

**PROPOSED ISSUES FOR JPP DELIBERATIONS ON RESTITUTION AND COMPENSATION
AUGUST 6, 2015**

**A. JPP Analysis and Recommendations as to Proposed Changes to Restitution
(Offender paying the victim for out-of-pocket expenses)**

Issue # 1	<p>Whether the Convening authority and parole boards' power to grant the accused's request to pay the victim's expenses are sufficient restitution mechanisms throughout the military judicial process.</p> <ul style="list-style-type: none"> - <i>The UCMJ does not authorize restitution as a form of sentence.</i> - <i>Convening authorities can enter into a PTA with restitution as a condition of the agreement or consider the accused's request to pay restitution as a matter of clemency.</i> - <i>A military judge may make a recommendation to the convening authority to disapprove or suspend some portion of the punishment if the accused makes restitution to the victim within a certain period.</i> - <i>Parole boards shall consider the offender making restitution to the victim a condition of parole.</i>
Analysis & Recommendations	

Issue # 2	<p style="color: red;">Whether the UCMJ should be amended to add restitution as an authorized punishment that may be adjudged at courts-martial? If so, should restitution be required or discretionary?</p>
Analysis & Recommendations	<p>During the JPP's April deliberations, three Members agreed that the Panel should recommend that the UCMJ be amended to add restitution as an authorized punishment. Members offered three main reasons to support the recommendation.</p> <p>First, in general, the powers of military judges have expanded over time, moving from the initial stage where their responsibilities were relatively limited to the point now where they exercise powers that are enjoyed by other federal judges. Allowing military judges to grant and enforce restitution to sexual assault victims would just be one more step in this gradual evolution.</p> <p>Second, there is already a structure in place allowing for victim input in federal court that could be mirrored by modifications to the Rules for Courts-Martial. Restitution could be enforced in a variety of ways, such as garnishing the accused's pay or payment by the government by proxy.</p> <p>Third, many victims and victims' advocates strongly urged the Panel to recommend that restitution be made available to victims of sexual assault committed by Service members. Much testimony emphasized the importance to victims, or psychic value, of direct accountability from the perpetrator rather than DoD or another government entity. According to this testimony, restitution provides that kind of accountability, allowing victims to regain a sense of control. In addition, unlike other remedies, restitution allows victims to spend whatever compensation they receive as they choose. Finally, victims</p>

**PROPOSED ISSUES FOR JPP DELIBERATIONS ON RESTITUTION AND COMPENSATION
AUGUST 6, 2015**

	should not be restricted to seeking compensation (or attempting to sue for civil damages), or else they will be more susceptible to defense charges that they are motivated by the prospect of financial reward.
--	--

Issue # 3	Whether Article 139 should be amended to include claims for “bodily injury,” which would authorize the commander to determine the dollar value of physical or mental injury and order the offender’s pay to be directed to the victim.
Analysis & Recommendations	During its April deliberations, the four JPP Members who were present concluded that the Panel should recommend that Article 139 not be expanded to cover bodily harm. Article 139 provides a mechanism for investigation and inquiry carried out at the local level that’s focused on property loss. It would be an unfair and unreasonable burden to expect Article 139 investigators to assess physical and mental injury and distress as part of what is supposed to be the ministerial task of reimbursing property loss.

Issue # 4	Whether forfeited wages of incarcerated members of the Armed Forces should be directed to pay compensation to victims of military offenses? <i>Note: Other provisions currently direct those funds:</i> <ul style="list-style-type: none"> - Forfeited wages fund the Armed Forces Retirement Home; - Article 57 allows the Convening Authority to defer forfeiture of pay; and - Article 58b allows the Convening Authority to waive the forfeited pay and allowances of incarcerated offenders to be paid to the offender’s dependents for up to six months.
Analysis & Recommendations	[During its April deliberations, the four JPP Members who were present agreed to postpone resolution of the proposal that court-martial forfeitures be directed to victims until the Panel determined whether to recommend that restitution be established as an authorized punishment.]

**B. JPP Analysis and Recommendations as to Proposed Changes to Compensation
(System based payment to victims for out-of-pocket expenses)**

Issue # 5	Whether there are other gaps in compensation for <u>military members</u> (active-duty or veterans) who are victims of a sexual assault. Does the Panel wish to make any recommendations regarding compensation for medical expenses, lost income, travel expenses during the judicial process, relocation costs, personal property, Personnel Claims Act (PCA), or future losses after the member leaves the Service?
Analysis & Recommendations	

Issue # 6	Whether there are gaps in compensation for <u>dependents</u> who are victims of a sexual assault. Does the Panel wish to make any recommendations regarding
------------------	---

**PROPOSED ISSUES FOR JPP DELIBERATIONS ON RESTITUTION AND COMPENSATION
AUGUST 6, 2015**

	transitional compensation, medical expenses, lost income, travel expenses during the judicial process, relocation costs, personal property, or future losses?
Analysis & Recommendations	During its April deliberations, the Panel noted that significant gaps in financial coverage appeared to remain for dependent victims of sexual assault and that DoD has an obligation that it is not fulfilling to these victims of crimes committed by the Department's employees.

Issue # 7	Whether there are gaps in compensation for <u>civilian</u> victims of a sexual assault who are not dependents and do not have any connection to other military benefits. Does the Panel wish to make any recommendations regarding medical expenses, lost income, travel expenses during the judicial process, relocation costs, personal property, or future losses?
Analysis & Recommendations	During its April deliberations, the Panel noted that significant gaps in financial coverage appeared to remain for civilian victims of sexual assault and that DoD has an obligation that it is not fulfilling to these victims of crimes committed by the Department's employees.

Issue # 8	Does the Panel wish to make any recommendations regarding the adequacy and/or use of state and local CVC programs as a mechanism for compensation for sexual assault victims of military offenders?
Analysis & Recommendations	

Issue # 9	Does the Panel recommend establishment of a DoD compensation board/program for sexual assault victims? If the Panel does recommend that a DoD compensation program be established, does the Panel wish to make any recommendations with respect to the program's structure, eligibility requirements, funding source, etc.?
Analysis & Recommendations	<p>During its April deliberations, the four JPP Members who were present concluded as follows. The Panel should consider, subject to receiving additional information, recommending the establishment of a uniform compensation program for sexual assault victims to be administered by DoD. Dependents and civilian victims of such crimes should not be relegated to a patchwork of state systems with varied eligibility requirements. Instead, all victims should have easy access to a military compensation system that provides uniform benefits regardless of the location of the offense or the victim's state of residence.</p> <p>Regarding eligibility, the DoD compensation program should be sensitive to the needs and realities of victims in sexual assault cases in which, for example, the 72-hour reporting and law enforcement cooperation requirements, as traditionally conceived and applied, are inappropriate and unfair. Such a</p>

**PROPOSED ISSUES FOR JPP DELIBERATIONS ON RESTITUTION AND COMPENSATION
AUGUST 6, 2015**

	uniform DoD compensation system should implement some of the best practices of the better-performing state CVC programs and, once established, serve as a model to help enhance those state programs that are in need of improvement.
--	---

C. JPP Analysis and Recommendations: Conclusions

Issue # 10	Does the Panel wish to make any overall assessment as to the adequacy of compensation and restitution for victims of military offenses or recommendations on expanding those systems?
Analysis & Recommendations	