing VLC shall take all appropriate measures to shield client confidences and privileged information.

d. Communications with Third Parties

(1) Unless a client has otherwise requested limited information sharing or has made a Restricted report, VLC may communicate with third parties, including persons and organizations within the DON, on behalf of their clients, as well as with opposing parties subject to the constraints of reference (c).

(2) When communicating with third parties, VLC must clearly state that they are advocating on behalf of their individual client rather than on behalf of the government. When communicating with third parties in writing, the disclaimer must also be in writing.

(3) VLC may not use, or threaten to use, their official positions for the improper benefit of clients. Such actions violate references (j) and (k).

e. Methods of Communication. In addition to telephone and regular mail, government electronic mail (email), video tele-conferencing (VTC), facsimile transmissions, use of the duty mobile phone to text, call, and FaceTime (or similar video communications) are all authorized methods of attorney-client communication provided the confidentiality of communications can be maintained. VLC may also communicate with clients via Defense Collaboration Service (DCS), or similar systems, when such communication methods are deemed essential for zealous or expedient representation of the client's interests. Refer to section 5-8 for provision of remote VLC services.

5-5. Attorney-Client Relationships: General Guidelines

a. Confidential Setting. A confidential setting is required to establish and maintain client confidentiality. VLC meeting with, advising, or guiding eligible clients on matters within the scope of the VLCP as defined by federal law and regulations form attorney-client relationships with their clients. VLCP support staff acting under the supervision of a VLC shall maintain attorney-client privilege and confidentiality.

b. Physical Environment Generally. Delivery of VLCP services in a military environment will necessarily occur under a variety of conditions and circumstances. To promote and protect client confidentiality and the attorney-client privilege, all communications and interviews executed prior to and during the relationship shall be conducted in as confidential a setting as possible.

c. VLCP Offices. To the maximum extent possible, VLC shall provide services in private offices with floor-to-ceiling walls and closing, locking doors. These conditions promote the confidentiality of client consultations and help safeguard case records. In circumstances where services are not provided in the VLCP office, (e.g., visits to victim's command, workspace, quarters, and other government offices) the servicing VLC must take reasonable measures to ensure client confidentiality.

d. Prohibition against Advice via Third Parties. The attorney-client relationship requires personal and confidential communication. Advice shall not be provided to or through a third party intermediary, nor shall information personal to the client or which would normally be shielded by the attorney-client privilege be sought through a third party. Even where a client specifically requests that communications go to or through a third party (such as a family member), VLC are obligated to provide information directly to the client and receive responses directly from the client as part of appropriate representation and consistent with established professional responsibility rules.

e. Interpreters. In any situation where the client is a non-English speaker, or the VLC or VLCP staff feel the client's ability to comprehend English is compromised, the VLC should encourage the client to bring an interpreter of the client's own choosing to interpret the communications relevant to the service being provided. Note: if the VLC or VLCP staff is fluent in the native language of the client, an interpreter is not required, provided the VLC or staff member can effectively communicate with the client.

(1) The interpreter shall execute an affidavit attesting to his or her ability to speak both the relevant foreign language and English and that he or she has acted as a neutral interpreter and translated all communications to the best of his or her abilities. A sample affidavit is provided as Appendix C.

(2) In no event shall a person with opposing or conflicting interest in the VLCP service being provided be permitted to serve as the interpreter.

(3) Should the client refuse to cooperate with these conditions regarding use of an interpreter, counsel should contact their chain of command for guidance.

5-6. Respecting an Ongoing VLC Attorney-Client Relationship. An ongoing VLC attorney-client relationship shall be respected. Clients returning for a follow-up appointment or with a new question concerning the same or substantially the same legal matter shall be directed to the same VLC, unless that VLC has transferred from the VLCP or the client has been appointed an alternate VLC. Whenever it is necessary to transfer responsibility for an ongoing case to another VLC (e.g., when a VLC transfers on Permanent Change of Station orders or is released from active duty) the client must be notified and a termination letter executed. A sample termination letter is provided as Appendix D.

a. **Attorney Temporarily Unavailable.** In the event the detailed VLC is temporarily unavailable, a different VLC may, with the client's consent, assist in an emergent matter. Once that emergent support is provided, any subsequent follow-up support or action regarding the matter will be handled by the original VLC. An "emergent" matter may include a short-fuse request for interview by law enforcement in a case, including information sought immediately after an assault to help identify the alleged offender, locate and preserve the crime scene, and collect key evidence. When a victim is interviewed immediately after an assault, clients may be encouraged to provide such specific information as necessary to meet the immediate objectives of offender identification, crime scene location, and evidence recovery outside the presence of the VLC so long as the law enforcement agent does not exceed the scope of questioning necessary to accomplish those discrete ends.

5-7. Screening System for Clients

a. Each VLCP office shall maintain a conflicts screening system to verify eligibility for VLCP services and minimize the potential for conflicts of interest among clients. Where a web-based screening system is not in place, VLC shall maintain a personal conflict log containing the names of all current and past VLC program clients. VLC shall review this list for potential conflict prior to forming an attorney-client relationship with a new client.

b. Screening methods must protect Personally Identifiable Information (PII). For example, photocopies of Armed Forces Identification cards used to determine eligibility for remote services shall be shredded once eligibility has been verified. (Refer to section 5-8 for additional guidance regarding the provision of remote services).

c. All VLCP offices shall use the standardized client intake screening form. A sample intake form is attached as Appendix E.

d. All VLC and support staff shall be trained to identify potential conflicts of interest with the basic understanding that a VLC shall not knowingly undertake to represent a client whose interest in a particular matter is materially adverse to that of a current or former client of that VLC, or if there is a significant risk that representation will be materially limited as defined in reference (c). VLC assigned to the same geographic office may provide services to conflicted clients but shall not discuss case details or confidential communications with each other

regarding those conflicted clients. VLC may seek substantive and professional guidance from a superior VLC, such as an OIC from another region, DCOS VLCP, or COS VLCP if a conflict prevents consultation with a direct supervisor. See section 8-6 of this Manual for further guidance on conflicts screening and referral.

5-8. Provision of Remote Services. Given the geographic range of potential clients and the placement of VLC at established fleet locations, VLCP services may be provided via remote means, to include use of DCO, VTC, email, telephone, or by duty mobile phone allowing texting and FaceTime (or similar video communications) to meet mission requirements. However, no VLCP services shall be performed without first verifying client eligibility as set forth in this Manual. Additionally, VLC shall take all measures necessary to preserve the confidentiality of client communications when contacting clients via remote means.

5-9. NLSC Interaction to Assist Victims

a. Generally. Naval Legal Service Command (NLSC) units may refer clients to the VLCP for potential representation. Each trial counsel is required to advise victims of sexual offenses of VLCP services per reference (1). NLSC units and other victim support providers should be made aware of local VLCP contact information and encouraged to refer potential clients. VLC should be aware of local legal assistance and defense services provided by NLSC units, and refer VLC clients to those services when required by circumstances or advantageous to the client.

b. Collateral Misconduct. Some victims may be involved in collateral misconduct. "Collateral misconduct" is misconduct that the victim may have committed that has a direct connection to their reported sexual offense, such as underage drinking, adultery, fraternization, or violating liberty policy. VLC may assist clients with collateral misconduct so long as the misconduct is related to their report of a sexual offense. If, through communications with the victim, the VLC or victim believes that the victim may have committed collateral misconduct, the VLC may provide limited personal representation and legal advice regarding that alleged misconduct, to include representation and advice for matters under Article 15 of the UCMJ (nonjudicial punishment). VLC may explain the potential consequences of the alleged collateral misconduct and what, if any, disciplinary action could be taken against the victim. With the victim's permission, the VLC may also advocate to military authorities on the victim's behalf regarding alleged collateral misconduct.

(1) If the misconduct rises to a level of severity resulting in an administrative separation board or courts-martial processing, the victim shall be assigned a military defense counsel to represent them in those proceedings. In such circumstance, the VLC will coordinate timely referral of the victim to a defense counsel.

(2) If, through communications, the VLC or victim believes that the victim may have committed misconduct unrelated to their reported sexual offense, the VLC shall coordinate referral of the victim to a military defense counsel. The VLC shall not participate in defense services for victim misconduct unrelated to a sexual offense, but any conversations between the VLC and the victim regarding that misconduct will remain confidential.

c. Personal Civil Legal Affairs. VLC may provide basic legal assistance services to victims that are directly connected to a reported sexual offense to include notarizations, landlord-tenant matters, transitional compensation, and basic powers of attorney. This may include simple special powers of attorney related to temporary child care, transit or relocation of the victim, and/or the victim's own financial matters. Legal assistance support for victims in more substantive matters involving estate planning, family law, consumer law, landlord-tenant matters, or any other similar area should be referred to a military legal assistance attorney to afford the victim the best trained and experienced legal resource for effective support.

5-10. Interaction with Civilian Authorities. VLC may accompany clients to civilian court hearings, but may not represent clients in civilian courts or criminal proceedings. VLC may attend civilian hearings in the appropriate uniform or civilian attire, and should be sensitive and cognizant of host nation culture and processes. VLC should take no action which might be construed as representing the victim in civilian matters. If there is a civilian investigation, the VLC may assist the victim in obtaining the status of the investigation and attend the victim's interview by civilian law enforcement. Victims may obtain civilian counsel at their own expense to represent them with civilian authorities.

5-11. VLCP Records and Files

a. Official Records. In general, VLC shall maintain only those official records and files essential to the operation of their services and offices or as required by statute.

b. Client Intake Files. Each VLCP office shall maintain records reflecting client contact information and the general nature of the assistance or service provided, as well as the identity of the service provider and whether the provider was an attorney or a non-attorney staff member. These records may be used to contact current and former clients concerning assistance provided, to avoid conflicts of interest, and to develop statistical data on services rendered. Nothing in this section prohibits an attorney from maintaining his or her own personal log of clients and opposing parties as long as the attorney doing so ensures there is no Personally Identifiable Information (PII) vulnerability in maintaining that log.

(1) Intake Forms. Intake forms may contain private and protected client information that shall not be accessible to the public or to other persons within the VLCP office except as permitted by the Privacy Act and section 5-4. This section does not prohibit the sharing of intake information for the purposes of internal program productivity evaluations or as required for mentoring.

(2) No Privileged Information. To avoid improper release of attorney-client privileged information gained during representation, VLC and staff shall not place confidential information on the hard copy of the intake sheet.

(3) Retention Period. Hardcopy client intake forms shall be retained at the VLC provider's location for two years after the completion of the services and shall be maintained in accordance with references (m) and (n). Questions regarding retention may be directed to the Office of the Judge Advocate General (OJAG) Records Manager. If matters addressed in a particular intake

form remain in dispute, or where further activity in the matter is foreseeable, the hardcopy may be retained indefinitely. Nothing in this section prohibits the servicing VLC from retaining a copy of the intake form for his or her own client files. When the VLC attorney retains a copy of the intake sheet as part of his or her client file, the attorney shall prominently mark the word "COPY" on that sheet and all pages of the attorney's non-office file so it is clear these records are not part of the official Navy or Judge Advocate General's Corps case file.

c. VLC Personal Case Files. VLC personal case files consist of the servicing attorney's private and confidential case records. These files contain personal information about clients and their legal matters. This information is private, privileged, and confidential under federal law and applicable rules of professional conduct. VLC personal case files may contain photocopies of original documents provided to the attorney by the client; attorney notes made during client consultations; research memoranda; and a wide variety of other documents pertaining to the handling of the case and the case outcome. VLC and support staff shall take all steps necessary to protect VLC personal case files, client confidences and privileged information to include securing all case files in locked drawers and behind locked doors.

(1) Access to VLC personal case files and information regarding consultation is normally restricted to the servicing attorney, support staff under the supervision of that attorney and, upon request, the supervisors of that attorney. Access by supervisors may be denied when disclosure would implicate a conflict of interest or violate applicable rules of professional conduct, as noted in section 5-7.

(2) Upon closing a case or terminating representation of a client, all papers and property belonging to the client, or to which the client is entitled, will be promptly returned to the client. VLC shall return all original documents to clients. VLC may retain copies of papers relating to the representation in the VLC's personal case file. Case files of former clients will be retained in a locked drawer and/or behind a locked door by the servicing VLC for at least two years after the completion of services and as long as required by that attorney's licensing authority.

(3) In instances where there is an internal conflict of interest (either within the VLCP office or within a VLCP Region), the servicing attorney must take all reasonable measures to ensure privileged and confidential client information contained in a case file is secured and protected from disclosure to other parties. These internal "firewalls" must be maintained as long as the conflict exists. As noted in section 5-4, in instances where a client has directed limited disclosure of information, such as a Restricted report, that election must be respected and relevant information must be protected from disclosure. The client shall be provided access to the case file and original documents contained therein in accordance with applicable ethical rules and the Privacy Act.

(4) Nothing in this section prohibits the VLC or his/her supervisor from using copies of client case files for internal command training, as long as all PII or Privacy Act privileged or protected information is fully redacted and the underlying facts and circumstances of the case do not allow identification of the client.

5-12. Equipment and Software. VLC and staff shall use government equipment and software as provided. Use of non-government equipment and software is prohibited without a waiver, to ensure maximum safeguard of confidential information. COS VLCP may provide waivers of this policy on a case-by-case basis, as long as client confidentiality can be strictly maintained.

5-13. Mandatory Use of Standardized Forms. COS VLCP is charged with developing standardized forms and practices to streamline VLCP services, leverage best practices, and ensure client satisfaction. COS VLCP will promulgate standardized products for mandatory use by Navy VLCP personnel. Providers shall utilize these forms without modification or alteration in the execution of their assigned duties. Standardized forms and practices are noted in this Manual and will be located on the VLCP SharePoint Community of Practice web page. Thoughtful analysis and constructive evaluation of standardized forms and practices is encouraged by field providers. Input and recommendations for modification of standardized products may be submitted through the VLCP Chain of Command.

VI. Scope of VLCP Services and Limitations

6-1. General Scope of Services. VLC and staff shall provide legal advice, assistance, and advocacy for eligible victims of sexual offenses as defined in this Manual.

a. General Legal Advice. VLC will provide the following types of legal advice and assistance as directed by reference (f):

(1) Legal consultation regarding potential criminal liability of the victim stemming from, or in relation to, the circumstances surrounding the alleged sex-related offense and the victim's right to seek military defense services.

(2) Legal consultation regarding the Victim Witness Assistance Program, including:

(a) the rights and benefits afforded the victim;

(b) the role of the Victim Witness Assistance Program liaison and what privileges do or do not exist between the victim and the liaison; and,

(c) the nature of communication made to the liaison in comparison to communication made to a VLC or a Legal Assistance attorney.

(3) Legal consultation regarding the responsibilities and support provided to the victim by the Sexual Assault Response Coordinator, a unit or installation Victim Advocate, or a Family Advocacy Program Counselor or Advocate, to include any privilege that may exist between those persons and the victim.

(4) Legal consultation regarding the potential for civil litigation against other parties (other than the DoD).

(5) Legal consultation regarding the military justice system, including (but not limited to):

(a) the roles and responsibilities of the Trial Counsel, the Defense Counsel, and investigators; and the right to confer with Trial Counsel;

(b) any proceedings of the military justice process which the victim may observe;

(c) the Government's authority to compel cooperation and testimony; and,

(d) the victim's responsibility to testify and other duties to the court.

(6) When necessary to protect the rights or interests of the victim, accompanying the victim at any proceedings in connection with the reporting, military investigation, and military prosecution of the alleged sex-related offense.

(7) Legal consultation regarding eligibility and requirements for services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.

(8) Legal consultation and assistance in:

(a) personal civil legal matters in accordance with reference (e);

(b) any proceedings of the military justice process in which a victim can participate as a witness or other party;

(c) understanding the availability of, and obtaining any protections offered by, civilian and military protective or restraining orders;

(d) understanding the eligibility and requirements for, and obtaining, any available military and veteran's benefits, such as transitional compensation benefits found in reference (o) and other state and federal victims' compensation programs;

(e) matters of restitution, if relevant; and

(f) matters of reprisal, retaliation, and/or ostracism.

(9) Other legal assistance as authorized herein.

b. Pre-Trial Matters

(1) Pre-Trial Investigations, Confinement And Restraint. VLC may represent the interests of clients in pre-trial investigations, confinement, and restraint determinations pursuant to Rules for Courts-Martial (R.C.M.) 303, 304 and 305. This includes determinations pursuant to command authority or by a military judge.

(2) Article 32 Preliminary Hearings. VLC may represent their clients' interests at Article 32 preliminary hearings governed by R.C.M. 405, as necessary per circumstances and as authorized by case law. This includes proceedings where the client declines to testify.

(3) Military Protective Orders. VLC may represent their clients' interest in obtaining or opposing Military Protective Orders.

(4) Civilian Restraining and Protective Orders. VLC may represent their clients' interest in obtaining civilian restraining and protective orders.

(5) Immunity. VLC may negotiate for grants of immunity from military authorities on behalf of their clients, unless a detailed defense counsel has been assigned to the client.

(6) Pre-Trial Advice. VLC may submit matters on behalf of their client to staff judge advocates (SJA) for consideration as part of the pre-trial advice provided by the SJA to the convening authority under R.C.M. 406.

(7) Victim input to Initial Disposition Authority. VLC may submit matters on behalf of their client to the Initial Disposition Authority regarding whether the victim believes the offense alleged is a sex-related offense; the victim's views as to the disposition of the case; and/or whether the victim prefers the offense be prosecuted by court-martial or in a civilian court with jurisdiction over the offense.

c. Courts-Martial Matters

(1) Testimony. VLC may assist their clients in preparing for testimony and should coordinate with trial counsel as discussed below in section 7-4.

(2) M.R.E. 412. VLC may represent their clients' interests with regard to motions held pursuant to Military Rules of Evidence (M.R.E.) 412, commonly known as the "Rape Shield Law." Counsel may, to the extent permitted by the court or established case law, file motions, affidavits, and responses; call and examine witnesses; present evidence; cross-examine witnesses; present argument; and perform any other lawful, ethical action to represent their clients' interest.

(3) M.R.E. 513 and 514. VLC may represent their clients' interests with regard to the privileges and protections afforded by M.R.E. 513 and 514. Counsel may, to the extent permitted by the court or established case law, file motions, affidavits, and responses; call and examine witnesses; present evidence; cross-examine witnesses; present argument; and perform any other lawful, ethical action to represent their clients' interest.

(4) M.R.E. 303. VLC may represent their clients' interests with regard to the protection provided by M.R.E. 303. Counsel may, to the extent permitted by the court or established case law, file motions, affidavits, and responses; call and examine witnesses; present evidence; cross-examine witnesses; present argument; and perform any other lawful, ethical action to represent their clients' interest.

(5) M.R.E. 615. VLC may represent a client in any request by a party to exclude the victim from a court-martial in which they have a right to be present. VLC may, to the extent permitted by the court or established case law, file motions, affidavits, and responses; call and examine witnesses; present evidence; cross-examine witnesses; present argument; and perform any other lawful, ethical action to represent their clients' interest.

d. Advocacy for Counseling and Treatment. VLC may assist clients in obtaining counseling and/or treatment.

e. Administrative Hearings. VLC may assist their clients in some administrative hearings within the Navy. Where a detailed defense counsel has been assigned, VLC shall relinquish representation of the victim to defense counsel. In the case of a Medical Evaluation Board or

Formal Physical Evaluation Board, VLC shall refer the victim to a qualified Navy Disability Evaluation System counsel for appropriate representation.

f. Article 15 Matters. VLC may assist clients in matters addressed per Article 15 of the UCMJ (nonjudicial punishment). VLC may assist victims in understanding NJP proceedings, filing NJP appeals, submitting documentation for consideration, and appearing as a spokesperson for the victim as allowed by the presiding officer. Refer to section 5-9.b when the client is the subject of Article 15 proceedings.

g. Advocacy for Expedited Transfer of Clients. VLC may advocate for the transfer or re-assignment, temporary or permanent, of any victim when in the best interest of their client.

h. Appellate Matters. VLC are authorized to petition the Court of Criminal Appeals for a *writ of mandamus* on behalf of their clients in appropriate cases. During direct appeal of a guilty finding at a court-martial, a VLC may provide eligible victims with advice regarding the appellate process, specifics of his or her case, and advice about actions to be taken, if any. If an eligible victim has a right to be heard in an appellate matter, either orally or in writing, a VLC is authorized to represent the client in asserting his or her rights during the direct appeal. See section 7-8 of this Manual for more information regarding VLC appellate practice.

6-2. Limitations on Services. VLC shall practice in accordance with the standards provided by reference (c). VLC shall not enter appearances or represent clients in any state court or federal court, except for military courts-martial. VLC shall not provide services to individuals who are not eligible for services, unless specifically authorized to do so by COS VLCP.

6-3. Discretion to Expand Services. Any request to expand VLCP services must be authorized in advance by COS VLCP following consultation with CNLSC.

6-4. Discretion to Limit Services. Where a VLC believes they are unable to provide adequate representation to an eligible client, the VLC shall contact DCOS VLCP and/or COS VLCP for further guidance.

VII. Standards for VLCP Services

7-1. Forming and Terminating Attorney-Client Relationships

a. Informing Victims of Availability of a VLC. VLC shall contact and coordinate with installation personnel, regional and area Sexual Assault Response Coordinators (SARC), local Victim Advocates (VA), Family Advocacy Program (FAP) leadership and providers, area chaplains, medical providers, Naval Criminal Investigative Service (NCIS), trial counsel, and major commands within the VLC's area of responsibility; providing contact information and a description of services available to promote victim awareness of VLCP services. A sample VLCP Brochure is provided as Appendix F.

(1) Communications should include completion of outreach briefs to familiarize local personnel regarding VLC availability and services.

