

# Staff Summary of Additional Reference Materials for JPP Members on Restitution and Compensation

## A. Deliberations Materials for April 10th Public Meeting prepared by JPP Staff

### 1. Proposed Issues for JPP Deliberations (3 pages)

*Lists 10 proposed issues regarding Restitution and Compensation for the Panel to offer analysis and recommendations.*

### 2. Financial Needs of Sexual Assault Victims (1 page)

*Chart showing coverage of sexual assault victims' financial needs, distinguished between active-duty, dependent, and other victims to help members identify potential gaps in the system.*

### 3. Outline of the factual information regarding Restitution & Compensation (11 pages)

*Outline of the testimony and written materials received by the Panel to provide background information about the current restitution and compensation mechanisms for victims of military crimes.*

### 4. Presenters' and Authors' Perspectives on Restitution and Compensation (7 pages)

*Chart that reflects the observations presented to the Panel and witnesses' arguments for/against four proposed options for change.*

## B. Supplemental Compensation/Restitution Articles

### 5. Colonel R. Peter Masterton, U.S. Army, *Claims Office Management*, 2011-SEP ARMY LAW. 48, Sept. 2011 (18 pages)

*Article authored by the former Commander of the U.S. Army Claims Service intended to provide guidance to staff judge advocates who work in the claims section of Army legal offices.*

- Information on pages 3-5 distinguishes between "Personnel Claims" brought under the Military Personnel and Civilian Employees Claims Act, 31 U.S.C. § 3721 (i.e., the Personnel Act) and "Tort Claims" brought under the Military Claims Act, 10 U.S.C. § 2733.

### 6. Julie Dickerson, *A Compensation System for Military Victims of Sexual Assault and Harassment*, 222 MIL. L. REV. 211 (Winter 2014) (60 pages)

*Recently published law review article proposing the creation of a Military Crime Victims Compensation Board (MCB) that would provide military victims of sexual assault and harassment monetary compensation by fining perpetrators.*

- Describes relevant history and the current availability of remedies for active-duty sexual assault and harassment claimants.
- Argues state CVC programs are inadequate.
- Proposes MCB's organization, claims process, calculation of damages, disbursement of awards, and funding.
- Appendix A provides a sample draft bill establishing the proposed MCB.

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### **C. Materials Provided by Presenters following March 13th Public Meeting**

#### **7. Letter from Professor Julie Goldscheid, CUNY School of Law (Mar. 18, 2015) (3 pages)**

*Follow-up letter from one of the 10:00 session presenters at the March 13th Public Meeting, regarding civil claims brought by sexual assault victims and potential models for victim compensation programs.*

#### **8. Memorandum from Colonel John G. Baker, U.S. Marine Corps, Chair, Joint Service Committee (Mar. 20, 2015) (2 pages)**

*Follow-up letter from the 9:00 session presenter at the March 13th Public Meeting.*

- Colonel Baker addresses whether amending Article 139 to include bodily harm has been previously considered, updates the status of RSP's recommendation concerning victims' right to be heard during pretrial negotiations, and clarifies his testimony regarding the Military Procedures Act.
- Attached is a copy of the Joint Service Committee's new Standard Operating Procedures, to which Colonel Baker referred in his testimony.

#### **9. U.S. Marine Corps, Military Justice Branch, Practice Advisory No. 3-15, "What to Know about Victims' Rights" (Feb. 26, 2015) (5 pages)**

*Provided by Colonel Baker for the Panel's consideration following the March 13th Public Meeting.*

- Reviews numerous victims' rights and describes implementation of Article 6b of the UCMJ as approved by the Staff Judge Advocate to the Commandant.
- Guidance on restitution – and on reprisal and retaliation – is included on Page 3.

#### **10. U.S. Marine Corps, Military Justice Branch, Practice Advisory No. 5-15, "Changes to Military Justice in LSAM, Part I: Special Victim Cases, Processes, and Reporting" (Mar. 9, 2015) (5 pages)**

*Provided by Colonel Baker for the Panel's consideration following the March 13th Public Meeting.*

- Summarizes changes in the pending Legal Services Administration Manual (LSAM), expected May 1, 2015, that the Commandant has directed to be implemented immediately.

### **D. Statutory Materials Relating to Restitution & Compensation**

#### **11. Personnel Claims Act (formally known as the Military Personnel and Civilian Employees Claims Act), 31 U.S.C. § 3721 (3 pages)**

*Statute allowing victims who are Service members or DoD employees to file claims against the government for damage to or loss of personal property incident to service (seized as evidence).*

#### **12. Military Claims Act, 10 U.S.C. § 2733 (2 pages)**

*Statute permitting payment of claims for death, injury, or property loss caused by negligent or wrongful acts of military personnel acting within the scope of employment or incident to "noncombat activities" of the armed forces.*

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### **13. Materials on the Armed Forces Retirement Home (14 pages)**

- **10 U.S.C. § 2772 and 24 U.S.C. § 419** (statutory authority for allocating portion of adjudged fines and forfeitures to fund the Home)
- Excerpts from **ARMED FORCES RETIREMENT HOME, FY16 CONGRESSIONAL BUDGET JUSTIFICATION** (detailing need for and request of \$64.3 million from Congress for FY2016 for Home's operation, maintenance, construction, and renovation)
  - Page 26 shows that fines and forfeitures remain the largest source of revenue for the home and have fallen 24% in the last five years.
- Excerpts from **ARMED FORCES RETIREMENT HOME, FISCAL YEAR 2014 PERFORMANCE AND ACCOUNTABILITY REPORT** (providing performance data on the Home's programs and finances for FY2014)
  - Page 31 reports the Home's sources of \$52 million in revenue for FY2014, and that fines and forfeitures steadily declined from \$40 million in FY2009 to \$28 million in FY2014.

### **14. U.S. Dep't of Def., Financial Management Regulation 7000.14-R, vol. 7B, ch. 60, "Victims of Abuse – Nonretirement Eligible Members (Transitional Compensation)" (Feb. 2015) (13 pages)**

*Provision of Joint Travel Regulations calculating the current amounts of Transitional Compensation per month for a dependent spouse (\$1,254) and child (\$311), highlighted on Pages 8-9.*