JUDICIAL PROCEEDINGS PANEL

DoD OVERVIEW OF RESTITUTION AND COMPENSATION IN MILITARY JUDICIAL PROCEEDINGS

John G. Baker
Colonel, USMC
Joint Service Committee Chair
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Overview

- UCMJ
- Military Justice Process
- Military Claims Act/Foreign Claims Act
- Covered by Military
- Compensation
- Additional Assistance Provided to Victims
• Article 139, UCMJ – Redress of Injuries to Property
  ▪ Limited to property wrongfully taken or willfully damaged
  ▪ Must be reported within 90 days of incident
  ▪ Timing: Deconflicting the Art. 139 investigation with a criminal investigation
  ▪ Each Service has implemented Article 139 in regulations
Military Justice System

• Pretrial Agreements*
  - R.C.M 705(c)(2)(C) – A promise to provide restitution as a permissible term or condition.

• Post-Trial Agreements*
  - R.C.M. 1105 – Matters submitted by the accused

*These options are not limited to victims of specific offenses and are subject to the limitations of Article 60, UCMJ.

• Pre-CA Action Deferral
• Post-CA Action Waiver
Claims Acts

• Military Claims Act/Foreign Claims Act
  ▪ Compensates for personal injury, death, or property damage caused by the activities of the federal government.
  ▪ Can be used to reimburse victims and witnesses for items damaged or taken as evidence.
Covered by Military

- **Medical Costs**
  - Active duty and dependent medical care covered by the military

- **Salaries**
  - Active duty victims’ salaries are paid by the military

- **VA Disability**
  - Military victims may be eligible for VA benefits

- **Travel Costs**
  - In most cases, victim and witness costs for travel for the court-martial are covered by the military
• **Relocation Costs**
  - Military dependents may be eligible to receive relocation expenses to homes of record
  - Related: Military victims may be eligible for expedited transfers per DoDI 6495.02 (SAPR Prog. Procedures)

• **Retirement**
  - Eligible family members to receive amount of court-ordered disposable retired pay if the servicemember, after becoming eligible to receive retirement on the basis of years in service, has that retirement eligibility terminated as a result of abuse of a spouse or dependent child.
Compensation

• Transitional Compensation
  ▪ 10 U.S.C. 1059 authorizes temporary payments and other benefits (medical, dental, etc.) to dependents of servicemembers separated for dependent abuse
    ▪ Family members may not reside with abusive servicemember
    ▪ Not based on the financial needs of the family
    ▪ 12-36 months of payments

• Victims may be referred to federal and state compensation programs
• Legal assistance attorneys, SVC/VLCs, and trial counsel provide information on:
  - Women’s shelters
  - Food vouchers
  - Return of property taken by the government during an investigation
  - Child care services/custody issues
  - Transportation/relocation funds
  - Waiver and deferment of forfeitures
  - Military One Source services
  - Storage facilities
  - Community Services Loan Closet
  - Employment information
  - College funding
Questions