(2) Per reference (1), the following parties shall advise victims of sexual offenses of the availability of VLCP services when contacted by a victim: SARCs, VAs, military criminal investigators (to include NCIS), victim/witness liaisons, medical healthcare providers, and trial counsel. VLC shall ensure these authorities (to include FAP clinical healthcare providers) in their area are aware of this responsibility.

b. Representation Letters. Each VLC has independent authority to assume representation of an eligible victim. Once representation is established, in the case where a client is making a Restricted report, the VLC shall forward a copy of the Representation Letter (Appendix G) to his or her respective OIC for notification and oversight purposes. Where a client has made an Unrestricted report, the VLC shall provide his or her OIC with a copy of the Notice of Representation (Appendix H) at the same time the notice is distributed according to section 7-1.e below. OICs will maintain Representation Letters and Notices for proper management, caseload balancing, and workload tracking. Copies of these letters should be maintained in the OIC's office for two years.

c. Declination of VLC Services. VLC services are optional and may be declined at any time by any victim.

d. Scope of Representation Letter. Where the victim elects VLC representation, the VLC shall review the scope of representation letter with the victim to ensure the victim understands the nature and limits of VLCP representation. The VLC shall retain a signed copy of the letter and ensure the client receives a copy. The VLCP Scope of Representation Letter is provided as Appendix A.

e. Notification of Representation. Where a victim elects VLCP services, VLC representation, and files an Unrestricted report, the VLC shall notify the victim's commander, staff judge advocate (if applicable), NCIS, trial counsel, defense counsel (if applicable) and the VLC OIC of their representation. If a VLC will be appearing in court on behalf of a client, the VLC shall notify the court by filing a Notice of Appearance with the court. The VLC Notice of

Representation form is provided as Appendix H and the VLC Notice of Appearance form is provided as Appendix I.

f. Terminating the Attorney-Client Relationship. The VLC will remain the counsel for the victim, unless or until one or more of the following events occurs:

- (1) The victim releases the VLC from further representation;
- (2) The case has been concluded. Conclusion of a case will generally occur at Convening Authority Action (CAA) or when there is no further action, administrative or criminal, pending in the case;
- (3) The VLC transfers duty stations, resigns, retires, or is reassigned to a non-VLCP billet;
- (4) The victim transfers duty stations or is discharged, except as specified in section 9-2; or,
- (5) The VLC withdraws from representation in accordance with reference (c) after consulting with a supervisory attorney.

g. Notice of Termination of Representation. VLC will provide written notice of termination of the attorney-client relationship to the client. Notice should contain contact information for the VLCP in case the victim has any further questions or concerns. Once the attorney-client relationship is terminated, the VLC is required to maintain attorney-client confidentiality and professional responsibilities to the client. A sample VLC Notice of Termination of Representation Memo is provided as Appendix D.

7-2. Cooperation with other Victim Support Providers. VLC are expected to work collectively, compatibly, and cooperatively with other victim support providers; to include SARCs, VAs, FAP providers, VWAP liaisons, chaplains, medical providers, law enforcement, and trial counsel. VLC must be careful not to reveal confidential client information to unauthorized individuals without prior consent from the victim.

a. The SARC-VA/VLC Relationship. The SARC and VA are the main coordinators for non-legal victim support services onboard Naval installations. SARCs will often notify VLC when a victim is requesting VLCP services. If the victim chooses to form an attorney-client relationship with the VLC, upon consent of the client, the VLC should notify the SARC-VA that such a relationship has been created. The SARC-VA should serve as primary contacts for ensuring medical care and counseling services for the victim while the VLC focuses on legal support and advocacy for the victim. VLC may advocate for the victim, in cooperation with the SARC or VA, when appropriate services are not being provided to a victim. The SARC and VA have responsibilities not only to the victim, but also to the installation or regional commanding officer; and should receive legal advice from the appropriate SJA or RLSO Command Services attorney vice the VLC. VLC may participate in the Sexual Assault Case Management Group (SACMG) when the interests of their individual clients are under review by that group. VLC may participate in the SACMG via phone or other remote means if unable to attend in person.

b. The FAP/VLC Relationship. While adult sexual assault victims are provided support and services by SARCs and VAs, child victims and victims sexually assaulted in the context of “domestic violence” are aided by FAP, its providers, and counselors. The relationship between FAP personnel and VLC should be similar to that noted above for SARC-VA cases, with VLC cooperating and coordinating with FAP providers to ensure appropriate victim support and protection of the victim’s interests. Any FAP-SARC distinction of victims is irrelevant to the VLCP; any eligible victim of a sexual offense will be provided VLCP services. Information on policies regarding child and diminished capacity victims is provided in Chapter X of this Manual.

c. Victim Witness Assistance Program (VWAP). The VLCP has no authority or responsibility with regard to the VWAP program; however, many of the rights afforded to the victim stem from the VWAP program. Refer to reference (p). VLC can use the VWAP Liaison, in addition to the SJA or command services attorney and trial counsel, to obtain information regarding a case and to provide notification of the victim’s concerns. While the VLC should collaterally advocate for the victim’s rights similar to VWAP execution, failure to comply with specific VWAP procedures or granting of rights does not necessarily afford the victim a complaint against the Navy or Marine Corps.

7-3. Initial Meeting with the Victim

a. At the initial meeting with a victim, VLC must carefully establish client eligibility. Despite referral by the SARC, VA, FAP, or any other provider, these personnel may have insufficient information to establish eligibility for VLCP services. VLC should be clear on whether the initial report is Unrestricted or Restricted, to ensure a Restricted status is preserved from accidental or unintentional disclosure to third parties.

(1) An Unrestricted report triggers an investigation, command notification, and allows a sexual assault victim access to medical treatment and counseling. If a victim elects an Unrestricted report, the victim may not change their reporting status to Restricted.

(2) Restricted reports do not trigger an investigation. The command is notified that “an alleged sexual assault” has occurred but is not provided the victim’s name or other PII. Restricted reporting allows victims to confidentially disclose their assault to a SARC, SAPR VA, or healthcare provider and receive healthcare treatment and SARC/VA support without triggering an investigation. While VLC may not officially take a “Restricted Report,” they may explain the distinctions among reporting options to victims. Victims may change Restricted reports to an Unrestricted status. VLC should consult reference (q) for more information on sexual offense reporting options and policies.

(3) Following review, discussion, and acknowledgement of the Scope of Representation Letter, the depth of interview or discussion of individual case facts is left to the discretion of each VLC; however, detailed facts of the particular sexual offense may not be essential for the VLC to perform the initial representation. The initial interview may concentrate on the client’s current status, safety, plans, and goals, as well as any pending court or hearing dates.

b. As with other victim support providers, the VLC's primary responsibility is to support the victim; not to express any judgment or opinion on the victim's allegations or credibility. VLC should listen to the facts of the case from the victim's perspective. This should not prevent the VLC from providing an unbiased, honest analysis of the case to the victim. Initial interviews should be conducted in a professional and empathetic manner, designed to put the client at ease. Initial contact with victims may be provided by VLC staff under the same obligations and conditions.

7-4. Military Justice Representation

a. Generally. Military Justice advocacy on behalf of the victim is not limited to courts-martial, but should be executed throughout the military justice process as circumstances warrant. VLC should be aware of potential avenues and established rights to assert victim interests and opinions throughout the investigation and disciplinary process. Specific avenues include the right to be reasonably heard at pre-trial confinement hearings, sentencing hearings, clemency and parole board hearings, and the opportunity to provide victim input regarding court-martial disposition, pre-trial agreement negotiations, and clemency determinations. VLC advocacy may begin at any point in the investigation and disciplinary process following client employment of a VLC.

b. Trial Counsel. When the victim is represented by a VLC and unless VLC agrees otherwise, trial counsel shall contact VLC prior to contacting the victim regarding any substantive case matter. Where the Government and victim's interests are aligned, VLC should exercise best efforts to assist in building rapport and effective communications between the victim and the trial counsel. However, VLC must remain aware of circumstances where the victim's interests or wishes are divergent from the Government and, in these circumstances, shall zealously and constructively represent their client's interests. There is no requirement for VLC to be present during victim interviews with the trial counsel. However, the victim's preferences should guide the VLC in this matter. The VLC may request a third party attend the interview, such as a trial paralegal, in order to prevent being called as a witness regarding the interview.

c. Defense Counsel. When the victim is represented by a VLC, defense counsel must contact the VLC in order to interview the victim. The VLC's support of an interview by defense counsel should be guided by the victim's preference and any tactical basis for providing an interview. If the VLC attends an interview between the victim and defense counsel, the VLC should request a third party be present in the room, so the VLC can prevent being called as a witness regarding the interview.

d. Interviews with Law Enforcement. When possible and requested by the victim, VLC should attend law enforcement interviews with the victim. The VLC should not interfere with the investigative process, but must ensure the victim is aware of potential consequences, to include administrative consequences, for collateral misconduct. VLC are encouraged to discuss any complicating factors with NCIS, other investigators, and/or trial counsel prior to execution of the interview without specifically implicating the victim.

e. Investigation. The VLC shall not undertake an independent investigation of the victim's allegations. VLC may interview witnesses or seek case documentation in preparation for motions and/or advocacy (where the victim has standing) at Article 32 hearings or Courts-Martial, or in conjunction with asserting the victim's rights.

f. Disclosure of Information. Per reference (r), crime victims, including victims of sexual offenses, are entitled to receive timely and accurate notice of significant military justice matters, events, decisions, and proceedings and are provided materials in the possession of trial counsel, staff judge advocates, and command services attorneys. Such notice and materials are necessary for victims to meaningfully exercise their rights, privileges, and protections under military law. See reference (r) for specific disclosure procedures.

g. Trial and Witness Preparation. VLC may assist the client in understanding likely questions to be asked by trial and defense counsel, and the reasons for asking such questions. While witness preparation is recommended, VLC must be careful to avoid any appearance of witness tampering or suggested testimony, and any presentation of untruthful or perjured testimony. Trial counsel should take the lead in preparing victims for testimony. VLC should ensure victims are afforded the opportunity to familiarize themselves with the court's location, setting, procedures, and transit to and from the court location. VLC are not expected to assist the Government in trial strategy, beyond supporting the victim in his/her decisions, intentions, and participation. The VLC's purpose is to serve the interests of the client.

h. Article 32 Preliminary Hearings. Reference (s) provided victims' *standing* to be heard on matters related to M.R.E. 412, 513, and 514. This standing applies to Article 32 preliminary hearings as well. Trial counsel or VLC may request a closed session of the Article 32 when M.R.E. 412 matters are being discussed. [NOTE: VLC may consider asking the Convening Authority to place reasonable guidelines on the victim's testimony during an Article 32; to include a 10 minute break every hour, limiting victim testimony to no more than six hours each day, or ensuring the Preliminary Hearing Officer halts the proceeding at any point in which he/she feels the victim is no longer able to provide probative evidence.]

i. Testimonial Misconduct by the Victim. A victim's commission of misconduct affecting the military justice process, such as perjury or obstruction of justice, is not to be considered minor misconduct. The victim should be referred to a non-conflicted defense counsel and any such instance shall be immediately reported to COS VLCP.

7-5. Post-Trial Matters. In accordance with section 7-1.f of this Manual, VLC continue to represent the victim's interests after the court-martial. This representation may include, but is not limited to, letters or "victim impact statements" to the SJA and/or Convening Authority concerning action on findings, approval of the sentence, enforcement of any restitution ordered by the court or convening authority, violation of any military protective orders, victim input on clemency matters, administrative matters such as pay, transfer, or medical issues, etc. VLC will keep their clients apprised of the progress of post-trial processing and make inquiry when there appears to be no progress.

7-6. Civil Litigation Matters. VLC shall not enter an appearance or otherwise represent victims in civilian court.

7-7. Disability Evaluation System. Where an eligible victim is being processed within the Disability Evaluation System (DES) and the report of sexual assault is contained in his or her medical record, or the client's commanding officer is asking for information that would reveal the sexual offense report, or any other issue regarding the offense is implicated in the DES process, the victim may engage VLC to assist in protecting his or her rights, to include working with the Physical Evaluation Board (PEB) counsel assigned to the case. VLC shall not, however, represent victims within the DES process or at any medical boards.

7-8. Appellate Practice.

a. VLCP Appellate Team. COS VLCP appoints individual VLC to be VLCP Appellate Team members, with an Appellate Team leader designated. Appellate Team members will be specifically trained for appellate practice. Training may consist of attendance at the annual Joint Appellate Advocacy Training, specific training with OJAG Code 46, as well as with other entities, as deemed appropriate by COS VLCP in consultation with CNLSC and the Assistant Judge Advocate General, Military Law (AJAG 02) . The Appellate Team will be charged with training all VLC on issue-spotting at trial, and will be available to support during motions and courts-martial should a trial VLC require consultation on issues and/or assistance with filing a *writ of mandamus*. Appellate Team members will also be responsible for advising victims with post-trial appellate questions and potentially representing victims in exercising post-trial appellate rights. If a past or potential VLC client requests VLC representation during the post-trial process, the request will be forwarded to the Appellate Team Lead and DCOS VLCP. The Appellate team Lead and DCOS VLCP will assign a member of the Appellate Team as the primary Appellate Team VLC to provide post-trial VLC services to the client. On a case-by-case basis, COS VLCP may assign a non-Appellate Team VLC to participate in post-trial matters, under the supervision of the primary Appellate Team VLC. All VLC will be advised of Appellate Team member contact information for easy access should appellate issues arise in any context.

b. Appellate Issues at Court-Martial. Per reference (t), VLC are empowered to file petitions for extraordinary relief in the form of a *writ of mandamus* with the Courts of Criminal Appeals where necessary to protect their clients' rights. Trial VLC will be responsible for these filings; however, they shall advise the Appellate Team Lead of these issues as they arise and will work with the assigned member(s) of the Appellate Team on identifying issues and required filings. The Appellate Team Lead shall keep COS and DCOS VLCP apprised of appellate activity and will seek approval from COS VLCP via DCOS when assigning Appellate Team members to cases.

c. Post-Trial Notice and Appellate Issues. Following a finding of guilty at a court-martial, victims will be notified of their post-trial and appellate rights. This will include the right to be notified of pertinent milestones during the convicted offender's direct appeal of the guilty finding, where applicable. Trial counsel is obligated to provide this post-trial notification to victims. However, where a VLC is representing a victim, VLC shall verify that post-trial and

appellate notifications are completed and shall follow-up with the client to ensure a full understanding of post-trial and appellate rights. During the explanation of a victim's post-trial and appellate rights, VLC should advise clients that if they elected to receive notification, they will be notified by a representative of the Navy-Marine Corps Appellate Review Activity of pertinent milestones during direct appeal of their case and may be entitled to further VLC services to explain the appellate process generally and their case specifically at that time. Because termination of VLC representation typically occurs after Convening Authority's Action, victims should be advised that they may not be entitled to post-trial appellate representation by their original trial VLC. If an eligible victim has a right to be heard as part of the post-trial appellate process, a VLC, most likely assigned from the Appellate Team, may represent the victim on those matters and utilize VLC Program appellate resources and subject matter experts to assist in representation. If any VLC identifies a potential appellate issue either during trial or during the post-trial appellate process, he or she should immediately contact the VLCP³ Appellate Team Lead for support and assistance. The VLCP Appellate Team Lead will keep COS and DCOS VLCP apprised of all Navy VLC appellate activity.

VIII. Conflicts of Interest and Professional Responsibility

8-1. Definitions

a. Conflict of Interest. Per Rule 1.7(a) of reference (c), a “conflict of interest” is present when “the representation of one client will be directly adverse to another client” or when “there is a significant risk that the representation of one or more clients will be materially limited by the covered attorney's responsibilities to another client, a former client or a third person or by a personal interest of the covered attorney.” Rule 1.7(b) of reference (c) allows attorneys to represent conflicting clients when:

(1) the covered attorney reasonably believes that he or she will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law or regulation;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the covered attorney in the same litigation or other proceeding before a tribunal; and,

(4) each affected client gives informed consent, confirmed in writing.

b. Current and Former Clients. An individual who is eligible for VLCP services becomes a client once he or she executes and delivers the standardized VLCP Scope of Representation letter, even if there will be no subsequent communication between the client and the attorney or any other VLCP support staff. A current client is a client for whom an attorney is still providing services and assistance. A client becomes a former client once the attorney representation has ended, per section 7-1.f of this Manual. In order to properly close a case in situations where the attorney created an ongoing case file, the attorney shall advise the client in writing that the attorney has completed action on the client's behalf, that the attorney is closing the client's file, and the client may retrieve any personal documents from the office. The client shall be notified that if he or she chooses not to retrieve those documents from the VLCP office, they will be shredded in accordance with the document retention and destruction policy as described in reference (n). When possible, the VLC should have the client sign an acknowledgment of case representation termination and receipt of case documents.

c. Prospective Client. A prospective client is one who has a pending appointment with a VLC for the receipt of attorney services but has not yet established an attorney-client relationship with a VLC on any legal matter. If the prospective client fails to keep his or her appointment, he or she is a “no-show” (as opposed to a former client) and is not considered to be a client. If the prospective client keeps the appointment but it is revealed a conflict exists, no attorney-client relationship is formed unless the attorney actually provided legal advice to the prospective client. The conflicted client shall be referred to an alternate VLC per section 8-6. Nothing in this section shall be construed as relieving the attorney of the ethical duty to maintain confidentiality of all communications during the initial meeting in which it was inadvertently discovered that a conflict existed.

d. VLCP Office. A VLCP office is considered to be the stand-alone, separate VLCP office maintained at an independent military installation and may be assigned a single or multiple VLC.

8-2. General Rule. A VLC shall not knowingly undertake to represent a client whose interest in a particular matter is the same or is substantially related to or materially adverse to that of a current or former client. For VLCP purposes, this may occur when both an offender and victim counter-claim they were sexually assaulted by the other. When representation of a current/prospective client is determined to be a direct conflict, the excluded party will be referred to another VLC per section 8-6 below. Under no circumstances shall one VLC represent opposing parties in the same matter.

8-3. Duration of the Attorney-Client Relationship. Attorney-client relationships within the VLCP are status-based, and may extend for as long as a client is eligible and feels the need for legal services. VLC should continue to provide legal services related to the client's sexual assault/offense consistent with this Manual as long as those services are reasonably needed by the victim. This may include legal support during the appellate process (see section 7-8 of this Manual). Whether or not the attorney-client relationship has ended, the attorney and office support personnel shall protect all confidential and privileged client information from disclosure.

8-4. Duty to Former Clients. VLC must determine whether the interests of a former client intersect in a material way with those of a prospective client. Pursuant to Rule 1.9 of reference (c), potential conflicts of interest between a former client and current or prospective client must be carefully reviewed before undertaking representation of the prospective client. The rule prohibits a lawyer from representing a new client in a case that is materially adverse to the interests of a former client unless that former client gives written consent. Even when the VLC receives written consent, VLC must be aware of remaining ethical duties to a former client and not use information obtained from the former client to his or her disadvantage.

8-5. Conflict Screening. As noted in section 5-7, VLC shall maintain effective conflict screening procedures and ensure instances involving a conflict of interest as set forth in reference (c) are referred to other VLC, as outlined below.

8-6. Conflict of Interest Avoidance and Referrals.

a. As noted above, VLC shall not knowingly undertake to represent a client whose interests are substantially related to and/or materially adverse to that of a current or former client. Attorneys must take early, decisive action to avoid conflicts of interest to ensure independent representation for all.

b. When a conflict of interest exists, VLC shall refer the conflicted party to an alternate VLC. Alternate VLC may render assistance via remote means, including the telephone, email, or web-based communications in accordance with section 5-8 of this Manual. Referrals shall be directed (in order of precedence) to:

(1) A VLC in the same office who can exercise wholly independent representation of the client;

- (2) A VLC attached to the Navy VLCP, but located on a different installation;
- (3) A VLC assigned to another region falling under a different OIC; or
- (4) Another military service's VLC or SVC, after coordinating a request through DCOS VLCP (see section 8-6.e below).

c. VLC should immediately contact VLCP leadership when no referral is available or appropriate.

d. As noted in section 5-7.d, if a VLC providing assistance to a conflicted party requires mentoring from another VLC, that VLC must not consult the same supervisory attorney or subject matter expert consulted by the attorney assisting the opposing party. Alternate sources of guidance may be sought via VLCP leadership.

e. VLCP offices are encouraged to coordinate with other military service VLC/SVC providers within their areas of responsibility to facilitate collaborative professional relationships. Where a referral of a conflicted client or any victim desiring a VLC/SVC from a service other than his or her own is concerned, requests shall be forwarded to DCOS VLCP for coordination with other service VLC/SVC program deputies and case tracking purposes.

8-7. Referrals to Private Sector Agencies or Attorneys. VLC shall not normally make referrals to outside agencies or attorneys. If circumstances suggest referral is in the best interest of the victim, VLC shall discuss referral with COS VLCP prior to that referral.

IX. Case or Client Transfer

9-1. Transfer of Case at Client's Request. Clients may request a transfer of their case from one VLC to another, for any reason. Requests for transfer will be discussed with VLCP leadership and should be granted where transfer will not cause conflicts of interest or material challenges in representing the victim. When a transfer occurs, the initial VLC shall make contact with the new VLC, provide him or her a copy of the victim's case file, and advise the new VLC of any pending hearing dates, case deadlines, or other key issues impacting representation of the victim.

9-2. Transfer of Client. When a client transfers to another duty station prior to the completion of legal representation in his or her case, the client may request a new VLC at the new duty location. As above, the previous VLC should ensure transfer of all case files and information to the new VLC in the new location. Once case transfer is complete, the prior VLC shall normally terminate representation of the victim.

a. When a client transfers but case investigation and disciplinary processing remains active in the original location, the original VLC will normally continue representation in the case unless the victim seeks appointment of a subsequent VLC. Where the original VLC remains engaged, VLC located at the client's new duty station may provide general, non-attorney/client based support and assistance to the victim in seeking medical services, counseling, and other local victim-related support.

b. In cases where a victim is temporarily assigned to an alternate duty location, for example while on Temporary Additional Duty/Temporary Duty, deployed, or in a transit status, a victim may seek *limited representation* from a local VLC to provide immediate legal support in that local area to include attendance at law enforcement interviews, advocacy with the victim's command, advocacy for medical or counseling services, and other advocacy to preserve the victim's immediate safety, health, and welfare. The local VLC's involvement shall be limited and terminate with the victim's departure, return to permanent duty station or homeport where the victim may seek a permanent VLC for continued representation. The limited nature of that initial VLC relationship will be memorialized in a Limited Scope of Representation Letter, as provided in Appendix J.

