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A Voice for Victims

How the Victims' Legal Counsel Organization Is Changing the Face of the Military Justice System

By Sara W. Bock

Many of the clients who walk into Major Michael G. Ankrum's office each day are junior Marines.

"You're one of the only lance corporals who has a major working for him or her," he likes to tell them.

There's little doubt that those words speak volumes to his clients, all of whom have come forward as victims of sexual assault and other serious crimes.

Ankrum, a judge advocate and Regional Victims' Legal Counsel (VLC) stationed at Marine Corps Base Camp Lejeune, N.C., has one primary interest in mind: his client's. The legal process can be daunting for victims, who may not always understand what their rights are, how the military justice system works, or what actions are required to achieve their desired outcome. That's why having an

expert in their corner can make all the difference.

In recent years, the Department of Defense has unveiled a series of new policies, procedures and programs designed to do two things: eradicate sexual assault among the ranks of the military services and create a climate that allows victims of these and other serious crimes to report them without fear of retaliation on both social and professional levels.

One of the DOD's most recent initiatives prompted the creation of the Marine Corps Victims' Legal Counsel Organization (VLCO), a program that operates within the military justice system and is designed to provide legal advice and representation for victims of sexual assault and other crimes, including domestic assault and hazing.

On Aug. 14, 2013, Secretary of Defense Chuck Hagel issued a memorandum that

directed the military departments to establish a special victims' legal advocacy program. General James F. Amos, then-Commandant of the Marine Corps, subsequently established the Marine Corps VLCO.

From the outset, the Corps established 10 VLCO offices around the world and designated 16 active-duty judge advocates and two reserve judge advocates as VLCs. The organization has grown to a current strength of 18 active-duty judge advocates.

Before the program's inception, the military justice system had no provisions for victims to receive their own legal counsel. To an extent, the prosecutor represents the victim's interests during the court-martial process, but by no means is the prosecutor's sole purpose to provide support to victims and help them navigate the legal process.

"As a prosecutor, it's the United States v.



The judge advocates of the VLCO stand outside the MCAS Miramar, Calif., Officers' Club during their annual training symposium in January. The organization is made up of 18 active-duty judge advocates, as well as numerous legal service specialists and civilian paralegals.

‘Whoever,’” said Captain Jeffrey Palmer, VLC at Marine Corps Air Station Cherry Point, N.C. “So you represent the people of the United States, the U.S. government, and essentially you’re prosecuting a court-martial that was convened, probably by their CO [commanding officer] or commanding general.”

Rather than being viewed as the CO’s legal counsel, the VLCs make it clear that they work solely in the victim’s best interest. And while they seldom stand up and argue during the actual trial, they advocate for the victim during every pre-trial hearing and help translate legal jargon and documents so that the victim can make informed decisions.

“The first thing I tell [my clients]: ‘I don’t care what your CO wants, I don’t care what the defense counsel wants, I don’t care what the prosecutor wants. I only care what you want.’” Palmer said. “They don’t have to worry about what they tell you, that it’s going to get back to the command. ... They have their own ‘person,’” he added.

Captain William Mossor, a VLC at MCB Camp Lejeune, recalls that when he formerly worked as a prosecutor in a sexual assault case, none of his clients ever called him to ask how the case was going—likely because they didn’t feel comfortable enough to do so. Now that he’s a VLC, his clients call him often, and he contacts them frequently as well, giving them updates from either the trial counsel or Naval Criminal Investigative Service (NCIS).

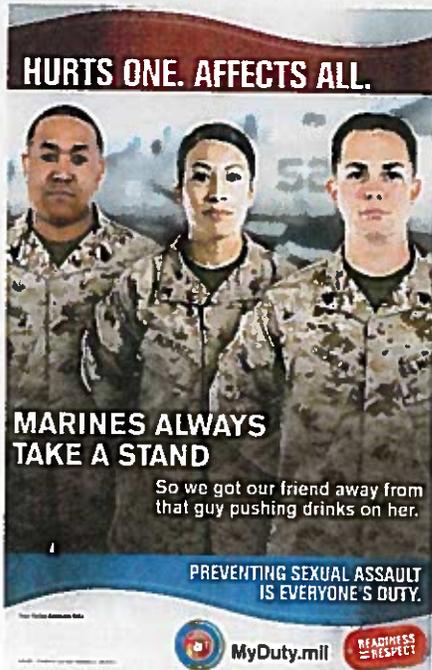
In fact, during his time as a prosecutor, he and his counterparts didn’t get to talk to the victim until the investigation was complete.

“I feel like there’s a lot of value—for the legal system it’s helped out a lot, but for the victim it’s really helpful to have somebody,” Mossor said.

He added that he reminds his clients that at any point in the process, they have the right to decide they don’t want to proceed further. For many victims, taking it one step at a time is the best approach. Mossor encourages them to think ahead to when the legal process is over. Will they wish they had done things differently? It’s a process that is intended to make clients feel comfortable and feel justified for wanting whatever outcome it is they want from the process. VLCs consistently inform clients of their rights as a victim, which are detailed in Article 6(b) of the Uniform Code of Military Justice (UCMJ).

