

## **Staff summary of reading materials for JPP members in preparation for June 18 public meeting**

### **A. Materials Relevant to Restitution as a Possible Authorized Punishment**

- 1. Lieutenant Colonel David M. Jones, U.S. Marine Corps, *Making the Accused Pay for His Crime: A Proposal to Add Restitution as an Authorized Punishment under Rule for Courts-Martial 1003(B)*, 52 NAVAL L. REV. 1 (2005) (24 pages)**

*This is an excerpt of a law review article previously provided to the JPP members prior to the March public meeting.*

- This portion of the article explains the specific changes that would be required if restitution is made an authorized punishment upon the direction of a court-martial.
- The author proposes four ways in which restitution could be enforced (i.e., by garnishing the accused's pay, by proxy, by state enforcement, and by threat of contingent confinement or recall from appellate leave).

- 2. Materials on the Armed Forces Retirement Home (14 pages)**

*This document was previously provided to the JPP members prior to the April public meeting.*

- 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.

### **B. Materials Relevant to Continuity of Care for Active-Duty Service Members and Family Members**

- 3. VA fact sheets (2014-15) (10 pages), available at <http://www.mentalhealth.va.gov/msthome.asp>**

- **U.S. Dep't of Veterans Affairs, "Military Sexual Assault" (Oct. 2014) (3 pages):** provides background information, including definition, prevalence, symptoms, VA response, and resources available
- **U.S. Dep't of Veterans Affairs, "Quick Facts About VA's Health Care Services for Military Sexual Trauma (MST)" (Apr. 2015) (1 page):** summarizes eligibility requirements and types of MST-related services available through VA
- **U.S. Dep't of Veterans Affairs, "Disability Compensation for Conditions Related to Military Sexual Trauma (MST)" (Apr. 2015) (4 pages):** Frequently Asked Questions

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about VA compensation for MST victims

- **U.S. Dep't of Veterans Affairs, "Pre-Discharge: Benefits Delivery at Discharge (BDD)" (1 page):** explains eligibility and application process to receive VA benefits within 60 days after release or discharge
- **U.S. Dep't of Veterans Affairs, "Compensation: Diseases Within One-Year Post-Service" (1 page):** explains eligibility, evidence requirements, and application process to receive VA benefits for diseases presenting within one year of separation

4. **U.S. Dep't of Defense, Integrated Disability Evaluation System (IDES) brochure (1 page), available at**

[http://warriorcare.dodlive.mil/files/2011/10/IDES Trifold Brochure.pdf](http://warriorcare.dodlive.mil/files/2011/10/IDES%20Trifold%20Brochure.pdf)

*Basic information on DoD's Integrated Disability Evaluation System (IDES), including a diagram depicting the timeline from treatment to receiving VA benefits.*

5. **Major John W. Brooker, U.S. Army, et al., *Beyond "T.B.D.": Understanding VA's Evaluation of a Former Servicemember's Benefit Eligibility Following Involuntary or Punitive Discharge from the Armed Forces*, 214 MIL. L. REV. 1, 99-105 (Winter 2014) (11 pages)**

*This is an excerpt of a military law review article providing background information and addressing when military sexual trauma (MST) serves as basis for VA benefits eligibility. Includes:*

- "VA Health Care Benefits Eligibility" flow chart
- "Most Popular Benefits Based on Character of Discharge" diagram

6. ***Invisible Wounds: Examining the Disability Compensation Benefits Process for Victims of Military Sexual Trauma: Hearing Before the Subcommittee on Disability Assistance and Memorial Affairs of the House Committee on Veterans' Affairs*, 112th Cong. 37-46 (2012) (13 pages)**

*Excerpts from the transcript of a July 18, 2012 hearing of the House Subcommittee on Disability Assistance with relevant testimony from Mr. Thomas Murphy, VA's Director of Compensation and Pension Service.*

7. ***The Relationships Between Military Sexual Assault, Post-Traumatic Stress Disorder and Suicide, and on Department of Defense and Department of Veterans Affairs Medical Treatment and Management of Victims of Sexual Trauma, Hearing Before the Senate Armed Services Personnel Subcommittee*, 113th Cong. 54-111 (2014) (43 pages)**