9-3. Discharge of Client. When a client is discharged from military service, VLCP representation is normally terminated, the case file is closed, and case documents are returned to the victim. VLC may seek exceptions to this rule from COS VLCP where good cause exists to continue relevant VLCP support (see Eligibility Waiver Request process outlined in section 5-1.e of this Manual).

X. Child and Diminished Capacity Victims

10-1. Authority. Expansion of VLCP legal services to child and diminished capacity victims was established per § 1701 of reference (b).

10-2. Definitions.

a. Victim of a sexual offense. A person who alleges he or she suffered direct emotional or physical harm as a result of the commission of a sex-related offense as defined by state or federal law or UCMJ Articles 120, 120a, 120b, 120c, 125, 134 (Assault with Intent to Commit Rape), or 80 (an attempt to commit such offenses).

b. Diminished capacity. A person whose capacity to make adequately considered decisions in connection with their representation is diminished, whether because of minority, mental impairment, or for some other reason. Refer to Rule 1.14 of reference (c) for additional guidance.

c. Minor. A person under the age of 18 years. A “minor” may alternatively be referred to as a “child” herein.

d. Eligibility. Refers to individuals entitled to VLC services. See section 5-1 for detailed criteria and guidance on specific eligibility.

e. Guardian. A person appointed to act as a general guardian over the person and their affairs by a competent family or dependency state court of law, also known as a “conservator,” “custodian” or “curator.”

f. Guardian *ad litem*. A person appointed by a state civil or criminal court to represent the legal interests of a minor or person with diminished capacity in a particular cause before the court.

g. Article 6b Designee. A person appointed by a military judge or other designated authority in accordance with UCMJ section 806b to assume and enforce the victims’ Article 6b rights under said section.

10-3. Applicability. These rules apply to the legal representation of minors and persons with diminished capacity. All VLC shall adhere to these rules in the formation of any attorney-client relationship with minor or diminished capacity victims of a sexual offense.

10-4. Representation. The victim of the sexual offense is the VLC’s client at all times. The VLC has an ethical obligation to advocate for the client’s expressed interests. Pursuant to Rule 1.14 of reference (c), when a client’s capacity is diminished due to age or other reason, VLC must, as far as reasonably possible, maintain a normal attorney-client relationship with the client. This means that VLC shall assess each client’s capacity separately and continually to determine if a particular client has the considered judgment and capacity to direct VLCP services. If the VLC determines that a minor or diminished capacity client has sufficient considered judgment

and capacity to direct VLCP services, that client shall retain a VLC in a traditional attorney-client relationship.

10-5. Minor/Diminished Capacity Client Intake. All child and diminished capacity clients should, at a minimum, be personally contacted and interviewed by a VLC to determine the client's wishes and assess the client's well-being and capacity to direct their legal representation. It is critical for the VLC to observe the client and the client's interactions with others (parent(s), guardian, the attorney, FAP personnel, counselors, law enforcement, etc.) and assess the severity of the injuries, the client's general health and condition, and the client's mental acuity and ability to listen, understand, reason and make decisions. VLC should personally meet and communicate with any client old enough or capable of communicating on one or more occasions to allow the VLC to assess the client's capacity to direct the VLC's representation.

10-6. Determining Whether a Minor or Diminished Capacity Victim has Considered Judgment and the Capacity to Direct the Representation. Determining whether a minor or diminished capacity client has considered judgment and the capacity to direct representation is of paramount importance. VLC shall devote sufficient time and attention to make an accurate assessment of such matters, both initially and throughout representation of the client. To determine whether the client has considered judgment and the capacity to direct their legal representation, VLC should focus on the client's decision-making process, rather than the client's actual decision. VLC should determine whether the client understands the risks and benefits of the client's legal position and whether the client can reasonably communicate the client's wishes. Appendix K, a Child Competency Assessment Worksheet, shall be utilized by VLC in making this determination during each consultation. A copy of this form shall be maintained in the client's case file.

a. VLC should consider the following non-exhaustive list of factors when determining whether a client has considered judgment and sufficient capacity to direct the representation:

- (1) the client's chronological and intellectual age;
- (2) the client's developmental stage;
- (3) the client's cognitive ability;
- (4) the client's socialization;
- (5) the client's emotional and mental development;
- (6) the client's expression of a relevant position;
- (7) the client's ability to communicate with the VLC;
- (8) the client's ability to articulate reasons for a legal position; and

(9) the client's relevant and available personal records such as reports from social workers, psychiatrists, psychologists, school reports/records and other reports relating to the client's capacity or intellectual development.

b. It should be noted that a client may be capable of considered judgment even though the client has a significant cognitive or emotional disability.

c. VLC should be sensitive to cultural, racial, ethnic, or economic differences between the VLC and the client as such differences may inappropriately influence the VLC's assessment of whether the client has considered judgment. In other words, VLC should meet the client, regardless of the client's age or disability, in an environment that will facilitate reasonable attorney-client communications. VLC are encouraged to meet with the client in different environments, which may include the client's school or home or other environment, when reasonable and necessary so that VLC may establish a relationship with the client and accurately assess the client's capacity and considered judgment.

d. In making a determination regarding considered judgment, VLC may seek guidance from professionals, family members, school officials, and other concerned persons. VLC should also determine if any evaluations are needed and advocate for them when appropriate. At all times, VLC must recognize the attorney-client privilege and maintain confidentiality with the client.

e. When determining whether a minor or diminished capacity client possesses considered judgment and capacity to direct some, any, or all aspects of VLC representation, VLC shall remain cognizant of the guidance contained in Rule 1.14 of reference (c). When a client's capacity is diminished due to age or other reason, the VLC must, as far as reasonably possible, maintain a normal attorney-client relationship with the client. A minor or diminished capacity client's inability to provide considered judgment or a lack of capacity to direct VLC on one or more matters during the course of the victim's representation does not automatically mean that the victim is unable or lacks the capacity to direct VLC on other matters. Accordingly, VLC should carefully consider whether the minor or diminished capacity client possesses the considered judgment and capacity to direct any aspect of the VLC's representation vice a lack of capacity to direct all aspects of the representation. The VLC should inquire thoroughly into all circumstances that a careful and competent person in the client's position should consider in determining the client's best decision regarding the issue in question. After consultation with the client, and as necessary with the client's parent(s) or guardian (if there appears to be no conflict with the client), FAP or other mental health counselors or therapists, and VLCP leadership, the VLC shall advocate on the particular issue that the VLC determines to be the best decision for the client under the circumstances. In such an instance, the client shall continue to direct the VLC in all other areas where the client maintains sufficient capacity and considered judgment. VLC should exercise his or her reasoned judgment, considering Rule 1.14, to determine if the minor or diminished capacity client should be permitted to direct a particular matter on his or her own accord.

10-7. When the VLC Determines that the client has the Considered Judgment and Capacity to Direct the Representation. The VLC shall explain and have the client execute the Scope of Representation Letter provided in Appendix L. Both the client and VLC should retain a copy of

the signed letter. VLC should seek the non-offending parent or guardian's signature as an acknowledgement on the letter and retain a copy of that acknowledgement in the client case file. If the VLC is unable to secure the non-offending parent or guardian's signature, the VLC should note on the letter the date and to whom the acknowledgment was offered, and retain a copy in the client file.

10-8. When the VLC Determines the Client does not Possess the Considered Judgment and Capacity to Direct any Aspect of the VLC's Representation. The VLC shall consult with the client's non-offending parent or guardian to determine if they desire to retain the VLC to provide victim services for the client. If the non-offending parent or guardian desires to retain the VLC, the VLC shall explain and have the non-offending parent or guardian execute the Scope of Representation Letter provided in Appendix M. The scope letter provided will plainly explain that while the non-offending parent or guardian is authorizing the representation, the minor or diminished capacity victim is the client in all instances; and while the parent or guardian may be consulted along with other persons by the VLC, the minor or diminished capacity victim remains the client and the parent/guardian does not direct the legal representation. Furthermore, while the VLC may seek input from the non-offending parent or guardian, final legal decisions rest with the VLC. The only person other than the client who may direct VLC legal services for minor or diminished capacity victims is a court appointed legal guardian as defined above. The non-offending parent or guardian who retained the VLC for the child or diminished capacity victim should be provided and retain a copy of the signed Scope of Representation Letter, as should the VLC.

10-9. All Minor or Diminished Capacity Victims of Sexual Offenses. When representing all minor or diminished capacity victims:

a. Routine contact and access to the victim will be critical to effective representation. When face-to-face contact with a client is not reasonably possible or is otherwise not necessary, VLC must still seek meaningful contact with the client utilizing other means. These situations may include:

(1) when the client is located in a remote area; and

(2) the client is of a sufficient chronological or developmental age to permit the VLC to remotely assess and establish an attorney-client relationship.

b. VLC should have face-to-face contact with the client as early as possible in the relationship and prior to any court proceeding where the client's rights are in issue. Contact should include, at a minimum, regular telephonic communications to include FaceTime or other available video communications, as well as in person and written communications as appropriate. While the cooperation and support of the competent client's non-offending parent or guardian may not always be necessary, it should be sought, with the client's consent, to facilitate access to the client and the client's relevant records.

c. VLC shall be vigilant to continually assess the client's capacity to direct the VLC's legal representation throughout the term of the relationship.

d. VLC shall communicate with the client using developmentally appropriate language and communication methods, and shall assess at regular, frequent intervals the client's comprehension, thought processing, and ability to provide reasoned, coherent, thoughtful direction to the VLC.

e. VLC should develop a position and strategy concerning relevant aspects of proceedings that may potentially impact the victim's rights.

(1) When developing the client's legal position, VLC should ensure the client is provided advice, guidance, and all information necessary to make an informed decision.

(2) VLC should give the client time to ask questions and consider any alternatives. VLC should obtain information from the client about the following when appropriate with due consideration given to concerns regarding re-victimization and facilitating the victim's overall recovery:

- (a) the client's feelings of safety;
- (b) the client's knowledge about the alleged crime;
- (c) the accuracy of information relayed to VLC by Trial Counsel or Law Enforcement;
- (d) any additional relevant facts not previously disclosed to Law Enforcement or Trial Counsel;
- (e) services being provided to the victim to assist in recovery;
- (f) any additional service that may be needed;
- (g) the client's concerns about the investigation or case;
- (h) the client's long and short-term goals;
- (i) whether the client wishes to testify and participate in any criminal proceeding; and,
- (j) any other relevant information

(3) VLC should confer with the client as often as necessary after retention to ascertain all relevant facts and necessary information. After the VLC is fully informed on the facts and the law, VLC should advise the client concerning all aspects of their legal representation. VLC should explain to the client in a manner appropriate to the client's level of development what is expected to happen before, during, and after each hearing; and should at reasonable regular intervals provide the client with updates regarding the status of their case.

f. With the client's permission and absent conflict(s) of interest, the VLC is encouraged to involve the non-offending parent, family members, and other appropriate people in the minor or

diminished capacity victim's life in the representation to the extent the VLC deems reasonable under the circumstances to help facilitate the victim's safety, recovery and participation.

g. Should a VLC question or develop concern regarding the client's competency to direct VLC services on a particular issue or in general, the VLC may discuss such concerns with his or her supervisory attorney, regional VLCP OIC and/or COS/DCOS VLCP. These concerns must be evaluated on a case-by-case basis.

h. In instances where the VLC and his or her supervising attorney disagree as to the competence of the child or diminished capacity victim to direct VLCP representation or where the VLC or his or her supervisory attorney believe measures are required to protect the client, VLC must notify COS VLCP prior to taking any action. With COS VLCP approval, VLC may take actions to include consulting with family members, medical or mental health professionals, or other professional services, the FAP multi-disciplinary team and/or relevant state or civil child development authorities to secure their assistance in rendering a confidential opinion on the client's competency to direct legal services. VLC should consider whether appointment of a civil guardian *ad litem* or Article 6b representative is necessary to protect the client's interests. In taking protective action, the VLC should be guided by such factors as the wishes and values of the client, the client's best interests, respecting the client's family and social connections (e.g., teachers, religious leaders, coaches), and his or her obligations pursuant to the Rules of Professional Conduct.

i. VLC shall recognize that information relating to the representation of a client with diminished capacity is protected as confidential and is generally covered by attorney-client privilege. VLC having a diminished capacity client who is at risk of substantial harm (i.e., serious physical, financial, or other harm) unless action is taken and VLC cannot adequately act in the client's own interest are permitted to disclose confidential client information to third parties to aid the client as authorized by their licensing authority's professional responsibility rules, and in all cases only to the extent reasonably necessary to protect the client's interests.

j. COS VLCP, as the VLCP's supervising attorney, retains the authority and prerogative to resolve any disagreements and direct necessary action of VLC should a difference of opinion develop between VLC and his or her VLC supervisor on matters regarding representation of minor or diminished capacity victims.

10-10. Additional Matters.

a. A standardized training aid entitled "When Kids Testify at Court-Martial" is provided in Appendix N and may be provided to younger or developmentally challenged victims to help them understand the court-martial process and what occurs when they are called to testify. Where possible, the VLC shall make every effort to escort a child victim to the courtroom or physical site of the testimony for familiarization prior to testifying. Where the VLC is not able to provide this familiarization, he or she shall work with the detailed trial counsel to ensure this occurs.

b. In all cases, the VLC should seek the support of the non-offending parent or guardian to contact the relevant victim advocate, therapist, FAP counselor or case worker, clinical social worker, medical provider, school counselor, teacher or other parties related to the case to the extent necessary to provide effective legal representation of the victim, and also to comply with all mandatory child, elderly, and other abuse reporting requirements.

c. When deemed necessary for legal representation, the VLC should request the non-offending parent or guardian sign any release and consent forms required to give the VLC access to the victim's counseling, medical, school, and other records relevant to his or her report of sexual assault.

10-11. When an Article 6b Representative has been Appointed. Per § 1701 of reference (b), once a 6b representative has been appointed to promote and preserve the 6b rights of a minor or diminished capacity victim, VLC may cooperate with that agent to enforce those 6b rights, subject to the confidentiality, consent, and representation requirements established above.

XI. Training

11-1. Policy. Effective VLCP representation requires specialized victim awareness and support training in addition to matters addressed under the normal JAG Corps military justice curriculum. VLC must attend Victims' Counsel training executed by one of the military services prior to official certification as a VLC. When such a course is not immediately available to reporting VLC, they shall work directly with local certified practicing VLC for immediate, comprehensive just-in-time training until their attendance at an official certification course is completed. Child Victim training, either via one of the military service schools or other related training approved by COS VLCP is required for each VLC. Training that addresses "vicarious trauma" or "empathy fatigue" is required for each VLC annually. Every effort will be made to ensure VLC receive this annual training in person, provided by VLCP, RLSO, or another local entity approved by COS VLCP. However, where in-person training is not practicable for individual VLC, the annual requirement will be satisfied via online DCO or similar video conferencing system. Regional OICs will continuously monitor and engage VLC to assess whether VLCP need additional training or assistance. In addition, once a VLC has been in the Program for six months, the regional OIC shall specifically engage the new VLC to assess any concerns he or she may have regarding VLC duties, as well as to ensure an understanding of self-care and vicarious trauma. The OIC will report completion of this initial assessment to COS VLCP along with any concerns. Thereafter, the OIC, DCOS and/or COS will assess each VLC every six months.

11-2. Training Objectives. VLC should, at a minimum, be exposed to academic course work and practical exercises addressing the legal, psychological, emotional, and administrative challenges facing victims of sexual offenses. Coursework concerning the neurobiology of sexual offense victims and specialized training regarding the evaluation and representation of child victims is also encouraged.

11-3. Additional Victim-Focused Training. VLC should seek additional training and education in all matters related to effective representation of victims of a sexual offense. VLC are encouraged to locate and attend military and civilian training that will best prepare them to understand, engage, and effectively advocate for all such eligible victims. VLC shall contact COS VLCP for authorization and travel funding to complete additional training.

11-4. Other Training Requirements. In addition to the training outlined above, VLCP personnel shall complete training requirements as follows:

a. All VLCP personnel shall complete mandatory General Military Training (GMT) and report completion to their local Professional Development Officer (PDO) or other RLSO training authority for accounting and tracking purposes. VLCP personnel may complete GMT or other mandatory DoD, DON, or JAG Corps training by whatever means is provided or authorized, to include use of Navy Knowledge Online, or a similar system. VLCP personnel shall participate in all VLCP training events, to include web-based Defense Connect Online (DCO) sessions, unless otherwise excused for approved leave, Sick in Quarters (SIQ), or Temporary Additional Duty (TEMADD)/Temporary Duty (TDY) status.

b. All enlisted members assigned to the VLCP shall complete the Sexual Assault Prevention and Response (SAPR) Victim Advocate (VA) training no later than six months after reporting to a VLC office. The training should be arranged via the local Sexual Assault Response Coordinator (SARC). *Note: Given issues of conflict and confidentiality, VLCP Yeomen will not act in the role as an active SAPR VA while assigned to the VLCP.*

XII. Personnel and Office Administration

12-1. Policy. The following policies shall guide the administration and management of all VLCP personnel and offices. These policies should be implemented in conjunction with reference (u) and other applicable Navy regulations.

12-2. VLCP Administration. Per reference (u), VLCP personnel are administratively assigned to the Region Legal Service Office (RLSO) locally associated with their duty assignment. This assignment is solely for administrative maintenance and nominal support of VLCP personnel. Unless required to clarify duties and responsibilities assigned to the VLCP, this instruction does not address any administrative responsibilities assigned by reference (u) to the RLSO or the JAG Consolidated Business Office (JCAB).

12-3. Newly Assigned Personnel. All personnel newly assigned to the VLCP, to include active duty and reserve military members and civilian employees, shall be supported by and adhere to standard procedures for newly assigned personnel as outlined in this section.

a. Welcome Aboard Package. Within approximately ten days of notification of permanent change of station orders directing a service member to report for duty to the VLCP, or upon notice of a civilian employee's transfer or hire to the VLCP, a VLCP sponsor shall be assigned and a welcome aboard package generated for COS VLCP's signature. The welcome aboard package shall include a welcome aboard letter prepared on VLCP letterhead. A welcome aboard letter template is provided in Appendix O.

b. Check-in Procedures. DCOS VLCP shall track projected reporting dates and assign sponsors for newly assigned personnel. Each regional VLCP OIC is responsible for execution of the sponsorship program and check-in procedures in his or her area of responsibility. All newly assigned personnel shall be provided the appropriate forms and documentation to complete check-in pursuant to Appendix P.

12-4. VLCP Operations. COS VLCP shall ensure the operations and accountability of all VLCP personnel, to include the following measures promoting the good order and effective execution of the VLCP mission.

a. General Accountability and Operations. The VLCP's normal hours of operation are 0730 to 1630, Monday through Friday, excluding holidays and periods of authorized liberty. Other hours of operation may be required to meet mission demand. VLCP personnel requiring an absence from their duties for reasons other than official travel or training shall advise their OIC of the absence as soon as possible to ensure local victims retain access to timely VLCP support. Absences of more than a duty day must be approved by DCOS VLCP.

(1) VLCP Recall Roster. A current VLCP Recall Roster shall be maintained to ensure personnel safety and accountability. DCOS VLCP shall ensure a complete, up-to-date listing of the local addresses, phone numbers, and personal e-mail addresses of all VLCP personnel is maintained. Maintenance of this information is necessary to ensure all personnel can be accounted for and contacted in the event of a disaster or emergency.

(a) All VLCP personnel shall apprise DCOS VLCP of their current recall address, phone numbers, and personal e-mail addresses.

(b) The information in the VLCP Recall Roster is protected Personally Identifiable Information (PII). Distribution shall be strictly controlled to avoid improper disclosure.

(2) Navy Family Accountability and Assessment System (NFAAS) Reporting Requirements. VLCP personnel shall be accounted for per the local RLSO's NFAAS muster and reporting requirements. All VLCP personnel are responsible for keeping their personal contact and family information up to date in NFAAS. Regional VLCP OICs are responsible for confirming a member's and/or his or her dependents' physical availability and safety status (e.g., home, on leave, on travel, and/or at a safe location, etc.) when asked to confirm that status by RLSO.

(3) SIQ Procedures. Enlisted members deemed SIQ shall submit a SIQ/Limited Duty (LIMDU)/Convalescent chit to their respective VLC via scan and email or in person upon being released from any Medical Treatment Facility. Officers shall submit a SIQ/LIMDU/Convalescent leave chit to their OIC via scan and email upon being released from any Medical Treatment Facility.

b. Leave and Liberty.

(1) Civilian Personnel Leave. VLCP civilian personnel leave will be administered in accordance with Department of the Navy policy and OJAG/CNLSC Human Resources Office (HRO) directives. Civilians will ensure the proper Application for Leave request is forwarded to their supervisor for approval and signature.

(2) Military Personnel Leave. All VLCP military personnel shall submit leave requests via the Navy Standard Integrated Personnel System (NSIPS) at <https://nsips.nmci.navy.mil/nsipscl/jsp/index.jsp>.

(a) VLCP military personnel shall submit leave requests to DCOS VLCP via their OIC. OICs shall forward each request indicating their recommendation for approval or disapproval and citing the coverage plan for any absent VLC. DCOS VLCP shall notify both the requestor and OIC of disposition. Approved leave shall be processed by the relevant RLSO per reference (u). Requestors shall note "VLCP approval" in the "Remarks" section of the leave chit forwarded to RLSO for processing.

(b) OCONUS Leave. Many OCONUS travel destinations have heightened security, force protection, and personal safety requirements needing completion prior to processing and approval. Travel to any area with external clearance requirements while in a leave status must comply with all DoD and Navy force protection and security policies. It is each member's responsibility to thoroughly research and comply with all such regulations. See the electronic foreign clearance guide as a reference, <https://www.fcg.pentagon.mil/fcg.cfm>.