“A VLC’s primary responsibility is to empower and enable a victim to voice their concerns and priorities ... [and to] ensure that a victim of sexual assault or other serious crime has a say in how they

are treated in the military justice system. Victims benefit by having their own lawyer to navigate and challenge a complicated legal system that may ignore or under-appreciate the emotional, physical, personal and professional implications of being sexually assaulted,” said Colonel Katherine M. McDonald, officer in charge of the VLCO, Headquarters, U.S. Marine Corps.



In an effort to reduce sexual assault and increase reporting of such offenses, posters like the one pictured here are hung in buildings on bases and stations worldwide.

“They don’t have to worry about what they tell you, that it’s going to get back to the command. ... They have their own ‘person.’”
—Capt Jeffrey Palmer

By providing victims with their own judge advocate—a captain or major designated specifically as a Victims’ Legal Counsel—the victims “can be confident that their VLC has their interests in mind and no one else. They do not work for the trial counsel. They do not work for the command. They do not work for the defense,” said McDonald, who, as the OIC of the VLCO, reports directly to the Staff Judge Advocate to the Commandant of the Marine Corps.

Programs like the VLCO have helped the Corps tremendously in its efforts to erase the stigma that too often has been associated with the reporting of sexual

assault. And while many victims may fear that by coming forward with an accusation, they may become the object of social or professional retaliation, the VLCs of the VLCO East region, led by Ankrum (the regional VLC), say that they very rarely see it happen to their clients—and when it does, the commands deal with it swiftly.

A large part of the program’s success may be attributed to the hand-selection of the VLC, who must demonstrate maturity, strong leadership attributes and effective communication skills, said McDonald.

A VLC must go through an interview, pass a detailed screening, have at a minimum six months in a trial billet (either defense or prosecution), have worked on a contested sexual assault case and trial, and attend a certification course.

Maj Ankrum had previously served as a prosecutor and was traveling home from a deployment to Afghanistan in early 2014 when he got a phone call with some news about his next assignment. He would serve as the first VLC at Camp Lejeune. He didn’t know anything about the newly formed organization, but he did what any good Marine does—go where you’re told to go and do a good job at it, he said.

Supporting and representing victims quickly became more than just a “job” to Ankrum, so much so that after his initial tour was over, he requested to stay on as the regional VLC of VLCO East, which covers Camp Lejeune; Cherry Point; MCAS New River, N.C.; and Marine Corps Recruit Depot Parris Island, S.C.

During fiscal year 2014, the first year of its existence, the VLCO made itself known in the military justice system. And while Ankrum probably would like to say that, as a VLC, he was welcomed into the process by his peers on the trial counsel and the defense, he said that during the first few courts-martial he attended, the defense objected to his presence.

“The judge heard them out and ultimately ruled in accordance with the law that no, sorry, the Victims’ Legal Counsel is going to be here,” Ankrum recalled, adding that the VLCs’ relationship with the defense and the prosecution has come a long way since then. Even today, they work hard to prove their legitimacy.

Capt Palmer was acting as a prosecutor on a sexual assault case at MCAS Cherry Point in 2014 when he first worked with a VLC. Coincidentally, it was Ankrum.

“I don’t know, this seems unnecessary,” Palmer recalled thinking to himself about the VLC. But as he worked on the case, with Ankrum representing the victim, he said he immediately realized the value of the VLCO. Today, Palmer works for Ankrum as the VLC at Cherry Point,

spending his days assisting victims and advocating for them throughout the legal process.

“When I was a trial counsel, I would explain the entire military justice process [to the victim] in 30 minutes—and how much do you think a victim retains of that? Absolutely nothing,” said Ankrum. With the establishment of the VLCO, victims have the opportunity to meet with their legal counsel 10 to 20 times, on average. According to Ankrum, the opportunity to build rapport is crucial during the legal process.

The clients serviced by VLCs are not limited to active-duty servicemembers, but also include dependents and DOD civilian employees, among other eligible victims.

The VLCs work closely with Uniformed Victim Advocates (UVAs), Sexual Assault Response Coordinators (SARCs), representatives from the Family Advocacy Program (FAP), and with the command of each unit on their base or station.

Since most sexual assaults and other offenses are reported directly to those individuals, they in turn refer the victims to the VLCs, who help them understand what their rights are as victims, allowing them to make an educated decision about what steps they would like to take and what outcome they would like to see at the end of the process.

In the military, reports of sexual assault can be classified either as restricted or

unrestricted. A restricted report allows the victims to disclose the details of the assault to specific parties so they can receive medical care and counseling—but they do not wish to go through the investigative process. By filing an unrestricted report, they allow the legal aspect to come into play.

According to Ankrum, most clients who walk through his door with a restricted report will choose to go unrestricted after

Unlike the other military services, whose VLCs help only victims of sexual assault, they believe they do a lot of good in providing counsel to victims of domestic abuse and hazing.

learning what their rights are as a victim and what services are provided them by the VLC.

Initially, most victims just want to know what their options are.