*Excerpts from the transcript of a February 26, 2014 hearing of a Senate Armed Services subcommittee, including a prepared joint statement and detailed written responses of Veterans Health Administration (VHA) officials in response to questions submitted by Senators after the hearing.*

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### 8. U.S. Government Accountability Office (GAO), **MILITARY SEXUAL TRAUMA: IMPROVEMENTS MADE, BUT VA CAN DO MORE TO TRACK AND IMPROVE THE CONSISTENCY OF DISABILITY CLAIM DECISIONS (June 2014) (51 pages)**

*GAO report examining steps VA took to improve MST-related decisions, results of its actions, and the extent VA is evaluating the quality of claim decisions.*

- Recommends (on Page 30) that VA improve training, conduct more outreach, and enhance its MST-related quality reviews and analyses.
- Includes VA response (Pages 41-45) concurring with all of GAO's recommendations.

### 9. **Congress.gov, "All Bill Information (Except Text) for H.R. 1607 - Ruth Moore Act of 2015" (7 pages):** describes a bill recently re-introduced in both Houses of Congress (after passing the House in 2013 but failing to receive a vote in the Senate) that would ease the burden of proof to receive VA benefits for MST

## C. Materials Relevant to Developing a DoD Uniform Crime Victim Compensation Program

### 10. OVC fact sheet and VOCA claims data (June 2013) (5 pages)

- U.S. Dep't of Justice, Office for Victims of Crime, "OVC Fact Sheet" (3 pages)
- U.S. Dep't of Justice, Office for Victims of Crime, "2012 Victims of Crime Act Performance Report" (2 pages): provides claims totals and data by type of crime

### 11. 42 U.S.C. § 10602 (Crime victim compensation) (3 pages)

*Compensation provision of the Victims of Crime Act.*

- Subsection (a)(3) restricts state CVC programs from using more than five percent of their federal funding on administrative costs and training.
- Subsection (b)(2) requires that to receive federal funding, state CVC programs must "promote[] victim cooperation with the reasonable requests of law enforcement authorities."

### 12. **Julie Dickerson, A Compensation System for Military Victims of Sexual Assault and Harassment, 222 MIL. L. REV. 211, 240-70 (Winter 2014) (32 pages)**

*This is an excerpt of a recently published law review article. The complete article was previously provided to the JPP in April. The author proposes the creation of a Military Crime Victims Compensation Board (MCB) for active duty members that would provide military victims of sexual assault and harassment monetary compensation by fining perpetrators.*

- Suggests a model for the proposed 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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**13. Colonel R. Peter Masterton, U.S. Army, *Claims Office Management*, 2011-SEP ARMY LAW. 48, Sept. 2011 (18 pages)**

*This article was previously provided to the JPP in April. The author, Colonel Masterton, former Commander of the U.S. Army Claims Service, will be testifying before the JPP at the June 18, 2015 public meeting.*

- Provides guidance to staff judge advocates who work in the claims section of Army legal offices.
- Describes claims that can be brought under the Personnel Claims Act, Military Claims Act, and Federal Tort Claims Act.

**14. Linda S. Mullenix, *Designing Compensatory Funds: In Search of First Principles*, 3 STAN. J. COMPLEX LITIG. 1 (Winter 2015) (21 pages)**

*Law review article assessing the effectiveness of the World Trade Center (WTC) Victims' Compensation Fund and subsequent disaster compensation funds.*

- Identifies lessons learned since the WTC Fund.
- Examines various academic and public policy proposals for designing and implementing future funds, drawing on existing models.
- Addresses fundamental questions about the goals of such funds and whether and to what extent they comport with theories of justice.

**15. Kenneth R. Feinberg, *Unconventional Responses to Unique Catastrophes*, 45 AKRON L. REV. 575 (2011-12) (6 pages)**

*Brief article authored by the special master appointed to design and execute the compensation programs assisting victims of several recent mass disasters, including the attacks of September 11, 2001, the 2007 Virginia Tech shootings, and the 2010 BP Deepwater Horizon oil spill.*