(3) Liberty for Military Members. COS VLCP is the designated approver for all liberty requests by VLCP military personnel. Requests shall be forwarded to DCOS VLCP via the requestor's OIC including the OIC's recommendation on disposition. DCOS VLCP will advise the requestor and OIC of COS VLCP's decision. In general, the VLCP will follow DoD, Secretary of the Navy, DON, JAG Corps, or local Navy Region guidance regarding national holiday or holiday weekend liberty (e.g., granting 96 hour liberty). COS VLCP, or in his or her absence, DCOS VLCP may approve special liberty.

(4) Administrative and Compensatory Time for Civilian Members. The same process and practices shall be executed for any civilian administrative and compensatory time, in keeping with OJAG/CNLSC HRO directives.

(5) Once leave and/or liberty is approved, all VLCP personnel shall update the VLCP SharePoint calendar and coordinate any necessary office coverage during his or her absence.

c. Physical Readiness. All VLCP military members are personally responsible for attaining and maintaining a condition of physical readiness that will enable them to perform their duties and present a sharp, professional, military appearance.

(1) Fitness will be accomplished through regular participation in a physical readiness and training program, unless temporarily exempted from exercise for medical reasons. VLCP personnel are encouraged to exercise together or with other JAG community or local military personnel to build esprit de corps and morale.

(2) Physical readiness testing will be accomplished semi-annually and individual performance will be documented. Failure to meet prescribed minimum standards will be handled appropriately. Per reference (u), VLCP personnel are accounted for under their local RLSO's Physical Readiness Program. VLCP personnel shall participate in RLSO's semi-annual Physical Fitness Assessment cycles, to include the Body Composition Assessment and Physical Readiness Test. VLCP members may participate in other RLSO command fitness activities, assuming no negative impact on VLCP duties.

d. Uniform Requirements. Navy uniform regulations shall be strictly observed by all military personnel assigned to the VLCP. Civilian personnel shall wear appropriate business attire. The uniform of the day will be prescribed by the local Area Coordinator. For E-7 and above, the Navy Service Uniform shall be worn at least one time per week. For courts-martial or other formal proceedings, the military judge, senior officer, or the investigating officer will designate the proper uniform.

e. Mentoring Program. Pursuant to reference (v), NLSC has established an official mentoring program. While COS VLCP is responsible for providing mentorship to all VLCP personnel, VLCP officers, enlisted, and civilians are encouraged to take advantage of all other Navy and JAG Community mentoring opportunities which will add to their personal and professional development. This may include communications with the RLSO PDO, RLSO Senior Enlisted Leader (SEL), or OJAG/NLSC HRO authorities as appropriate. VLCP personnel are authorized to take part in any Navy-sanctioned mentoring program.

f. Officer Fitness Reports, Enlisted Evaluations, and Civilian Performance Appraisals. Accurate and thorough Fitness Reports (FITREPs), Evaluations (EVALs), and Performance Appraisals (PAs) are critical to the effective professional development of individual VLCP personnel and the larger Navy JAG Corps. Each performance evaluation should carefully and thoughtfully account for the performance, professionalism, progress, and potential of the VLCP member. The following guidance shall influence this vital deliberative process.

(1) Officer FITREPs and Enlisted EVALs will be prepared and submitted per reference (i). Civilian PAs will be prepared and submitted in accordance with NAVY/OJAG/NLSC HRO directives.

(2) Pursuant to reference (u), COS VLCP is the Reporting Senior for all VLCP personnel. COS VLCP is responsible for submitting all VLCP performance evaluations. FITREPs, EVALs and PAs shall be completed on Active Component and Reserve Component officers, enlisted personnel, and civilian employees permanently assigned for duty to the VLCP; Officer and Enlisted personnel assigned TEMADD to the VLCP; and Reserve Component Officers and Enlisted personnel ordered to the VLCP for Active Duty for Training (ADT) or Active Duty for Special Work (ADSW) for greater than 90 days.

(3) Performance Evaluation Submissions. Each VLC member shall participate in the drafting and development of their performance evaluation by submitting a detailed list of professional accomplishments, program engagement, personal career goals, and other qualitative or quantitative data relevant to execution of their VLCP duties. VLCP OICs shall collect and comment on these submissions prior to the established deadline for transmission of draft evaluations to DCOS VLCP for additional review and comment. DCOS VLCP will assist COS VLCP in the processing of all performance evaluations except his/her own, supplying only raw data if included in any reporting group with any other VLCP personnel.

(4) Ranking Boards. All officer and enlisted personnel shall be ranked utilizing the ranking board process outlined in this section.

(a) DCOS VLCP shall act as Chairman for all VLCP Ranking Boards unless a member of the ranking group.

(b) Summary Groups. The Chairman of the ranking board shall appoint additional members as deemed necessary to conduct the board, but at no point shall a member in the same summary group be appointed to rank a peer, regardless of supervisory status. Any SEL appointed to or serving in the VLCP shall sit on any enlisted ranking board.

(c) When a ranking board has determined final ranking recommendations, the designated Chairman shall submit final ranking recommendations to COS VLCP for review, consideration, and potential approval.

(5) Mid-Term Counseling will be conducted by the member's senior VLC supervisor for enlisted members and by COS VLCP for all officers.

(6) Civilians and supervisors will complete one mid-year progress review and one annual review yearly via the DoD-wide Performance Management and Appraisal Program (DPMAP) guidelines. Mid-year assessments and annual review due dates will be provided by OJAG or NLSC.

g. Recognition of Personnel. The VLCP strives to acknowledge the contributions of all members and reward the very best performers. Any member of the Program may nominate another individual for an award. All nominations for formal recognition will be considered by the nominated individual's OIC, VLCP DCOS and VLCP COS.

(1) DCOS VLCP will apprise VLCP members of award opportunities. Nominations for personal military decorations, including End of Tour awards and NLSC Civilian, Sailor and Junior Officer of the Quarter/Year awards will be submitted through the appropriate VLCP OIC to DCOS VLCP. Award Recommendations will be submitted to COS VLCP for further review and action. DCOS VLCP will coordinate and submit VLCP nominees for NLSC awards at the direction of COS VLCP. The governing instruction for NLSC awards is noted as reference (w).

(2) Informal Recognition. Members of the VLCP are encouraged to suggest the award of special liberty, a letter of commendation, a letter of appreciation, a command coin, or other informal recognition for any member of the VLCP. A memo describing the contribution of the member and the suggested recognition should be forwarded via the relevant VLCP OIC to DCOS VLCP.

h. Command Managed Equal Opportunity (CMEO). It is the policy of the Navy and the VLCP to ensure equality of opportunity and fair treatment for all military members and civilian employees, regardless of race, creed, color, sex, sexual orientation, age, or national origin. This policy is in compliance with references (x) and (y).

(1) Discrimination resulting in the denial of equal opportunity to any individual will not be tolerated in the Navy or by the VLCP. Equal opportunity is essential to attaining and maintaining high morale, discipline, and military effectiveness. Positive actions to counter possible discrimination will aid in achieving this environment.

(2) CMEO is the Navy's Equal Opportunity Program and is a required focus for all units. Pursuant to reference (u), RLSOs shall include VLCP personnel within their CMEO programs for purposes of training requirements and processing CMEO complaints.

(3) RLSOs shall not include VLCP personnel in their Defense Equal Opportunity Management Institute Organizational Climate Surveys. COS VLCP shall designate a Command Assessment Team member, E-7 or above, to be part of the CNLSC/OJAG Command Assessment Team.

i. Drug and Alcohol Prevention.

(1) In accordance with reference (z), COS VLCP must exercise sound judgment in enforcing the Navy's alcohol and drug abuse policies and ensure proper disposition of individual

cases of substance abuse. COS VLCP is responsible for executing the concept and policy outlined in reference (z) as it applies to VLCP personnel. This includes, but is not limited to:

(a) Administrative action due to a violation of the Navy's drug and alcohol policy. If informed of a reportable drug or alcohol abuse incident or referral pursuant to reference (z), COS VLCP shall implement the measures assigned to Commanding Officers by said instruction, to include the initiation of administrative processing of military members as required;

(b) Guidance on the responsible use of alcohol. Any VLCP personnel choosing to use alcohol must do so responsibly in accordance with reference (z) and all applicable military, local, state and federal regulations. Alcohol consumption is never an acceptable excuse for misconduct or poor judgment;

(c) COS VLCP shall confer with the RLSO command Drug and Alcohol Program Advisor to determine whether specific instances of alcohol misuse, not characterized as incidents, should be referred to command level education, command counseling, or to a medical screening;

(d) COS VLCP shall provide a means for command or self-referral without risk of disciplinary action for all members who have not incurred an incident but are in need of alcohol abuse counseling and/or treatment per the provisions of enclosure (1) to reference (z);

(e) COS VLCP shall ensure substantiated incidents of alcohol and drug abuse are documented in members' service records, enlisted evaluation and fitness reports, officer fitness reports, and other reports as required by policy;

(2) COS VLCP shall ensure all VLCP military personnel follow their local RLSO's policy for check-in and participation in an official urinalysis program. Participation in a urinalysis program is mandatory for all VLCP military personnel.

(3) COS VLCP is assigned all other responsibilities and actions assigned to unit Commanding Officers by reference (z), to include appropriate discipline, treatment referral, and administrative processing of all military members in violation of the Navy's "zero tolerance" on drug abuse as required by said instruction.

j. Travel. Personnel assigned to the VLCP may be placed in a TDY or TEMADD status for mission essential travel to proceedings at which a client is testifying, has critical rights and interests at stake, and/or has requested the VLC's presence; outreach briefings in the relevant area of responsibility; or to attend training and certification courses. *Note: This section does not address TDY or TEMADD orders for medical treatment or special event travel.*

(1) All VLCP personnel shall utilize the Defense Travel System (DTS) via www.defensetravel.osd.mil/ to schedule official travel. VLCP personnel will use an official government credit card for all travel unless receiving permission to use an alternate form of

payment from JCAB prior to completing the travel. First time DTS users must contact their local RLISO's administrative officer and JCAB for registration instructions and requirements.

(2) COS VLCP is the final approval authority for VLCP travel. Requests for official TDY travel must be prepared by individual VLC using the standard JCAB Travel Form (spreadsheet) and VLCP Travel Justification Form, forwarding both forms to DCOS VLCP for action via the OIC, who will forward with a recommendation. A sample VLCP Travel Justification Form is provided in Appendix Q. DCOS VLCP will forward VLCP travel requests to COS VLCP, recommending approval or disapproval. DCOS VLCP will report back approval/disapproval to the OIC and the requester, prior to travel arrangements being forwarded to JCAB.

(3) OCONUS travel. All personnel traveling OCONUS must follow all foreign travel clearance procedures as mandated by the area Combatant Commander. Consult JCAB for any specific country clearance requirements well in advance of OCONUS travel.

(4) No-Cost TEMADD Orders. All VLCP personnel shall submit No-cost TEMADD orders requests to their Regional OIC for routing. No-cost orders will only be approved in very limited circumstances and in accordance with the Joint Federal Travel Regulations/Joint Travel Regulations and Navy guidelines.

(5) Travel for Non-Navy Clients. When travel is related to representation of a non-Navy client, VLC shall request funding from the Victim's Service or the Convening Authority prior to seeking funding through Navy VLCP.

12-5. Facilities, Supplies, and Property Management.

a. Government-furnished property. All VLCP personnel are expected to properly utilize assigned government facilities, and to safeguard and properly utilize all government furnished property in their work spaces.

(1) COS VLCP shall designate a Personal Property Manager (PPM) in writing. The VLCP PPM shall familiarize himself or herself with the requirements of references (aa) and (bb), and is also responsible for submitting the annual inventory report of all office furniture, equipment and other qualifying government furnished property to OJAG Code 64 (Fiscal & Resource Services Support Division).

(2) The senior VLC at each location shall ensure all government furnished property (i.e. furniture and equipment) purchased by NLSC or under the cognizance of VLCP personnel is maintained and inventoried in accordance with references (aa) and (bb).

(3) COS VLCP shall provide oversight when necessary to establish, supply, furnish, and refurbish any VLCP offices and spaces. VLCP shall coordinate the upgrade or alteration of VLCP spaces with OJAG Code 64, OJAG Code 67 (Knowledge & Information Services Division), and Public Works authorities, as appropriate.

(4) Information Technology (IT) Support. VLCP personnel shall coordinate IT and telephone support, service, or upgrade of VLCP systems and purchase of IT equipment with their installation's servicing IT office and OJAG Codes 64 and 67 (Technology, Operations, and Plans Division).

b. Supply Requisition. All supply requisitions are processed through JCAB. All VLCP personnel are expected to track their supply needs and provide timely requests to the VLCP administrative support staff, who will then vet and route the supply request to JCAB via DCOS VLCP. *Note: VLCP shall coordinate any furniture purchase or upgrades with OJAG Code 64.*

c. Data Collection, Case Management, and Use of Online Resources. In accordance with sections 5-2, 5-11, and 5-12 of this instruction, VLC and respective OICs shall ensure all records and client information filed and tracked complies with all federal, DoD, and Navy regulations regarding the protection of private data and PII.

(1) SharePoint. The VLCP SharePoint page is the primary source for all VLCP administrative references, forms, and legal services templates. All VLCP personnel shall utilize the VLCP SharePoint site at <https://www.portal.navy.mil/comnavlegsvccom/vlcc/default.aspx>. The SharePoint page also offers a key resource for intra-VLCP communications, sharing of best practices, and discussions of challenges impacting the larger VLCP practice.

(2) Electronic case tracking system. All VLCP personnel, to include Yeomen and civilian employees acting in case administration and/or legal support capacities, shall utilize the electronic case tracking system for data reporting and case management. An electronic case tracking system allows users to create electronic records of client and case data, services provided, and appearances/advocacy on behalf of clients.

(3) VLCP Survey. An accurate assessment of VLCP services requires thoughtful client feedback. Voluntary client input helps gauge the effectiveness of support to individual clients and also informs overall program and process improvements. All VLCP personnel shall seek client participation in the VLCP Victim Satisfaction Survey located at <https://survey.jag.navy.mil/classclimate/online.php?p=9ua4ADeN2T>. Client participation is anonymous and voluntary.

d. Duty Mobile Phones. VLC shall be issued a duty mobile phone for execution of their official duties. No private cell-phone numbers should be provided to clients. Duty mobile phones remain the property of the Navy and shall be transferred to subsequent VLC upon execution of Permanent Change of Station orders by the departing VLC. If a duty mobile phone is ever broken, lost or stolen, the VLC responsible for the mobile phone must immediately report the incident and condition of the mobile phone (e.g., operable, inoperable, etc.) to DCOS VLCP.

APPENDIX A
SCOPE OF REPRESENTATION LETTER

Date

From: (Name/Rank of VLC)
To: (Name/Rank of Eligible Victim)

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

1. VLC Program. The Department of the Navy is committed to promoting and protecting the rights and interests of sexual assault victims and to ensuring you receive assistance through the Victims' Legal Counsel (VLC) Program and other support services available throughout the Navy and Marine Corps.

At your request, I have been assigned to serve as your VLC and provide you legal services. We will form an **attorney-client relationship**. I will act as your attorney, and you will be my client.

The purpose of this memorandum is to explain the nature and limitations of our attorney-client relationship and the legal services I can provide to you.

Importantly, if you are seeking legal services related to a Restricted Report of sexual assault, speaking to a VLC will not alter the status of your report. I can assist you in understanding the differences between "Restricted" and "Unrestricted" reporting and how to change your reporting status if desired. However, I may be limited in my ability to provide you legal services related to a Restricted Report of sexual assault.

2. My Military Duty Is To Represent You. As your VLC, I am your attorney. I have been licensed by a state bar to practice law, and I have been certified by the Judge Advocate General of the Navy to act as counsel in courts-martial and to represent servicemembers like you. As your attorney, you have my undivided loyalty and concern. Although like you, I serve in the Navy, my sole legal and ethical obligation is to be your attorney to the best of my ability and subject to the rules discussed in detail below.

I do not work for your commanding officer or anyone within your chain of command or the command of the person who assaulted you. I am assigned to the Department of the Navy's VLC Program and belong to an independent chain of command whose sole mission is to represent servicemembers like you. As your VLC, I will not be involved in the investigation or processing of your reported assault unless necessary to promote and protect your rights and interests. My independence means that no one in your chain of command or the chain of command of the person who assaulted you will influence my representation of you.

3. Confidentiality. The law recognizes that you must be able to share information with me in confidence. As your attorney, I am generally prohibited from revealing information related to

our conversations unless you give me consent to do so after we discuss that possibility. Importantly, this means that everything we discuss will remain confidential unless you give me actual or implied permission to discuss the information with others.

If you give me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your rights and interests, I am required to keep that information confidential except as explained in the next paragraph.

There are a few limited exceptions to this confidentiality that apply to me and every other attorney. These exceptions are very narrow and, in my experience, rarely exercised. For example, I may be required to reveal information to prevent serious physical harm to any person, including you, or to comply with court orders. If I believe it necessary to reveal confidential information under one of these exceptions, I will attempt to discuss my intentions with you and only disclose information to the extent necessary to comply with my professional and legal obligations.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, and victim advocates.

Finally, our confidentiality does not extend to communications between you and I made in the presence of third-parties, such as friends or relatives. What this means is that those third-parties can be required to disclose what was said or shared in their presence.

4. Scope of Legal Services Provided. As your VLC, I will provide you legal services that are connected to your reported sexual assault. My focus will be to promote and protect your rights and interests related to that assault. The legal services I can provide include:

a. Legal Rights. As above, I will assist you in understanding and exercising your legal rights connected to your reported sexual assault. This will include advocating on your behalf to promote, preserve, and protect those rights. With your permission, I can advocate on your behalf to military authorities. Within the military, these rights include the right to be treated with fairness and respect for your dignity and privacy; the right to be reasonably protected from the offender [to include my advocacy for a Military Protective Order (MPO)]; the right to be notified of court proceedings; the right to be present at all public court proceedings unless the court determines your testimony would be materially altered if you heard other testimony; the right to confer with government counsel in the case; the right to receive restitution, if available; and the right to be provided information about any conviction, sentence, imprisonment, and release of the offender.

If you are an eligible Servicemember, you may have the right to an expedited transfer from your current unit. I can assist you in exercising this legal right.

There may also be additional legal rights implicated in your case, depending on the circumstances, which I will discuss with you during the course of our attorney-client relationship.

b. Military Justice System. I will assist you in understanding the military justice system, which includes the investigative and disciplinary processes. I can answer any questions you have regarding the investigative and disciplinary processes.

I will promote and protect your rights and interests in the military justice system. This will include, with your permission, advocating on your behalf to various parties in the military justice system including: investigators such as NCIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates; military prosecutors, also known as trial counsel; the offender's defense counsel; pretrial investigation officers; pretrial confinement initial review officers; and military judges. At your request, and if locally available, I will attend your interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I will try to attend your interviews via video-conferencing or by telephone, or attempt to reschedule the interview to permit my attendance if possible.

I will assist you in obtaining information relevant to your case that you have a right to obtain, to include the status of the investigation and the status of the accused(s).

I will assist and facilitate your communication with trial counsel where you have a right to confer; this may include the status of disciplinary or court-martial processing, whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.

If the accused is charged, I will represent you in military justice proceedings, such as court-martial or Article 32 pretrial investigation, where you are afforded an opportunity to be present and heard. When necessary and appropriate, I will present facts and legal arguments on your behalf to the court.

I also plan to attend military justice proceedings when it is both necessary and appropriate that I do so.

If you believe you are the subject of harassment, retaliation, or intimidation related to your report of sexual assault, I will discuss, advise, and assist you on avenues of complaint to redress that treatment.

c. Advocacy to Civilian Prosecutors/Law Enforcement. My representation of you will be more limited with civilian authorities than military authorities. I cannot represent you in civilian court proceedings or effectively advocate on your behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can assist in obtaining the status of the investigation and may possibly attend, in person or via phone or VTC, your interviews with investigators. If

desired, you may obtain civilian counsel at your own expense to represent you with civilian authorities.

d. Collateral Misconduct. "Collateral misconduct" is misconduct that you may have committed that has a direct connection to your reported sexual assault, such as underage drinking, adultery, fraternization, or violating liberty policy. If, through our conversations, either you or I believe it may be alleged that you committed collateral misconduct, I can provide you limited personal representation legal advice regarding that alleged misconduct. What this means is that I can explain the potential consequences of your alleged collateral misconduct and what, if any, disciplinary action could be taken against you. With your permission, I may advocate to military authorities on your behalf regarding your alleged collateral misconduct.

If you face an administrative separation board or court-martial for collateral misconduct you will be assigned a military defense counsel to represent you in that proceeding. I will work closely with your defense counsel to continue to promote and protect your rights and interests related to your reported sexual assault.

If, through our conversations, either you or I believe it may be alleged you committed misconduct that is not directly connected to your reported sexual assault, I will coordinate your referral to the nearest Defense Service Office, which provides legal advice and services to Sailors who may have committed misconduct or are facing disciplinary action. I will be largely uninvolved with respect to misconduct that is not directly connected to your reported sexual assault; however our conversations regarding that misconduct will remain confidential.

e. Personal Civil Legal Affairs. I can provide you basic legal assistance services that are directly connected to your reported sexual assault, to include notarizations and basic powers of attorney. If you need assistance in more substantive matters such as estate planning, family law, consumer law, or landlord/tenant matters, I will coordinate your referral to the nearest Legal Assistance Office.

5. Duration of Attorney-Client Relationship. In general, our attorney-client relationship will continue unless you release me, the legal aspects of your reported sexual assault are concluded, or per the exceptions noted below, either of us transfers to a new duty station or terminates military service.

Generally, the legal aspects of your case will conclude shortly after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority or, in the case of a court-martial, shortly after the court's findings and sentence, if any, are acted upon by the convening authority.

If I transfer or leave military service before completion of your case, I will protect your interests. This will include giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new VLC to serve as your attorney, and completing a turnover of your case with your new VLC to assure continuity of legal services. No matter my next

assignment or status, discussions you and I have had related to your case will remain confidential, subject to the exceptions previously mentioned.