“I’ve never had a client that’s come to me on the first day ... say, ‘This is what I want.’ They either don’t have any idea what they want, partially because they don’t even know the options. I think for a lot of victims, it’s like walking into a restaurant and they don’t give you a menu, and a waiter comes and says, ‘What do you want for dinner?’ And you say,

‘Well, what do you serve here? What kind of restaurant is this?’ So they want to know options,” said Palmer, adding that he strives to make his clients feel like their desired outcome is legitimate within reason.

From the initial NCIS interview to the pretrial motions process, to working with the victim’s command and sometimes even arranging expedited transfers for the victim to allow them to “start over” in a new unit or at a new duty station, the VLC is there every step of the way. Some of the cases never go to trial for various reasons. The victim may be satisfied with an expedited transfer or, if the evidence against the accused is sufficiently strong, they may wish only to see them administratively separated from the Corps. In most cases, the victim understandably doesn’t want to attend the hearings that lead up to the trial, so the VLC will attend on the client’s behalf and then relay a summary to the client afterwards.

All the staff judge advocates in the VLCO typically have a caseload of between 20 and 30 cases at a time, and they spend a substantial portion of their time translating pretrial agreements (known in the civilian world as plea bargains) to their clients, said Palmer. While the victim doesn’t have the final say in whether a pretrial agreement is offered to the accused, the convening authority does allow the victim to have input. If the accused accepts a pretrial agreement, the victim



Marines with Third Marine Aircraft Wing discuss new approaches to sexual assault prevention training with Stacey Willis, SARC at MCAS Miramar, Calif., Jan. 21, 2014. The judge advocates of the VLCO work closely with their region’s SARCs and UVAs to ensure that no victims fall through the cracks of the military justice system.



SARA N. BOCK

From the left, Capt Dirk Daza, Maj Michael Ankrum, Capt William Mossor and Capt Jeffrey Palmer stand in a courtroom at MCB Camp Lejeune, N.C., Feb. 25. The four judge advocates serve as the VLC for Camp Lejeune and Cherry Point.

can avoid testifying at a court-martial.

"It [the pretrial agreement] is a pretty big stack of paper, and if you handed it to your client and said, 'Here you go, tell me what you think about this,' they just wouldn't know," Palmer said.

Since it is still a relatively young program, the VLCs who have helped pioneer it have faced a few challenges, aside from working to establish their legitimacy in the eyes of their military justice system peers.

Presently, gaining access to information regarding the case can prove to be a challenge for the VLC because the victim doesn't get a copy of the entire investigation. The convening authority—the command—is concerned that if the victim sees all statements that have been made about the case, their testimony may be impacted in one way or another. Ankrum said that the access to information has improved over the past two years, as the trial counsels are realizing that communication with the VLC is a good thing.

"Initially it was, 'I can't tell you anything'; now it's 'this is what we're seeing with the case,'" Ankrum said.

Mossor echoed Ankrum's sentiments, saying that he envisions that as the program grows and becomes more legitimate to the

other attorneys, the VLC will be granted more access to the information regarding the case, ultimately helping the client make even more informed decisions.

Another challenge relates to the expedited transfer process. Since many victims are transferred before the court-martial takes place, the VLCs spend a good deal of time traveling and attempting to network with the trial counsels at various duty stations around the world so that they can effectively represent their clients—both those who have left their duty station and those who have arrived there as a result of an expedited transfer.

The VLCs attend various symposiums throughout the year, most notably at the National Crime Victim Law Institute at Lewis & Clark University in Portland,

Ore. According to Mossor, it's extremely useful to see what the civilian legal field is doing in terms of working with victims and helping victims.

"In some things we're very much ahead of what the civilians are doing," Mossor said.

Interacting with attorneys who have spent decades advocating for victims allows the VLCs to consider new approaches to the same tasks.

"In some ways, they think 'outside of the box' a lot more," Palmer said of his civilian counterparts. "I wonder how we can keep pushing our 'box' to make it bigger—all in the name of assisting victims," he added.

Ankrum, Palmer and Mossor say they are proud of how much the VLCO has accomplished over the last two to three years. Unlike the other military services, whose VLCs help only victims of sexual assault, they believe they do a lot of good in providing counsel to victims of domestic abuse and hazing.

"We've been very aggressive, I think, with making sure that we take care of our Marines and our Marine families," Ankrum said. "We pushed our envelope early, and we continue to do it now in the interest of our client, not in the interest of our own self-worth, but to assist the client as best we can."

By ensuring that no victim "falls through the cracks" of the justice system, the VLCO has helped ensure organizational change, reinforcing the idea that the Corps does not and will not tolerate sexual assault. And, perhaps more importantly, that it cares about victims and will provide them with a voice that will speak for them when they can't, or don't want to, speak for themselves.



SgtMaj Don Gallagher, then-sergeant major of 3d MAW, signs his boot print on a "Leadership Stomp Out Sexual Assault" banner at MCAS Miramar, Calif., April 20, 2011. Over the past several years, the Corps has taken on the issue of sexual assault prevention and response in a variety of ways, including the creation of the VLCO.



SGT W. ZACH GRIFFITH, USMC