





## Eligibility

- Eligibility for VLCO legal services is the same as for traditional Legal Assistance:
  - 10 USC §1044
  - JAGINST 5800.7F (JAGMAN), Section 0705

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## 10 U.S.C. §1044

*Subject to the availability of legal staff resources, the Secretary concerned may provide legal assistance in connection with personal civil legal affairs to eligible individuals, including:*

- Members of the armed forces who are on active duty;
- Reservists serving on active duty;
- Members and former members entitled to retired or retainer pay;
- Military dependents of members and former members; and
- Others as provided in the statute.

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## 10 U.S.C. §1565b

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

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## Victim Rights

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

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

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

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## Scope of Services

### Legal Advice & Counseling

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

### Representation (Detailing)

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

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## VLC Advice & Counseling

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

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## VLC Advice & Counseling (Cont'd)

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

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## VLC Representation

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

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

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## VLCO Impact

Positive victim responses to legal services

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

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## REFERENCES

- 10 USC §1044 – Legal Assistance
- 10 USC §1044e – Special Victims' Counsel
- 10 USC §1565b – Legal Assistance to Sexual Assault Victims
- JAGINST 5800.7F (JAGMAN)
- SECDEF Memo – 14 Aug 2013
- MARADMIN 583/13 – 31 Oct 2013
- MCO P5800.16A – Marine Corps Manual for Legal Administration
- DODI 6495.02 – SAPR Program
- MCO 1752.5B – SAPR Program
- MCO 5800.14 – VWAP
- MCO 1754.11 – Family Advocacy Program
- 18 USC §3771 – Crime Victims' Rights Act

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# QUESTIONS?

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