If you transfer out of my geographic area of responsibility before completion of the legal aspects of your reported sexual assault, you may request a new VLC at your new duty station. Generally, if you request a new VLC, I will be released as your attorney unless continued representation is approved by my chain of command. If you transfer but the legal processing of your reported sexual assault remains active with military authorities at this location, I will continue representation in your case unless you seek my release and/or appointment of an alternate VLC.

Finally, sometimes there are unforeseen legal or ethical obligations that apply to all attorneys that require an attorney to seek release or to withdraw from the attorney-client relationship. For example, a conflict of interest could require me to withdraw as your attorney. If I am required to withdraw or seek release as your attorney, I will protect your interests. This includes giving you reasonable notice of my withdrawal, allowing you time to obtain alternate VLC if applicable, and delivery of papers and property to which you are entitled.

6. Your Role: Your full participation and cooperation are critical to successful representation of your rights and interests. As we proceed, please contact me immediately with any questions or concerns that you have about your legal rights or the legal services I can provide. My contact information is:

LT Ima Lawyer, JAGC, USN
Rm 201, Building 1, NAS Pensacola, FL
Ph: (850) 452-1234
ima.lawyer@navy.mil

As a [Naval/Marine Corps] officer and your attorney, I am concerned about your general health, morale, welfare, and safety. I urge you to take advantage of the other available support services including medical treatment and counseling.

Client Acknowledgment

I understand the nature and limitations of my attorney-client relationship with my VLC.

Name and Rank of Client

Client's Signature

Date

I. LAWYER, LT, JAGC, USN
Victims' Legal Counsel

Date

APPENDIX B
ELIGIBILITY WAIVER REQUEST

5800
Ser 16/XXX
XX May 16

From: LT Ingrid M. Victims-Counsel, JAGC, USN
To: Chief of Staff, Victims' Legal Counsel Program
Via: (1) Officer-in-Charge, Victims' Legal Counsel Program (Region)
(2) Deputy Chief of Staff, Victims' Legal Counsel Program

Subj: ELIGIBILITY WAIVER REQUEST

Ref: (a) JAGINST 5810.3

1. In accordance with reference (a), I respectfully request a waiver of eligibility.
2. The following information is provided for consideration in the eligibility determination:
 - a. Client status: (military/civilian/dependent AND adult/minor, GS employee, foreign military)
 - b. Service connection of victim: (USN, USA, USCG, etc.)
 - c. Client physical location:
 - d. Location of trial:
 - e. Reason for initial ineligibility:
 - f. Offender Status: (active duty, civilian, retiree, etc.)
 - g. Service connection of offender: (USN, USA, USCG, etc.)
 - h. Date/category of client's initial report: (Date, Restricted/Unrestricted)
 - i. Jurisdiction of case: (mil/civ-state/federal, etc.)
 - j. Type of case: (penetration, contact, attempt, etc.)
 - k. Location of sexual assault: (on base, off-base, etc.)
 - l. Status of case: (NCIS investigating, referral, etc.)
 - m. Type of service requested:

Subj: ELIGIBILITY WAIVER REQUEST

n. How long VLCP support is likely to occur:

o. Potential logistical concerns: (translator, deaf client, etc.)

3. [As needed, provide additional relevant information regarding the case/victim, e.g, victim's active and ongoing participation in investigation and court proceedings, timing of reported sexual assault, desired outcome, etc.]

4. If you have any questions regarding this matter, please feel contact me at (904) XXX-XXXX or via e-mail at XXXXX.XXXX@navy.mil.

I. M. VLC

FIRST ENDORSEMENT

From: Officer-In-Charge, Victims' Legal Counsel Program (Region)
To: Deputy Chief of Staff, Victims' Legal Counsel Program

1. The following request is recommended for approval / disapproval.

I. M. OIC

SECOND ENDORSEMENT

From: Deputy Chief of Staff, Victims' Legal Counsel Program
To: Chief of Staff, Victims' Legal Counsel Program

1. The following request is recommended for approval / disapproval.

C. E. CLUVERIUS

Subj: ELIGIBILITY WAIVER REQUEST

THIRD ENDORSEMENT

From: Chief of Staff, Victims' Legal Counsel Program

To: Victims' Legal Counsel Program (Location)

1. The following request is approved / disapproved.

L. B. SULLIVAN

APPENDIX C
SAMPLE INTERPRETER AFFIDAVIT

STATE of _____
COUNTY of _____.

I, _____, do solemnly declare, under penalty of perjury, that:

- 1. I have been requested to assist the following person who is either unable to hear, speak, read or write the English language in receiving legal advice and assistance from a Navy Victims' Legal Counsel: _____.
- 2. I am fluent in the English language and in the _____ language, which is known to me to be the primary language of the person I have been asked to assist.
- 3. I will interpret the instructions, advice, and information provided by the Victims' Legal Counsel and by the person I am assisting thoroughly and precisely, stating as nearly as possible that which has been stated by all speakers or what appears on any document.
- 4. I will not add words, modify, or omit words from the statements made by any persons involved in these discussions or document review.
- 5. I realize that the conversation I am participating in is being held in confidence and will not reveal the substance of the conversation to any other party, unless ordered to do so by competent legal authority.
- 6. I am not involved in any other capacity or manner regarding the investigation, disposition, or resolution of this case.

Signature

The party above verified their identity by presentation of a valid form of State or Federal identification, subscribed and was sworn by me this _____ day of _____, 20____.

Notary Public

APPENDIX D
TERMINATION OF REPRESENTATION MEMO

(Note: Provide briefing to victims to terminate the VLC-client relationship. IAW JAGINST 5803.1E, Rule 1.16, special care must be taken at termination to protect the client's interests and preserve client confidences.)

MEMORANDUM FOR: (Victim of Sexual Offense)

FROM: (Victims' Legal Counsel)

SUBJECT: Termination of Attorney-Client Relationship

1. When you requested the assignment of a Victims' Legal Counsel and I was detailed to represent you, we discussed that I would represent you for all matters related to the sexual offense committed against you until disposition in your case was complete and you released me as your attorney. Per our conversation today, disposition in your case is complete and you are releasing me as your attorney. This letter serves as confirmation of the termination of our attorney-client relationship.
2. Confidentiality. Although our attorney-client relationship has terminated, I am still bound to keep our communications confidential and I will not disclose the information we discussed to others except in the limited circumstances we previously discussed (i.e. to prevent you from committing a criminal act, to defend myself if you assert a claim against me, or if ordered by competent authority to disclose communications that contemplates the future commission of a crime or fraud).
3. Available Services. You remain entitled to support from the Navy Victim and Witness Assistance Program (VWAP). (RLSO XXXX) will continue to provide you with support within the scope of VWAP. (You are also entitled to assistance from a legal assistance attorney as long as you remain an eligible beneficiary per 10 U.S.C. § 1044a. This assistance is more limited in nature than the assistance I have provided, but you can seek assistance from a legal assistance attorney by calling RLSO XXXX at (xxx) xxx-xxxx.)
4. If an issue related to this case arises in the future, or if you are the victim of another sexual offense, you may seek my services or the services of another Navy Victims' Legal Counsel to assist you in those matters.

My signature below indicates I understand that my attorney-client relationship with _____ (VLC) _____ is terminated.

Date: _____

Client's Name: _____

Client's Signature: _____

Victims' Legal Counsel Name: _____

Victims' Legal Counsel Signature: _____

APPENDIX E
VLCP INTAKE FORM

VICTIMS LEGAL COUNSEL
Attorney Work Product

Client Information DoD ID# _____

Name/Rank: _____ Intake Date: _____

Command: _____ Married? Yes No Age: _____

VLC Eligibility? AD DEP USNR Overseas Civ

Phone: _____ Email: _____

Alt. Phone: _____ Alt. Email: _____

Reported? Unrestricted Restricted Unreported Expedited Transfer? Yes No

VA: _____ SARC: _____

DSAID#: _____ Date of Report: _____

Case Information

Offender Name/Rank: _____ Command: _____

Investigator Name: _____ Phone/Email: _____

TC: _____ Phone/Email: _____

SJA: _____ Phone/Email: _____

SA-IDA: _____ Forum: _____

Art 32 Date: _____ Arraignment Date: _____ 39(a) Date: _____

Trial date: _____

Notes: _____

For Official Use Only / Privacy Sensitive

VLC ARE HERE TO HELP!

VLC can help you understand and navigate the military justice process.

- ▶ Free – No cost advice.
- ▶ Independent – VLC do not work for your command, the defense, or the prosecution.
- ▶ Confidential – All communications with the VLC are confidential.
- ▶ Experienced – VLC know the military justice system, and are trained and certified to provide victims' legal advice.



Your Legal Care, Advice and Support

Not sure? Call for a free, confidential conversation about how a Victims' Legal Counsel can help.

There is no obligation – you can decline the service, and even change your mind and come back. You control the relationship.



NAVY VICTIMS' LEGAL COUNSEL



Southeast Region
Naval Station Mayport, FL
Building 1, RM 301/302

Additional information can be found under "Legal Services" at:
<http://www.jag.navy.mil>

See your VA or SARC for more information

Or call:
VLC Office, NS Mayport
(904) 270-5191 x 1213 or x 1214

VICTIMS' LEGAL COUNSEL (VLC)

WHAT

VLC are lawyers who work for you.

If you are a victim of stalking, sexual assault, or other sexual offense, VLC are here to help you through the legal and administrative challenges you may face. VLC work confidentially with you.

WHO

Victims of stalking, sexual assault, or other

sexual offenses, male or female, who are:

- ▶ Navy active duty
- ▶ Navy reservists
- ▶ Navy retirees and other active duty service personnel when the offense is committed by an active duty service member
- ▶ Navy dependents, including spouses and children, when the offense is committed by an active duty service member
- ▶ DOD civilians when the offense is committed by an active duty service member
- ▶ Eligible individuals who are victims of non-military offenses may also receive limited VLC services

WHEN

- ▶ Anytime. It's never too early or too late
- ▶ Right after the offense
- ▶ During the investigation
- ▶ Before or after an Article 32 hearing
- ▶ Before, during, or after the court-martial

WHY

- ▶ Are you a victim of stalking, sexual assault, or other sexual offense?
- ▶ Are you likely to be a witness in a court-martial?
- ▶ Do you feel like your concerns are not being heard?
- ▶ Are you anxious about having to testify?
- ▶ Are you having trouble working through your command or the Navy?
- ▶ Do you want more information about the investigative and legal processes?

HOW

- ▶ VLC are part of an independent chain of command, reporting to Commander, Naval Legal Service Command.
- ▶ VLC can work with your victim advocate (VA), sexual assault response coordinator (SARC), family advocacy program (FAP) counselors, and/or other providers as you allow.
- ▶ VLC can help you understand the military justice system and protect your rights.

YOUR RIGHTS AS A VICTIM

In addition to your right to assistance from a Victims' Legal Counsel, you have the following rights as a crime victim:

- ✓ The right to be treated with fairness and with respect for your dignity and privacy.
- ✓ The right to be reasonably protected from the accused.
- ✓ The right to reasonable, accurate, and timely notice of public hearings on the continuation of pretrial confinement of the accused; Article 32 hearings; courts-martial proceedings; public clemency and parole board hearings; and the release or escape of the accused, unless such notice may endanger the safety of any person.
- ✓ The right to reasonably confer with the attorney for the government in the case in any of the above proceedings.
- ✓ The right not to be excluded from any public hearing or proceeding, unless the military judge or investigating officer determines after receiving clear and convincing evidence that your testimony would be materially altered.
- ✓ The right to be reasonably heard at public hearings on the continuation of pretrial confinement of the accused; sentencing hearings; and public clemency and parole board hearings.
- ✓ The right to receive restitution as provided in law.
- ✓ The right to proceedings free from unreasonable delay.



APPENDIX G
REPRESENTATION LETTER – RESTRICTED REPORT

5800
DATE

MEMORANDUM

From: Victims' Legal Counsel, Naval Air Station Pensacola, Florida
To: Supervising Attorney, VLC Program Southeast

Subj: VICTIMS' LEGAL COUNSEL – RESTRICTED REPORT

1. I, *Rank & Name of VLC*, assigned to Victims' Legal Counsel Program, *Duty Station of VLC*, have formed an attorney-client relationship with an eligible servicemember assigned to *Victim's Duty Station*, and now represent (him/her) as Victims' Legal Counsel in connection with a restricted report of sexual assault.
2. Please direct any questions regarding this memorandum to me at *VLC phone number* or *VLC official email*.

VLC Signature

APPENDIX H
NOTICE OF REPRESENTATION

Date

From: LT George Washington, JAGC, USN, Victims' Legal Counsel
To: Name

Subj: VICTIMS' LEGAL COUNSEL NOTICE OF REPRESENTATION

Ref: (a) VLC Mayport ltr 5800 Ser 16/111 dtd 23 Jun 16

1. Per reference (a), I have been detailed as Victims' Legal Counsel for CSSN XXXXXX, USN, currently assigned to USS NEVERSAIL (DDG 144), in connection with an unrestricted report of sexual assault made on or about July 2016. The alleged offender is CS2 Martha XXXXXX, USN, also currently assigned to USS NEVERSAIL (DDG 144). I have formed an attorney-client relationship with CSSN XXXXXX.
2. My client requests that all further communications on substantive matters related to the investigation and/or prosecution of his reported sexual assault be made through counsel. This includes any case or investigation update required by instruction to be provided to my client.
3. My client requests that the government provide me notice and copies of, prior to execution, any official requests, subpoenas, search authorizations, or search warrants issued by government agents to any third party custodian for documents or records in which my client maintains a privacy interest. This would include, for example, a request for my client's medical records from a military treatment facility or a subpoena issued to a telecommunications carrier for my client's mobile phone records.
4. I can be reached at TELEPHONE NUMBER or EMAIL.

G. WASHINGTON

Distribution:
LO, USS NEVERSAIL
SJA, DESRON 144
NCISRA Mayport
RLSO Mayport (OIC)
SARC Mayport
VA
CSSN Sailor

**DEPARTMENT OF THE NAVY
NAVY-MARINE CORPS TRIAL JUDICIARY
WESTERN JUDICIAL CIRCUIT**

UNITED STATES)	
)	VICTIMS' LEGAL COUNSEL
v.)	COURT-MARTIAL NOTICE OF
)	APPEARANCE ON BEHALF OF
SN JOHN S. SMITH, U.S. NAVY)	IT3 A. B., U.S. NAVY
)	

1. I, LCDR Eddie Murphy, JAGC, USN, Navy Victims' Legal Counsel Program, Naval Air Station Pensacola, Florida, admitted to practice law and currently in good standing in the States of California and Washington and, although not appearing as a defense counsel or trial counsel, certified in accordance with Article 27(b), UCMJ, hereby enter my appearance in the above captioned court-martial on behalf of IT3 A. B., U.S. Navy, a named victim in the charges.
2. On 24 October 2013, I was detailed to represent IT3 A.B., and I have entered into an attorney-client relationship with IT3 A.B. I have not acted in any manner which might disqualify me in the above captioned court-martial.
3. I have reviewed the Navy-Marine Corps Trial Judiciary Uniform Rules of Practice and the Western Judicial Circuit Rules of Court.
4. IT3 A.B. reserves the right to be present throughout the court-martial in accordance with Military Rule of Evidence 615, with the exception of closed proceedings that do not involve IT3 A.B.
5. To permit a meaningful exercise of IT3 A.B.'s rights and privileges, I respectfully request that this Court direct the defense and government to provide me with informational copies of motions and accompanying papers filed pertaining to issues relating to Military Rules of Evidence 412, 513, 514, and 615 and in which IT3 A.B.'s rights and privileges are addressed.
6. IT3 A.B. has limited standing in this court-martial and reserves the right to make factual statements and legal arguments herself or through counsel.

7. My current contact information is as follows:

Room 1305, Building 1
NAS Pensacola
Pensacola, FL 32501
(850) 452-1000
eddie.murphy@navy.mil

Respectfully submitted this 24th day of October 2013,

I. M. LAWYER

CERTIFICATE OF SERVICE

I certify that a copy of this Notice of Appearance was served upon the Court, Trial Counsel, and Defense Counsel on 24 October 2013 via email.

I. M. LAWYER

APPENDIX J
LIMITED SCOPE OF REPRESENTATION LETTER

Date

From: (Name/Rank), JAGC, USN
To: (Name/Rank of Eligible Victim)

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

1. VLC Program. The Department of the Navy is committed to promoting and protecting the rights and interests of sexual assault victims and to ensuring you receive assistance through the Victims' Legal Counsel (VLC) Program and other support services available throughout the Navy and Marine Corps.

At your request, I have been assigned to serve as your local VLC and provide you legal services. We will form an **attorney-client relationship**. I will act as your attorney, and you will be my client. The purpose of this memorandum is to explain the nature and limitations of our attorney-client relationship and the legal services I can provide to you.

Because of your expedited transfer, temporary assignment, or transit to or through this location, the nature of our relationship and extent of my services may be limited. In order to afford you immediate and on-site legal advice and assistance, I will provide VLC services and legal support in this local area. You may be assigned a subsequent VLC to assist you with legal matters at the location where your case will be fully investigated or processed for disciplinary action. It is your choice whether you would like me to engage in your case at this stage and location. If you would prefer a single VLC to assist and represent you, I will work with you to secure VLC support from the other location. If you are assigned a subsequent VLC **once you leave the local area, I will no longer represent you and the subsequent VLC will represent you for all matters.**

Importantly, if you are seeking legal services related to a Restricted Report of sexual assault, speaking to a VLC will not alter the status of your report. I can assist you in understanding the differences between "Restricted" and "Unrestricted" reporting and how to change your reporting status if desired. However, I may be limited in my ability to provide you legal services related to a Restricted Report of sexual assault.

2. My Military Duty Is To Represent You. If you choose to engage my services as your local VLC, I will serve as your attorney in that capacity. I have been licensed by a state bar to practice law, and I have been certified by the Judge Advocate General of the Navy to act as counsel in courts-martial and to represent service members like you. As your attorney, you have my undivided loyalty and concern. Although like you, I serve in the Navy, my sole legal and ethical obligation is to be your attorney to the best of my ability and subject to the rules discussed in detail below.

I do not work for your commanding officer or anyone within your chain of command or the command of the person who assaulted you. I am assigned to the Department of the Navy's VLC Program and belong to an independent chain of command whose sole mission is to represent service members like you. As your VLC, I will not be involved in the investigation or processing of your reported assault unless necessary to promote and protect your rights and interests. My independence means that no one in your chain of command or the chain of command of the person who assaulted you will influence my representation of you.

3. Confidentiality. The law recognizes that you must be able to share information with me in confidence. As your attorney, I am generally prohibited from revealing information related to our conversations unless you give me consent to do so after we discuss that possibility. Importantly, this means that everything we discuss will remain confidential unless you give me actual or implied permission to discuss the information with others. If you are assigned a subsequent VLC, it is likely you will wish to provide consent so that I may discuss our communications with that VLC. I will only do so after you provide consent.

If you give me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your rights and interests, I am required to keep that information confidential except as explained in the next paragraph.

There are a few limited exceptions to this confidentiality that apply to me and every other attorney. These exceptions are very narrow and, in my experience, rarely exercised. For example, I may be required to reveal information to prevent serious physical harm to any person, including you, or to comply with court orders. If I believe it necessary to reveal confidential information under one of these exceptions, I will attempt to discuss my intentions with you and only disclose information to the extent necessary to comply with my professional and legal obligations.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, and victim advocates.

Finally, our confidentiality does not extend to communications between you and I made in the presence of third-parties, such as friends or relatives. What this means is that those third-parties can be required to disclose what was said or shared in their presence.

4. Scope of Legal Services Provided. As your local VLC, I will provide you legal services that are connected to your reported sexual assault while you remain in the local area. My focus will be to promote and protect your rights and interests related to that assault. I will fully represent you while you remain within my geographic region. However, if a subsequent VLC is assigned, once you leave the local area that VLC will represent you in all further matters. If you elect to have a single VLC, that VLC will represent you in matters here and at the other location. In either circumstance, I will contact the new VLC myself and introduce you to him/her. Together, we will ensure you are provided the full spectrum of legal services available for all victims of sexual offenses within the U.S. Navy. The legal services I can provide include:

a. Legal Rights. As above, I will assist you in understanding and exercising your legal rights connected to your reported sexual assault. This will include advocating on your behalf to promote, preserve, and protect those rights. With your permission, I can advocate on your behalf to military authorities. Within the military, these rights include the right to be treated with fairness and respect for your dignity and privacy; the right to be reasonably protected from the offender [to include my advocacy for a Military Protective Order (MPO)]; the right to be notified of court proceedings; the right to be present at all public court proceedings unless the court determines your testimony would be materially altered if you heard other testimony; the right to be reasonably heard at certain proceedings; the right to confer with government counsel in the case; the right to receive restitution, if available; the right to be provided information about any conviction, sentence, imprisonment, and release of the offender, and the right to proceedings free from unreasonable delay.

If applicable and you are eligible, you may have the right to an expedited transfer from your current unit. I can assist you in exercising this legal right.

There may also be additional legal rights implicated in your case, depending on the circumstances, which I will discuss with you during the course of our attorney-client relationship.

b. Military Justice System. I will assist you in understanding the military justice system, which includes the investigative and disciplinary processes. I can answer any questions you have regarding the investigative and disciplinary processes.

If you elect my local representation, I will promote and protect your rights and interests in the military justice system at this location. This will include, with your permission, advocating on your behalf to various parties in the military justice system at this location including: investigators such as NCIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates. I will represent you as your attorney while you are located in my geographical region. However, because I am geographically separated from the location where the investigation(s) may be conducted and/or any possible military justice proceedings will occur, a subsequent VLC may assist you with all military justice matters which take place outside of my geographic region.

While you are in my geographic region, if you believe you are the subject of harassment, retaliation, or intimidation related to your report of sexual assault, I will discuss, advise, and assist you on avenues of complaint to redress that treatment.

c. Advocacy to Civilian Prosecutors/Law Enforcement. If your case involves civilian investigation and/or prosecution at this location, my representation of you will be more limited with civilian authorities than military authorities. I cannot represent you in civilian court proceedings or effectively advocate on your behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can assist in obtaining the status of the investigation and may possibly attend, in person or via phone or VTC, your interviews with local investigators. If desired, you may obtain civilian counsel at your own expense to represent you with civilian authorities.

d. Collateral Misconduct. "Collateral misconduct" is misconduct that you may have committed that has a direct connection to your reported sexual assault, such as underage drinking, adultery, fraternization, or violating liberty policy. If, through our conversations, either you or I believe it may be alleged that you committed collateral misconduct, I can provide you limited personal representation legal advice regarding that alleged misconduct. What this means is that I can explain the potential consequences of your alleged collateral misconduct and what, if any, disciplinary action could be taken against you. With your permission, I may advocate to military authorities on your behalf regarding your alleged collateral misconduct. If a subsequent VLC is assigned or you elect representation by a single VLC, that VLC may advocate for you regarding collateral misconduct as you permit.

If you face an administrative separation board or court-martial for collateral misconduct you will be assigned a military defense counsel to represent you in that proceeding. Either I or your subsequent VLC will work closely with your defense counsel to continue to promote and protect your rights and interests related to your reported sexual assault.

If, through our conversations, either you or I believe it may be alleged you committed misconduct that is not directly connected to your reported sexual assault, I will coordinate your referral to the nearest Defense Service Office, which provides legal advice and services to Sailors who may have committed misconduct or are facing disciplinary action. I will be largely uninvolved with respect to misconduct that is not directly connected to your reported sexual assault; however our conversations regarding that misconduct will remain confidential. Your subsequent VLC may also make this referral as circumstances dictate.

e. Personal Civil Legal Affairs. I can provide you basic legal assistance services that are directly connected to your reported sexual assault, to include notarizations and basic powers of attorney. If you need assistance in more substantive matters such as estate planning, family law, consumer law, or landlord/tenant matters, I will coordinate your referral to the nearest Legal Assistance Office. Your subsequent VLC may also make this referral.

5. Duration of Attorney-Client Relationship. In general, our attorney-client relationship will continue until you release me after being assigned a subsequent VLC, the legal aspects of your reported sexual assault are concluded, or per the exceptions noted below, either of us transfers to a new duty station or terminates military service.

Generally, the legal aspects of your case will conclude shortly after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority or, in the case of a court-martial, shortly after the court's findings and sentence, if any, are acted upon by the convening authority.

If I transfer or leave military service before completion of your case, I will protect your interests. This will include giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new VLC to serve as your local attorney, and completing a turnover of your case with your new VLC to assure continuity of legal services. No matter my next

APPENDIX K
CHILD COMPETENCY ASSESSMENT WORKSHEET



Privileged - Attorney Work Product

Diminished Capacity Client – Considered Judgment/Capacity Assessment Worksheet

Use this form to document your assessment of a diminished capacity client’s considered judgment and capacity to direct your legal services. This form should be utilized during VLC’s initial assessment prior to retention and for re-assessment of capacity at frequent intervals throughout the representation

Initial Client Capacity Assessment				
Client Name & Date of Birth: _____				
VLC Counsel Name & Date of Initial Assessment: _____				
Meeting Information	In Person	VTC	Telephone	Other (Describe)
Type of Meeting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Length of Meeting & Persons Attending				
Meeting Content	Yes	No	Unsure	Comments/Findings
Developmentally Appropriate Language Used?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Were VLC Services Explained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Did you Determine the Victim's Chronological Age?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Intellectual Age?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Did you Assess the Victim's Cognitive Ability?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Socialization?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Emotional & Mental Development?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Expression of a Relevant Position?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Ability to Communicate with VLC?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
" " " " Ability to Articulate	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<i>Reasons for a Legal Position</i>				
<i>Did you examine any records that evidence the victim's capacity or intellectual ability? If "yes" list what you consulted and determined.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Initial Client Capacity Assessment Continued...				
<i>Person(s) Consulted & Their Relationship(s) to Client</i>				
Other Factors Considered	Comments/Findings			
Initial Considered Reasoning/Capacity Findings & Conclusions				

Follow On Client Assessment/Meeting Log				
Meeting Information	<i>In Person</i>	<i>VTC</i>	<i>Telephone</i>	<i>Other (Describe)</i>
<i>Type of Meeting</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Length of Meeting & Persons Attending</i>				
Meeting Content	Yes	No	Unsure	Comments/Findings
<i>Developmentally Appropriate Language Used?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Did you Assess the Victim's Cognitive Ability?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>" " " " Ability to Communicate with VLC?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>" " " " Ability to Articulate Reasons for a Legal Position</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Did you examine any records that evidence the victim's capacity or intellectual ability? If "yes" list what you consulted and determined.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<i>Person(s) Consulted & Their Relationship(s) to Client</i>				
Meeting Notes & Additional Considered Reasoning Capacity Assessment				
Follow On Client Assessment/Meeting Log				
Meeting Information	<i>In Person</i>	<i>VTC</i>	<i>Telephone</i>	<i>Other (Describe)</i>
<i>Type of Meeting</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Length of Meeting & Persons Attending</i>				
Meeting Content	Yes	No	Unsure	Comments/Findings
<i>Developmentally Appropriate Language Used?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Did you Assess the Victim's Cognitive Ability?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>" " " " Ability to Communicate with VLC?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>" " " " Ability to Articulate Reasons for a Legal Position</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Did you examine any records that evidence the victim's capacity or intellectual ability? If "yes" list what you consulted and determined.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Person(s) Consulted & Their Relationship(s) to Client</i>				
Meeting Notes & Additional Considered Reasoning Capacity Assessment				

**** COPY THIS PAGE AND UTILIZE FOR FUTURE CLIENT MEETINGS ****

APPENDIX L
CHILD VICTIM SCOPE OF REPRESENTATION LETTER

DATE

From: *(Name/Rank of VLC)*
To: *(Name of eligible Victim)*

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

1. VLC Program. The Department of the Navy is committed to promoting and protecting the rights and interests of sexual assault victims and to ensuring you receive assistance through the Victims' Legal Counsel (VLC) Program and other support services available throughout the Navy and Marine Corps.

At your request, I have been assigned to serve as your VLC and provide you legal services. We will form an **attorney-client relationship**. I will act as your attorney, and you will be my client.

The purpose of this memorandum is to explain the nature and limitations of our attorney-client relationship and the legal services I can provide to you.

2. My Military Duty Is To Represent You. As your VLC, I am your attorney. I have been licensed by a state bar to practice law, and have been certified by the Judge Advocate General of the Navy to act as counsel in courts-martial and to represent victims of sexual assault. As your attorney, you have my undivided loyalty and concern. My sole legal and ethical obligation is to be your attorney to the best of my ability subject to the rules discussed in detail below.

I am assigned to the Department of the Navy's VLC Program and belong to an independent chain of command whose sole mission is to represent victims like you. As your VLC, I work for you. I will only be involved in the investigation or processing of your reported assault to promote and protect your rights and interests. My independence means that no one will influence my representation of you.

3. Confidentiality. The law recognizes that you must be able to share information with me in confidence. As your attorney, I am generally prohibited from revealing information related to our conversations unless you give me consent to do so after we discuss that possibility. Importantly, this means that everything we discuss will remain confidential unless you give me actual or implied permission to discuss the information with others. I will not disclose or discuss any conversations you and I have or any matters related to my representation of you with anyone to include your parent/guardian without your permission. You are under no obligation to disclose any of our discussions with such persons to include your parent/guardian if they ask you to do so. If any person, to include your parent/guardian, requests that you disclose your conversations with me or your thoughts or decisions regarding the direction of my services, you may contact me to discuss any such request prior to answering any questions or providing any

information. It is important that you keep our conversations and our plans between us, unless you wish me to discuss them with others.

If you give me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your rights and interests, I am required to keep that information confidential except as explained in the next paragraph.

There are a few limited exceptions to this confidentiality that apply to me and every other attorney. These exceptions are very narrow and typically relate to my duty to protect your immediate safety, health, and welfare or to comply with a court order. If I believe it necessary to reveal confidential information under one of these exceptions, I will attempt to discuss my intentions with you and only disclose information to the extent necessary to comply with my professional and legal obligations.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, and victim advocates.

Finally, other people are not bound by the same confidentiality rules as I am. What this means is that if other people are present when you and I communicate, those third-parties can be required to disclose what was said or shared in their presence.

4. Scope of Legal Services Provided. As your VLC, I will provide you legal services that are connected to your reported sexual assault. My focus will be to promote and protect your rights and interests related to that assault. The legal services I can provide include:

a. Legal Rights. As referenced above, I will assist you in understanding and exercising your legal rights connected to your reported sexual assault. This includes advocating on your behalf to promote, preserve, and protect those rights. With your permission, I can advocate on your behalf to military authorities. Within the military, these rights include the right to be treated with fairness and respect for your dignity and privacy; the right to be reasonably protected from the accused [to include my advocacy for a Military Protective Order (MPO)]; the right to be notified of court proceedings; the right to be reasonably heard at certain proceedings; the right to be present at all public court proceedings unless the court determines your testimony would be materially altered if you heard other testimony; the right to confer with government counsel in the case; the right to receive restitution, if available; the right to be provided information about any conviction, sentence, imprisonment, and release of the accused; and the right to proceedings free from unreasonable delay.

There may also be additional legal rights implicated in your case, depending on the circumstances, which I will discuss with you during the course of our attorney-client relationship.

b. Military Justice System. I will assist you in understanding the military justice system, which includes the investigative and disciplinary processes. I can answer any questions you have regarding the investigative and disciplinary processes.

I will promote and protect your rights and interests in the military justice system. This will include, with your permission, advocating on your behalf to various parties in the military justice system including: investigators such as NCIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates; military prosecutors, also known as trial counsel; the accused's defense counsel; pretrial investigation officers; pretrial confinement initial review officers; and military judges. At your request, and if locally available, I will attend your interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I will try to attend your interviews via video-conferencing or by telephone, or attempt to reschedule the interview to permit my attendance if possible.

I will assist you in obtaining information relevant to your case that you have a right to obtain, to include the status of the investigation and the status of the accused(s).

I will assist and facilitate your communication with trial counsel where you have a right to confer; this may include the status of disciplinary or court-martial processing, whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.

If the accused is charged, I will represent you in military justice proceedings, such as court-martial or Article 32 pretrial investigation, where you are afforded an opportunity to be present and heard. When necessary and appropriate, I will present facts and legal arguments on your behalf to the court.

I also plan to attend military justice proceedings when it is both necessary and appropriate that I do so.

If you believe you are the subject of harassment, retaliation, or intimidation related to your report of sexual assault, I will discuss, advise, and assist you on avenues of complaint to redress that treatment.

c. Advocacy to Civilian Prosecutors/Law Enforcement. My representation of you will be more limited with civilian authorities than military authorities. I cannot represent you in civilian court proceedings or advocate on your behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can assist in obtaining the status of the investigation and may possibly attend, in person or via phone or VTC, your interviews with investigators. If desired, I will assist you in seeking civilian resources to help you work with civilian authorities.

d. Cooperation with other Navy Support Providers. As a victim of sexual assault, you may be offered or may already be in contact with other support providers who work for the Navy. This may include counselors or case workers assigned to the Family Advocacy Program (FAP), Chaplains, medical and mental health personnel and others committed to aiding in your recovery. As we discussed, our communications remain confidential and I will not discuss your case or our conversations with any of those providers unless you wish me to. If you are working with a FAP counselor or case worker, it may be beneficial for me to keep that provider aware of the general

status of your case and your general well-being. We can discuss this matter now if you prefer or wait until you desire to do so.

5. Duration of Attorney-Client Relationship. In general, our attorney-client relationship will continue unless you release me, the legal aspects of your reported sexual assault are concluded, or per the exceptions noted below, either of us transfers to a new duty station, moves, or terminates military service.

Generally, the legal aspects of your case will conclude shortly after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority or, in the case of a court-martial, shortly after the court's findings and sentence, if any, are acted upon by the convening authority.

If I transfer or leave military service before completion of your case, I will protect your interests. This will include giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new VLC to serve as your attorney, and completing a turnover of your case with your new VLC to assure continuity of legal services. No matter my next assignment or status, discussions you and I have had related to your case will remain confidential, subject to the exceptions previously mentioned.

If you move or transfer out of my geographic area of responsibility before completion of the legal aspects of your reported sexual assault, you may request a new VLC at your new location. Generally, if you request a new VLC, I will be released as your attorney unless continued representation is approved by my boss.

If you move or transfer but the legal processing of your reported sexual assault remains active with military authorities at this location, I will continue representation in your case unless you seek my release and/or appointment of an alternate VLC.

Finally, sometimes there are unforeseen legal or ethical obligations that apply to all attorneys that require an attorney to seek release or to withdraw from the attorney-client relationship. For example, a conflict of interest could require me to withdraw as your attorney. If I am required to withdraw or seek release as your attorney, I will protect your interests. This includes giving you reasonable notice of my withdrawal, allowing you time to obtain alternate VLC if applicable, and delivery of papers and property to which you are entitled.

6. Your Role: Your full participation and cooperation are critical to successful representation of your rights and interests. My job is to help you understand and exercise your rights as you see fit. We need to maintain good and private communications to do that, so please contact me at any time if you have questions, concerns, or worries about what is going on in your case. When I contact you, please respond quickly as it may be something we need to discuss immediately. As we discussed, it is very important that our communications remain private. Please consider this fact when you are responding to me, make sure you keep our discussions private, and do not discuss matters with me over the phone, text or email where other people can see or hear our communications.

APPENDIX M
PARENT/GUARDIAN SCOPE OF REPRESENTATION LETTER

Date

From: (Name of Attorney) JAGC, USN
To: Parent/Guardian of Child

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

1. VLC Program. The Department of the Navy is committed to promoting and protecting the rights and interests of sexual assault victims and ensuring they receive assistance through the Victims' Legal Counsel (VLC) Program and other support services available throughout the Navy and Marine Corps.

Per your request, I have been retained to serve as your child's VLC and provide legal services related to your child's report of sexual assault. Your child and I will form an attorney-client relationship and I will provide legal services to benefit your child. I will act as your child's attorney, and you, as the parent or guardian of the child, can help me better understand your child's communications and interests.

The purpose of this memorandum is to explain the nature and limitations of my attorney-client relationship with your child and the legal services I can provide on behalf of your child.

2. My Military Duty Is To Represent Your Child. As your child's VLC, I am your child's attorney. I have been licensed by a state bar to practice law, and have been certified by the Judge Advocate General of the Navy to act as counsel in courts-martial and to represent victims of sexual assault. As your child's attorney, your child has my undivided loyalty and concern. My sole legal and ethical obligation is to be your child's attorney to the best of my ability subject to the rules discussed in detail below.

I do not work for your commanding officer, the commanding officer of your spouse (if applicable) or anyone within the accused's chain of command. I am assigned to the Department of the Navy's VLC Program and belong to an independent chain of command whose sole mission is to represent victims of sexual assault. My independence means that no one other than your child will influence my representation of your child.

If I determine that your child does not possess considered judgment or capacity to reach a decision or direct my actions on one or more matters I may choose to consult with any of the following persons at my discretion: you (the child's parent), any appointed guardian, FAP personnel, your child's mental health counselor or therapist, my VLC chain of command. After consulting any persons I deem appropriate and gathering any additional information I feel germane, I will make a decision on how to proceed on the matter at hand. The decision I thereafter make on behalf of your child will be the decision that I deem best for the child if the child were to make the decision under the circumstances present at the time the decision is made. At all times your child will be my client and my services will be directed accordingly.

3. Confidentiality. The law recognizes that your child must be able to share information with me in confidence. As your child's attorney, I am generally prohibited from revealing information related to my conversations with your child unless your child gives me consent to do so after we discuss that possibility. Importantly, this means that everything your child and I discuss remains confidential unless your child gives me permission to discuss the information with others.

If your child gives me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your child's rights and interests, I am required to keep that information confidential except as explained in the next paragraph.

There are a few limited exceptions to this confidentiality that apply to every attorney. These exceptions are very narrow. For example, I may be required to reveal information to prevent serious physical harm to any person, including you or your child, or to comply with court orders. Another example would be if your child was directing me to take or not take an action and I objectively believed the direction would likely cause serious injury of a permanent nature (physical, mental or otherwise) to your child. If I believe it necessary to reveal confidential information under one of these exceptions, I will attempt to discuss my intentions with your child and only disclose information to the extent necessary to comply with my professional and legal obligations.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, Family Advocacy Program (FAP) counselors, and victim advocates. Other people are not bound by the same confidentiality rules I am. This means that if other people are present, including you the parent, when I communicate with your child, those third-parties can be required to disclose what was said or shared in their presence.

4. Scope of Legal Services Provided. As your child's VLC, I will provide your child legal services connected to his/her reported sexual assault. My focus will be to promote and protect your child's rights and interests related to that assault. The legal services I can provide include:

a. Legal Rights. As above, I will assist you and your child in understanding and exercising your child's legal rights connected to his/her reported sexual assault. This will include advocating on your child's behalf to promote, preserve, and protect those victim's rights. With your child's permission, I can advocate on your child's behalf to military authorities. Within the military, these rights include the right to be treated with fairness and respect for your child's dignity and privacy; the right to be reasonably protected from the offender [to include my advocacy for a Military Protective Order (MPO)]; the right to be notified of court proceedings; the right to be present at all public court proceedings unless the court determines your child's testimony would be materially altered if he/she heard other testimony; the right to be reasonably heard at certain proceedings; the right to confer with government counsel in the case; the right to receive restitution, if available; the right to be provided information about any conviction, sentence, imprisonment, and release of the accused; and the right to proceedings free from unreasonable delay.

If a military judge appoints a “guardian” to promote and preserve your child’s established “Victim’s Rights”, I will cooperate with that agent to enforce those rights, subject to the confidentiality, consent, and representation requirements established above.

There may also be additional legal rights implicated in your child’s case, depending on the circumstances, which I will discuss with you and your child during the course of our relationship.

b. Military Justice System. I will assist you and your child in understanding the military justice system, including the investigative and disciplinary processes and answer any questions you both have regarding these processes.

I will promote and protect your child’s rights and interests in the military justice system. This includes, advocating on your child’s behalf to various parties in the military justice system including: investigators such as NCIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates; military prosecutors, also known as trial counsel; the accused’s defense counsel; pretrial investigation officers; pretrial confinement initial review officers; and military judges. If locally available, I will attend your child’s interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I will try to attend your child’s interviews via video-conferencing or by telephone, or attempt to reschedule the interview to permit my attendance if possible.

I will assist you in obtaining information relevant to your child’s case that you have a right to obtain, to include the status of the investigation and the status of the accused(s).

I will assist and facilitate communication with trial counsel where your child or you have a right to confer; this may include the status of disciplinary or court-martial processing, whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.

If the accused is charged, I will represent your child in military justice proceedings, such as a court-martial or an Article 32 pretrial investigation, where your child is afforded an opportunity to be present and heard. When necessary and appropriate, I will present facts and legal arguments on your child’s behalf to the court.

I will attend military justice proceedings when it is both necessary and appropriate that I do so.

c. Advocacy to Civilian Prosecutors/Law Enforcement. My representation of your child will be more limited with civilian authorities than military authorities. I cannot represent your child in civilian court proceedings or effectively advocate on his/her behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can assist in obtaining the status of the investigation and may possibly attend, in person or via phone or VTC, your child’s interviews with investigators. If desired, you may obtain civilian counsel at your own expense to represent your child with civilian authorities and I may work along with any civilian attorney you retain as assistant counsel.

d. Personal Civil Legal Affairs. I can provide your child basic legal assistance services directly connected to his/her reported sexual assault, to include notarizations and basic powers of attorney. If your child needs assistance in more substantive matters, I will coordinate a referral to the nearest Legal Assistance Office.

e. UCMJ Article 6b Rights. I can assist you in determining and potentially enforcing your child's rights as a victim under Article 6b of the UCMJ.

5. Duration of Attorney-Client Relationship. In general, my attorney-client relationship with your child will continue unless your child releases me, the legal aspects of your child's reported sexual assault are concluded, or per the exceptions noted below.

Generally, the legal aspects of your child's case will conclude shortly after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority or, in the case of a court-martial, shortly after the court's findings and sentence, if any, are acted upon by the convening authority.

If I transfer or leave military service before completion of your child's case, I will protect your child's interests. This includes giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new VLC to serve as your child's attorney, and completing a turnover of your child's case with a new VLC to assure continuity of legal services. No matter my next assignment or status, discussions you and I have had or discussions I have had with your child related to your case will remain confidential, subject to the exceptions previously mentioned.

If you move out of my geographic area of responsibility before completion of the legal aspects of your child's reported sexual assault, your son/daughter may request a new VLC be assigned at your new location. Generally, if a new VLC is assigned, I will be released as your child's attorney unless continued representation is approved by my chain of command.

If you move but the legal processing of your child's reported sexual assault remains active with military authorities at this location, I will continue representation in your child's case unless your child seeks my release and or appointment of an alternate VLC.

Finally, sometimes there are unforeseen legal or ethical obligations that apply to all attorneys that require an attorney to seek release or to withdraw from the attorney-client relationship. For example, a conflict of interest could require me to withdraw as your child's attorney. If I am required to withdraw or seek release as your child's attorney, I will protect your child's interests. This includes giving you and your child reasonable notice of my withdrawal, allowing you time to obtain alternate VLC if applicable, and delivery of papers and property to your child which he/she is entitled.

6. Your Role: Your full participation and cooperation are critical to successful representation of your child's rights and interests. Full participation and cooperation includes but is not limited to providing transportation for and reasonable access to your child so I can meet with him/her and

provide them legal services. It also includes providing me with access to your child's other records, which may include but are not limited to medical, mental health, and academic records as necessary so that I can provide competent, informed legal representation for your child. As we proceed, please contact me immediately with any questions or concerns that you have about your child's legal rights or the legal services I can provide.

My contact information is:

VLC, JAGC, USN
Fleet & Family Support Center
Address:
Telephone Number:
Email:

As a Naval Officer and your child's attorney, I am concerned about your child's general health, morale, welfare, and safety. I urge you to take advantage of the other available support services including medical treatment and counseling available for your child

Client Acknowledgment

I understand the nature and limitations of my relationship with the VLC representing my child.

Name of Child Child's DOB

Name of Parent

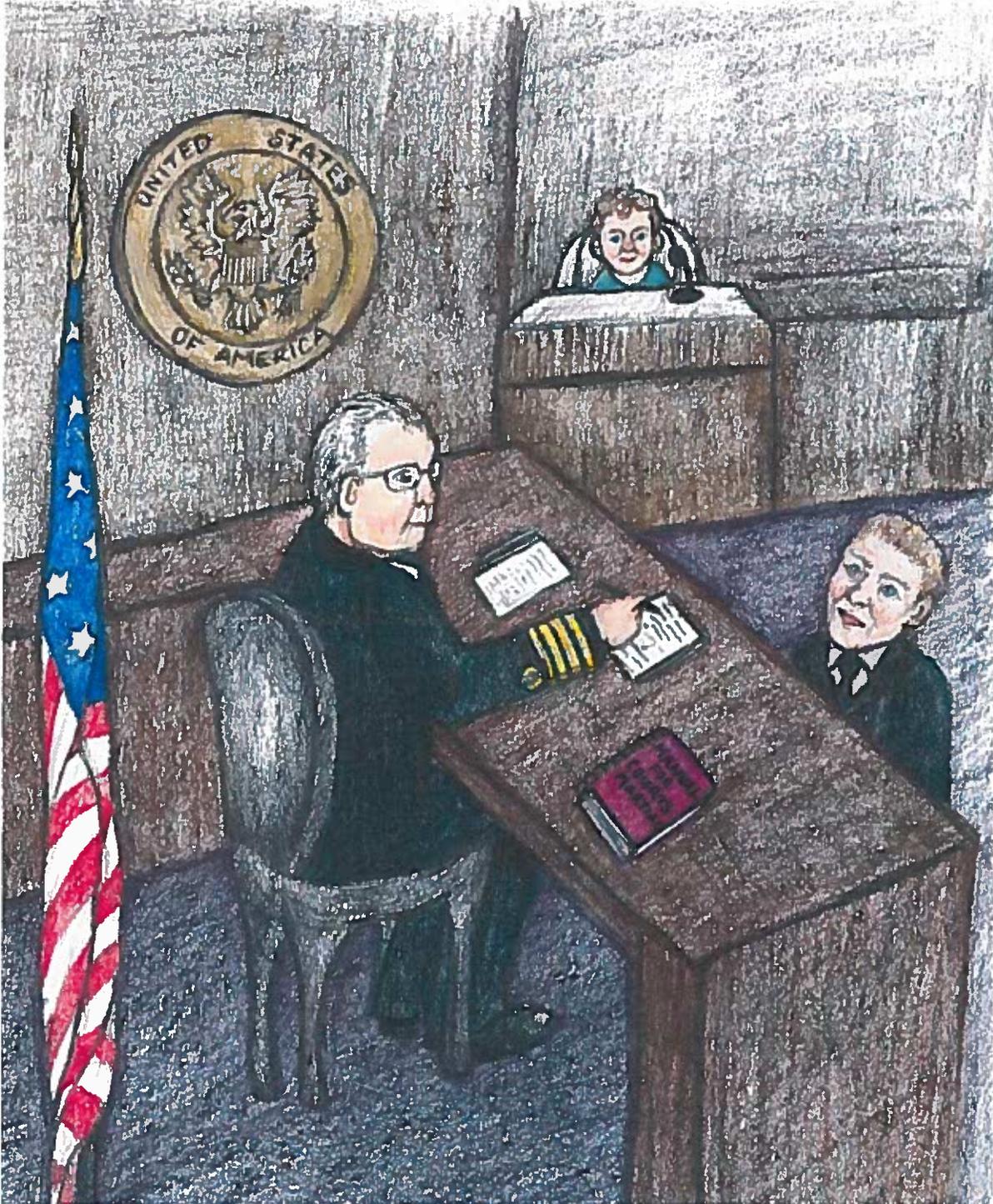
Parent's Signature Date

(Attorneys name), JAGC, USN Date
Victims' Legal Counsel

APPENDIX N

WHEN KIDS TESTIFY AT COURTS-MARTIAL

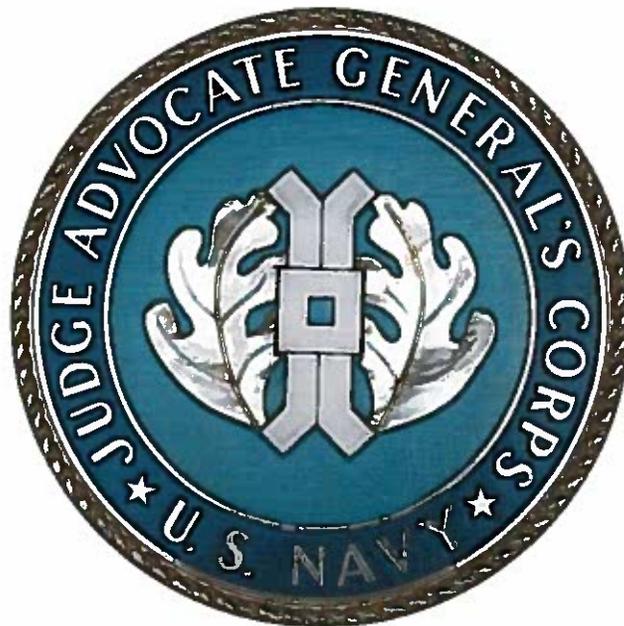
Helping Children Understand the Military Justice System



Based on "When Kids Testify in Court"
by Robyn B. Light,
Victim-Witness Manager/Senior Investigator (Retired) Yakima County Prosecuting
Attorney's Office Yakima, Washington

Used with Permission from the Author

Adapted and Illustrated by LCDR Ann Lundwall, JAGC, USN



THIS BOOK BELONGS TO: _____

GIVEN IN FRIENDSHIP BY: _____

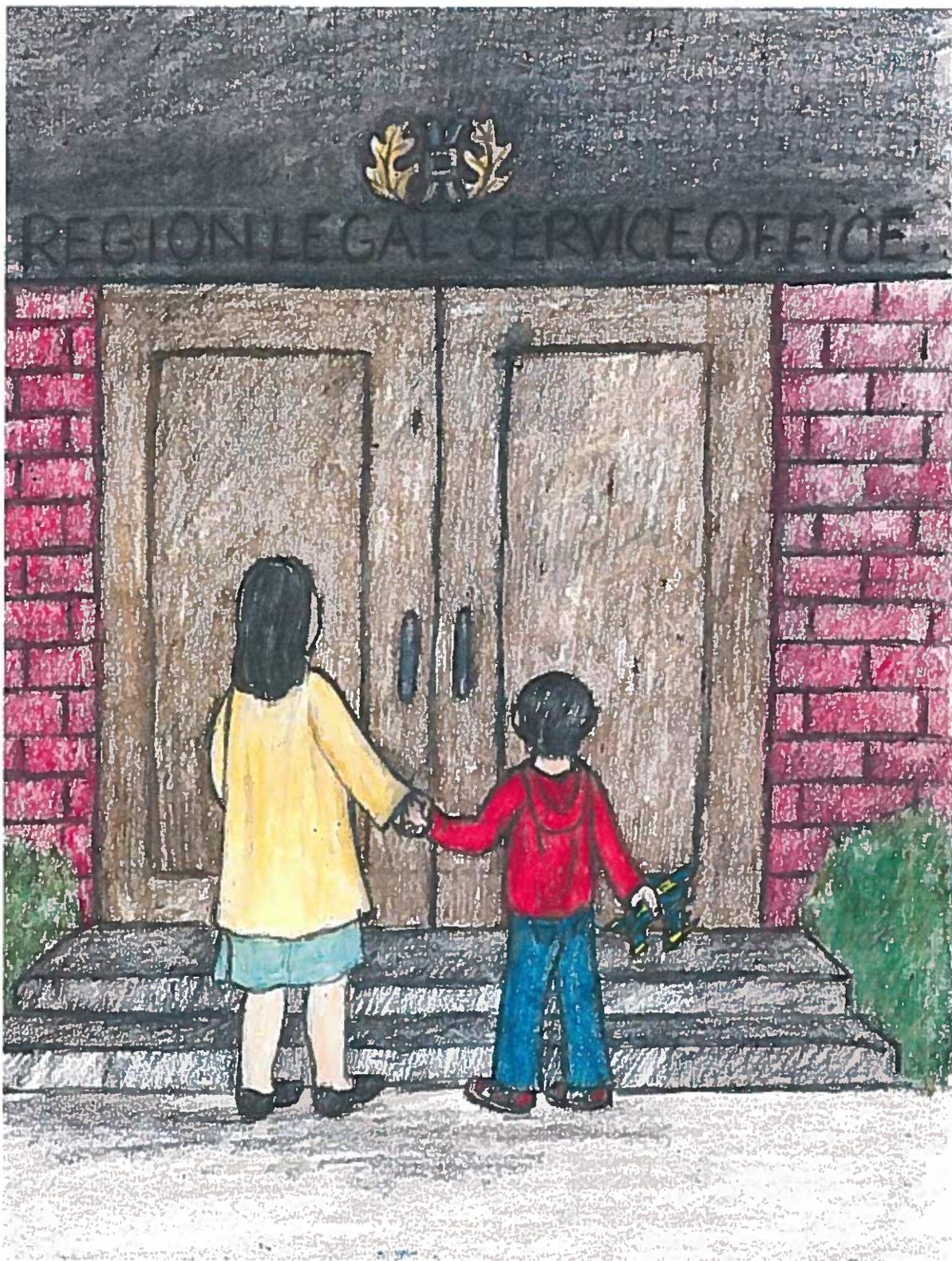
YOUR COURT FRIENDS ARE:

VICTIMS' LEGAL COUNSEL _____

NCIS AGENT _____

TRIAL COUNSEL _____

MILITARY JUDGE _____



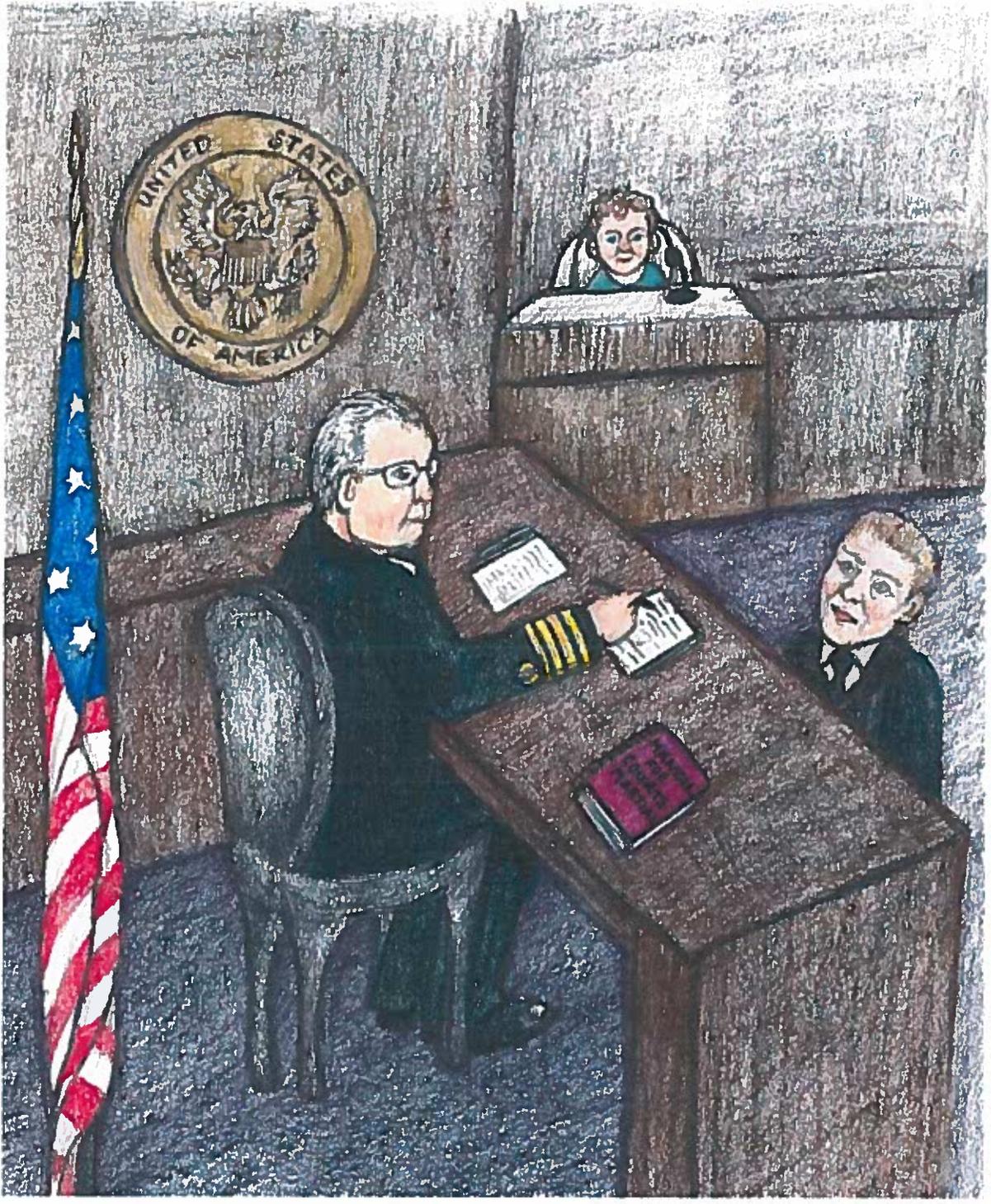
You have been asked to come to **Courts-Martial** to tell about something that happened to you, or to tell something that you saw happen to someone else. Courts-martial is a special kind of court that takes place on a military base. When something is new or unfamiliar, it can make us feel a little scared. Going to court can be a new experience but it doesn't have to be scary.

When you are asked to come to court to answer questions, you are called a **witness**. A witness is a helping person. As a witness, you will be called to the **courtroom** to sit in the **witness stand**. The courtroom is where you will talk to the **Military Judge** and a group of people, called the **Members**, who will listen to what you have to say. The witness stand is where you sit in the courtroom when it is your turn to talk to the Judge and the Members.

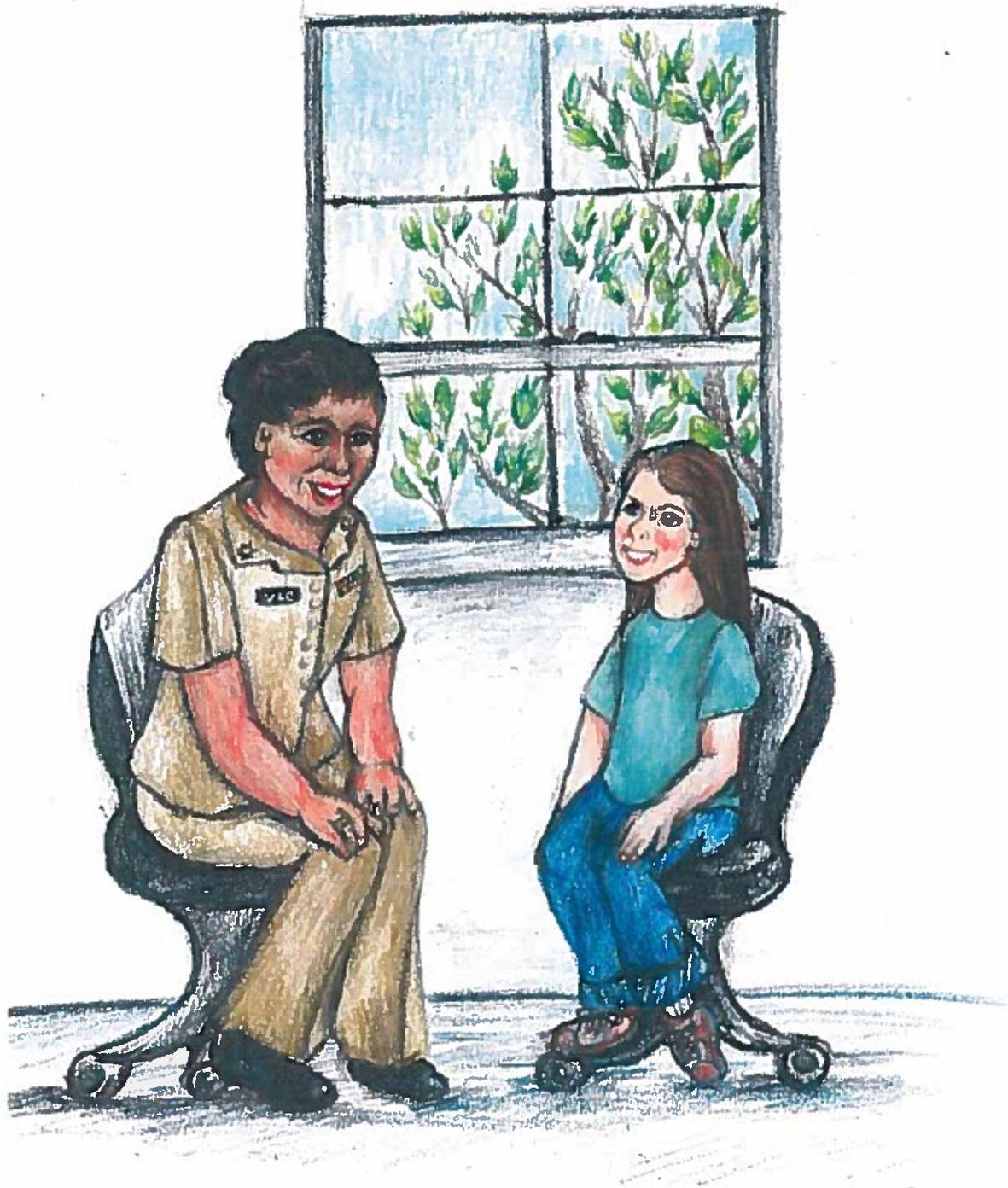


You will be asked to give your **testimony**. To give your testimony means you answer questions about what you know. The **Trial Counsel** or the Military Judge will ask you to take an **oath**. An oath is when you promise to tell the truth. Telling the truth is a very important job.

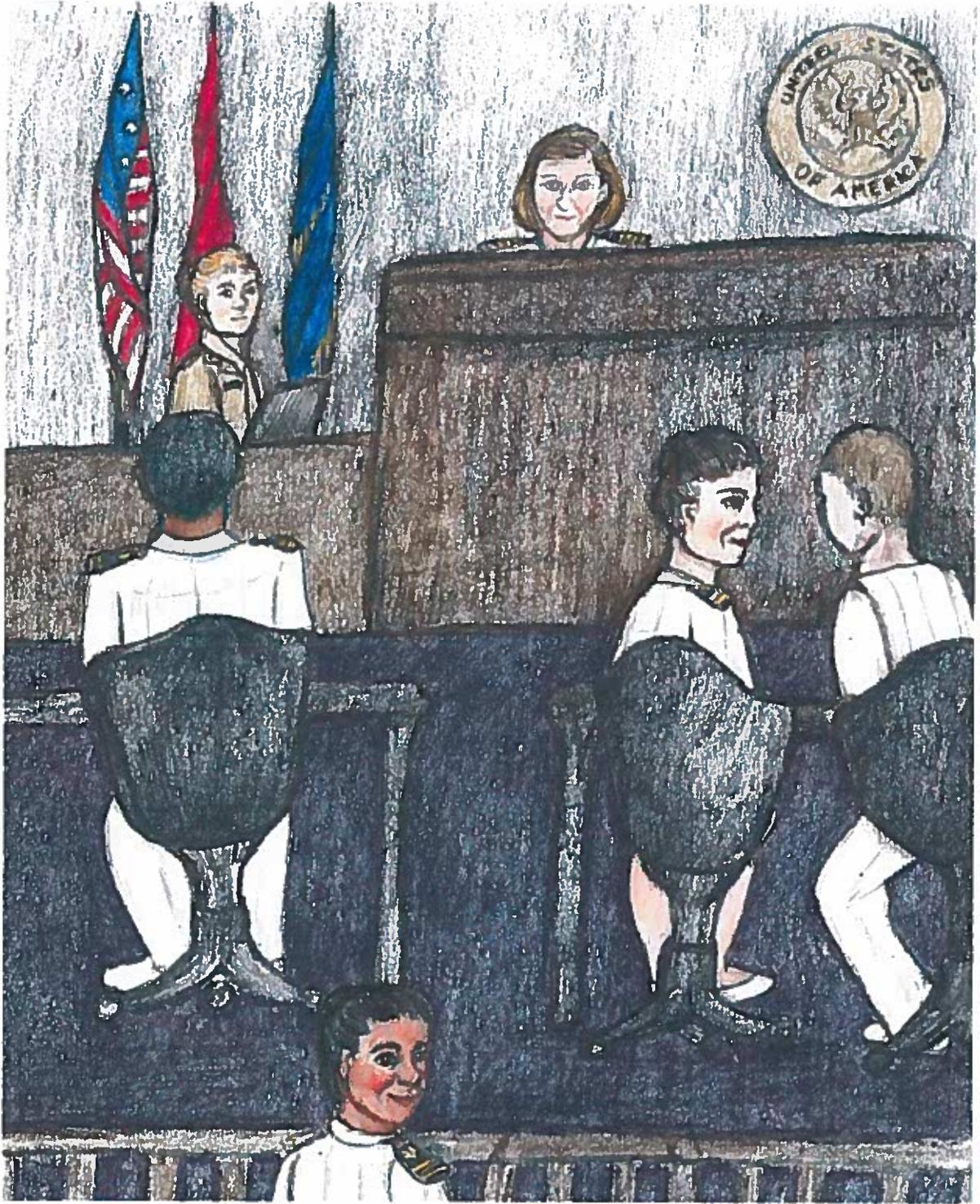
There will be lots of people at court who are there to help you. You will already know some of these helping people. You will also get to meet some new people who will be in court to make you feel more comfortable. Let's learn more about the courtroom and your courtroom helpers.



The **Military Judge** is an important helping person. The Military Judge wears a uniform and sits at a high desk. It is the Military Judge's job to make sure that the **law** is followed. Laws are rules that everyone must follow. The Military Judge explains the law to the members and answers questions about the law for the attorneys. The Military Judge wants you to feel safe in the courtroom so you will feel comfortable answering questions. The Military Judge wants you to tell the truth about what you know.



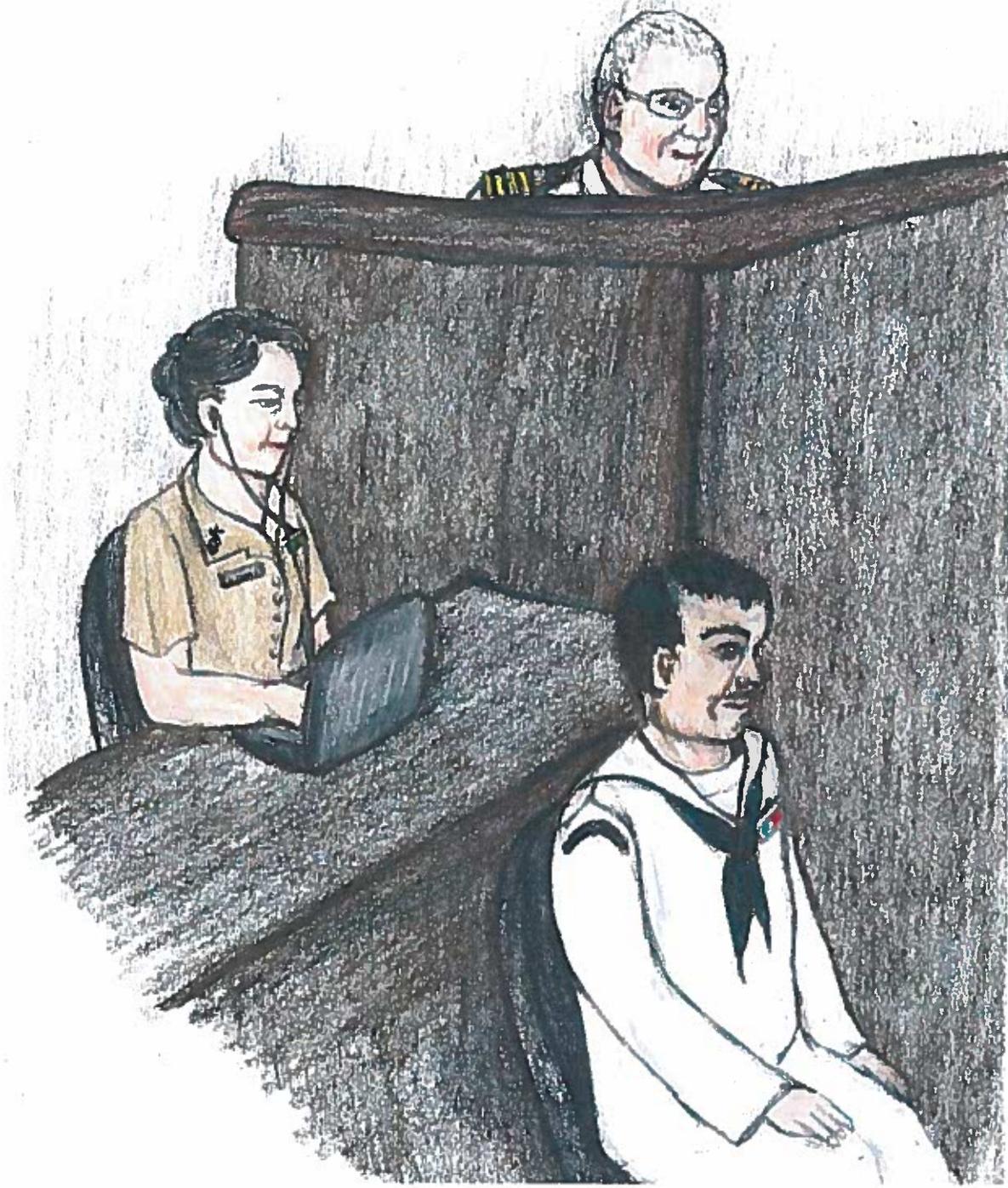
The **Victims' Legal Counsel** is your special helping person. The Victims' Legal Counsel is your attorney who helps you in court. Your Victims' Legal Counsel will explain to you how court works. Your Victims' Legal Counsel can talk to the judge for you and explain to the Judge how you feel.



The **Trial Counsel** is a helping person. The Trial Counsel must prove to the court that the **Accused** broke the law. The Accused is the person accused of breaking the law. The Trial Counsel and the Defense Counsel will sit at a table in front of the Military Judge. The Victims' Legal Counsel usually sits behind the Trial Counsel and sometimes has a separate table.

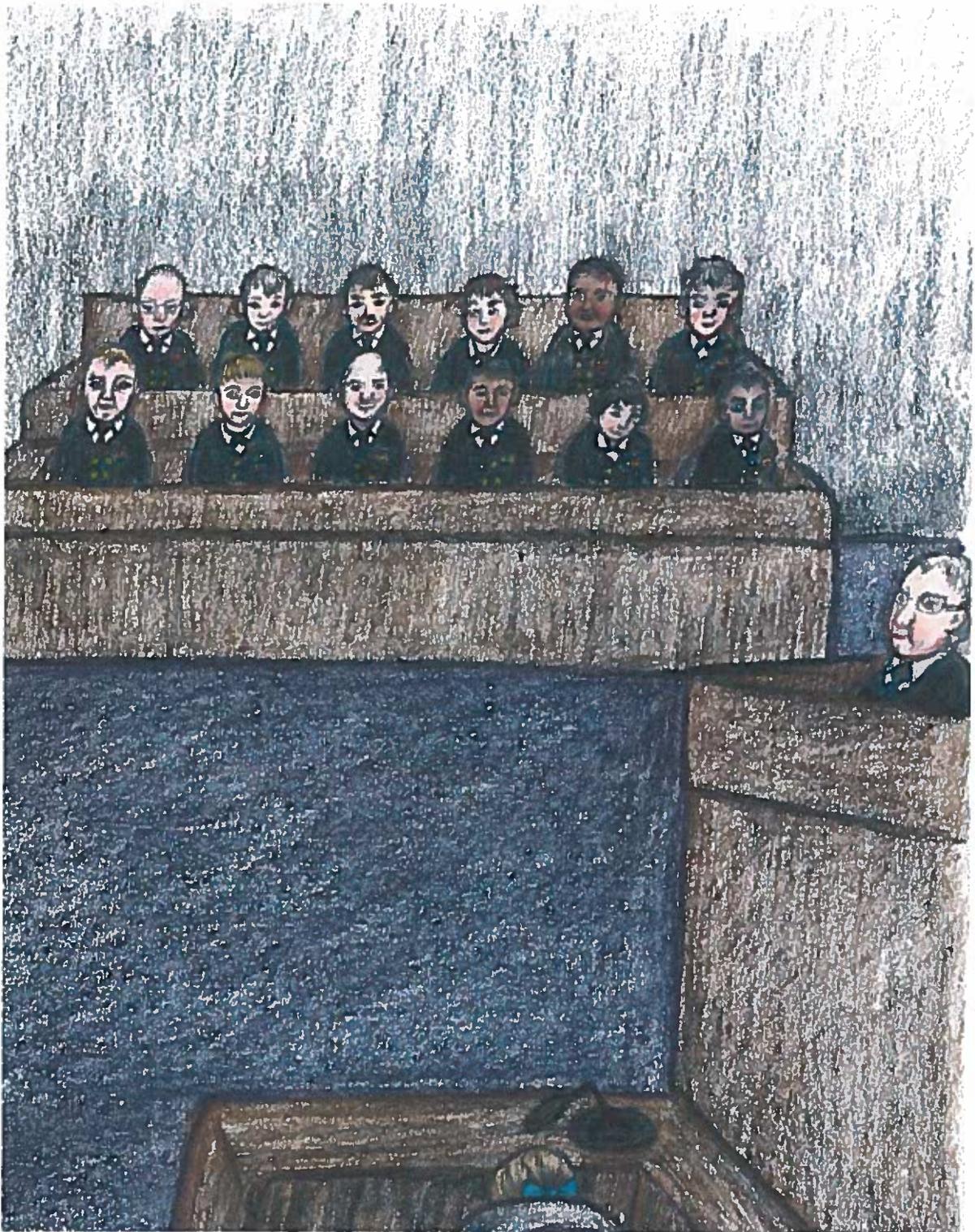
The **Defense Counsel** is a helping person who helps the accused in court. The Accused will sit next to the Defense Counsel at the table in front of the Judge.

The Trial Counsel and the Defense Counsel will take turns asking you questions. The Trial Counsel asks you questions first, and then the Defense Counsel asks you some questions. You get to ask your Victims' Legal Counsel questions outside of the courtroom.



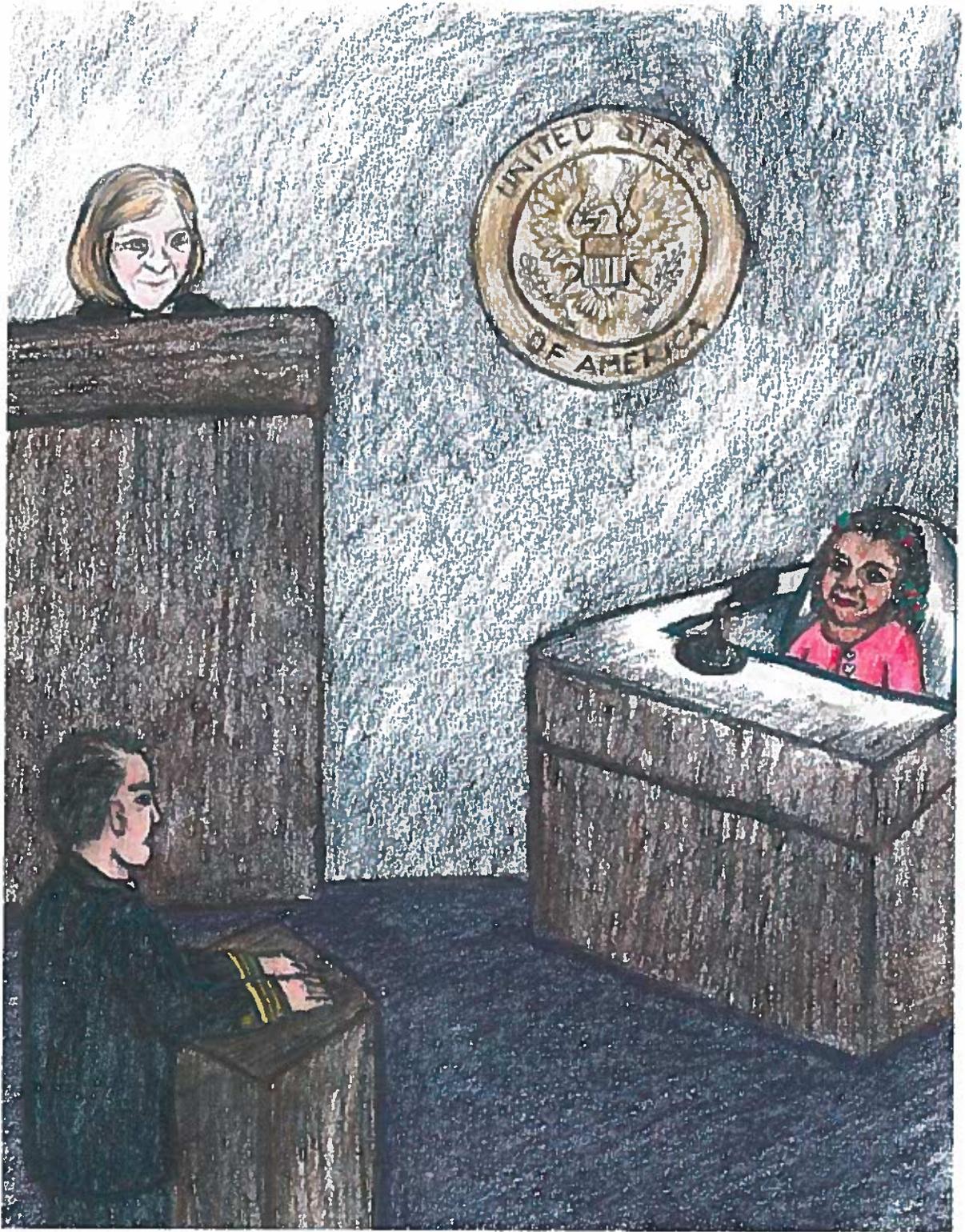
The **Court Reporter** is a helping person. The Court Reporter is there to help the Military Judge. The Court Reporter helps record all the testimony and keeps track of all the court papers and other information and other information that is called evidence. The evidence is brought into court by the attorneys to help explain their side of the case.

The **Bailiff** is a helping person and wears a uniform. The Bailiff helps the Military Judge and keeps order in the courtroom. When the Military Judge comes into the courtroom, the Bailiff says "all arise" and everybody stands up.



The **Members** are helping people. **Members** are people who work in the military and wear uniforms. They do not usually work at a courthouse. Instead, they are asked to come to court and listen to a court case. For example, a Member could be a pilot, a nurse, a mechanic, or a cook. The Members must listen very carefully to everything that is said in court. They also look at all the evidence that is brought into court. It is the Members' job to decide if an **Accused** is **guilty or not guilty**.

If an Accused is found guilty, it means that the Members decided that the Accused broke the law. If an Accused is found not guilty, it means that the Members decided that there was not enough information or evidence to prove that the Accused had broken the law.



Now you have learned about going to court. You have learned that there are many helping people in the courtroom. You have learned that as a witness you are a helping person. Telling the truth about what happened to you, or what you saw happen to someone else is a very important job.

All your court helpers want to thank you for coming to court and telling the truth about what you know. We think you are a really **TERRIFIC KID!!!**

LET'S REVIEW THE WORDS YOU HAVE LEARNED

1. **Courts-Martial:** Courts-martial is a special kind of court that takes place on a military base.
2. **Witness:** The person who is called to the witness stand to answer questions and tell the truth about what they know.
3. **Courtroom:** The room where you will go to talk to the judge and where the jury will listen to what you have to say.
4. **Testimony:** A statement given under oath by a witness in court.
5. **Oath:** When you promise in court to tell the truth.
6. **Military Judge:** The person in charge of the court who makes sure that the law is followed.
7. **Law:** The law is made up of many rules that everyone must follow.
8. **Victims' Legal Counsel:** My lawyer who helps me in court and who will explain to me all about how the court works.
9. **Trial Counsel:** The lawyer who must prove in court how the accused broke the law.
10. **Defense Counsel:** The lawyer that helps the accused in court.

11. **Accused:** The person accused of breaking the law.
12. **Court Reporter:** The person who helps the judge by recording all the testimony and keeps track of all the paperwork and evidence.
13. **Evidence:** Items that are brought into court to help attorneys explain their side of the case.
14. **Witness Stand:** Where you will sit in the courtroom when it is your turn to talk to the judge or the members.
15. **Bailiff:** The person who helps the judge keep order in the court and says "all arise."
16. **Members:** The people who decide, after reviewing all the facts and evidence, if the accused broke the law.

LET'S DRAW A PICTURE ABOUT GOING TO COURT

LET'S SEE WHAT WE HAVE LEARNED ABOUT GOING TO COURT

HERE ARE THREE GOOD THINGS I LEARNED ABOUT GOING TO COURT

1. _____

2. _____

3. _____

I LIKE MY "GOING TO COURT" BOOK BECAUSE

1. _____

2. _____

3. _____

WHEN I GO TO COURT AND TELL THE TRUTH ABOUT WHAT I KNOW, I
AM A HELPING PERSON



(Date)

Rank and Name of pending VLC
Current Duty Station Address

Dear *Lieutenant VLC (First name)*:

Welcome to the Navy Victims' Legal Counsel Program (VLCP)! I am excited about your joining our phenomenal team as a VLC in *duty location*. *Name of sponsor* has been designated as your sponsor. Please feel free to contact him/*her* with any questions or concerns. He/She may be reached by *telephone at number* or via email at *official email address*.

The VLC Program was established in August 2013 to provide legal advice, assistance, and when necessary, advocacy for Navy victims of sexual offenses. VLC work to protect and preserve the rights and interests of these victims, and in the case of investigation and prosecution, to assure victims understand the process, can exercise their rights, and are able to effectively participate by having a voice in the process.

The VLC Program consists of 32 specially trained and certified judge advocates stationed around the globe to provide legal support to eligible victims of sexual offenses. VLC form an attorney-client relationship with victims and operate outside the chain-of-command of the victim, the accused, and independent of both trial and defense counsel.

I know you will find your tour as our VLC in *duty station* both challenging and rewarding. I look forward to having you on our team!

Sincerely,

L. B. SULLIVAN
CAPT, JAGC, USN
Chief of Staff
Victims' Legal Counsel Program

Date

Rank and Name of pending YN
Current Duty Station Address

Dear Seaman Jones,

I am Petty Officer Smith and I am pleased to be your sponsor here at the Navy Victims' Legal Counsel Program (VLCP) Office in Pearl Harbor. I will do my best to make your transition to Pearl Harbor, Hawaii is a pleasant one. I am sure you are excited about your upcoming move and may have questions and concerns about the command and the area. I am happy to answer specific questions or help resolve any issues of concern to you. Also, you may check <http://www.militaryhomefront.dod.mil/moving> for information on planning your move and learning about your destination. Please let me know your travel arrangements when you get a chance. I am available to assist in any way I can to make your relocation as smooth as possible.

Here is a bit of information about our program: The VLCP was established in August 2013 to provide legal advice, assistance, and when necessary, advocacy for eligible victims of sexual offenses. VLC work to protect and preserve the rights and interests of victims, and in the case of investigation and prosecution, to ensure victims understand the process, can exercise their rights, and are able to effectively participate by having a voice in the process. We are proud of the work we do and know you will make a great addition to the team!

To help assess your needs and verify that you received this letter, please contact me at (808) 123-4567. I am forwarding you a Prospective Gain Questionnaire and VLC Social Roster form. Please fill these out and e-mail them back to me. Here is my contact information:

Mailing address: RANK, NAME, and COMPANY
4827 BOUGAINVILLE DRIVE, RM 263
HONOLULU, HI 96818
E-mail: XXXXXXXXXXX@NAVY.MIL
Work Telephone: DSN: 551-XXXX, COMM: (805) 982-XXXX
Cell Phone: XXX-XXX-XXXX

I may be contacted at work between 0800 and 1600, and by cell between 1600 and 0800 (use 24 hour clock, time zone information, and explain the difference +/- their local time).

I look forward to hearing from you and meeting you in person. Welcome Aboard!

Sincerely,

SPONSOR NAME HERE

APPENDIX P
VICTIMS' LEGAL COUNSEL PROGRAM CHECK-IN PROCEDURES

Sponsor: _____

Location: _____

Rate/Rank: _____

Name: _____
(Last, First Middle Int)

Report Date: _____
(YYMMDD)

Congratulations and welcome to the Victims' Legal Counsel Program! Please check in with the offices listed below. Your sponsor will assist you.

	<u>INITIALS</u>	<u>DATE</u>
1. Chief of Staff (contact YN2 Nye for an appointment)	_____	_____
2. Deputy Chief of Staff (contact YN2 Knox for an appointment)	_____	_____
3. Department Head	_____	_____
4. RLSO's CO	_____	_____
5. RLSO's XO	_____	_____
6. RLSO's Admin Officer	_____	_____
7. RLSO's PFA Coordinator	_____	_____
8. RLSO's DAPA Coordinator	_____	_____
9. RLSO's PDO	_____	_____
10. Military Judge	_____	_____
11. Urinalysis Coordinator	_____	_____
12. JCAB	_____	_____
13. Medical	_____	_____
14. Dental	_____	_____

APPENDIX P
VICTIMS' LEGAL COUNSEL PROGRAM CHECK-IN PROCEDURES

Sponsor: _____

Location: _____

Rate/Rank: _____

Name: _____
(Last, First Middle Int)

Report Date: _____
(YYMMDD)

Congratulations and welcome to the Victims' Legal Counsel Program! Please check in with the offices listed below. Your sponsor will assist you.

	<u>INITIALS</u>	<u>DATE</u>
1. Chief of Staff (contact YN2 Nye for an appointment)	_____	_____
2. Deputy Chief of Staff (contact YN2 Knox for an appointment)	_____	_____
3. Department Head	_____	_____
4. RLSO's CO	_____	_____
5. RLSO's XO	_____	_____
6. RLSO's Admin Officer	_____	_____
7. RLSO's PFA Coordinator	_____	_____
8. RLSO's DAPA Coordinator	_____	_____
9. RLSO's PDO	_____	_____
10. Military Judge	_____	_____
11. Urinalysis Coordinator	_____	_____
12. JCAB	_____	_____
13. Medical	_____	_____
14. Dental	_____	_____

APPENDIX Q
VLC TRAVEL REQUEST JUSTIFICATION FORM

DATES OF TRAVEL:

LOCATIONS TO BE VISITED:

ESTIMATED TRAVEL COST (per DTS):

CASE INFORMATION:

1. CASE NAME: UNITED STATES V.

2. CLIENT NAME:

3. HAVE YOU FORMED A/C RELN WITH VICTIM?

4. TYPE OF HEARING (ART 32, MOTION, TRIAL):

5. DATE OF HEARING:

6. LOCATION OF HEARING:

7. NAME OF TRIAL COUNSEL:

8. HAS CLIENT REQUESTED VLC ATTENDANCE?

9. WOULD ALTERNATE FORMS OF SUPPORT SUFFICE (VTC, TELCON, ETC)?

10. IF NOT, WHY NOT?

11. SIGNIFICANT VICTIM ISSUES IMPLICATED? (if so, which ones)?

12. COULD TC ADEQUATELY REPRESENT VICTIM'S INTERESTS PER THE ABOVE?
(Highlight any divergence with Case TC).