

Victims' Legal Counsel (VLC) Scope of Representation Letter

(To be briefed & provided to the client by the detailed VLC)

Date

From: (Name/Rank of VLC)

To: (Name/Rank of Eligible Victim)

Subj: NOTIFICATION AND LIMITATIONS OF ATTORNEY-CLIENT RELATIONSHIP

1. VLC Program. The Department of the Navy is committed to promoting and protecting the rights and interests of sexual assault victims and to ensuring you receive assistance through the Victims' Legal Counsel (VLC) Program and other support services available throughout the Navy and Marine Corps.

At your request, I have been assigned to serve as your VLC and provide you legal services. We will form an **attorney-client relationship**. I will act as your attorney, and you will be my client.

The purpose of this memorandum is to explain the nature and limitations of our attorney-client relationship and the legal services I can provide to you.

Importantly, if you are seeking legal services related to a Restricted Report of sexual assault, speaking to a VLC will not alter the status of your report. I can assist you in understanding the differences between "Restricted" and "Unrestricted" reporting and how to change your reporting status if desired. However, I may be limited in my ability to provide you legal services related to a Restricted Report of sexual assault.

2. My Military Duty Is To Represent You. As your VLC, I am your attorney. I have been licensed by a state bar to practice law, and I have been certified by the Judge Advocate General of the Navy to act as counsel in courts-martial and to represent servicemembers like you. As your attorney, you have my undivided loyalty and concern. Although like you, I serve in the Navy, my sole legal and ethical obligation is to be your attorney to the best of my ability and subject to the rules discussed in detail below.

I do not work for your commanding officer or anyone within your chain of command or the command of the person who assaulted you. I am assigned to the Department of the Navy's VLC Program and belong to an independent chain of command whose sole mission is to represent servicemembers like you. As your VLC, I will not be involved in the investigation or processing of your reported assault unless necessary to promote and protect your rights and interests. My independence means that no one in your chain of command or the chain of command of the person who assaulted you will influence my representation of you.

3. Confidentiality. The law recognizes that you must be able to share information with me in confidence. As your attorney, I am generally prohibited from revealing information related to our conversations unless you give me consent to do so after we discuss that possibility. Importantly, this means that everything we discuss will remain confidential unless you give me actual or implied permission to discuss the information with others.

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If you give me specific instructions that certain confidential information should not be disclosed, even in furtherance of promoting or protecting your rights and interests, I am required to keep that information confidential except as explained in the next paragraph.

There are a few limited exceptions to this confidentiality that apply to me and every other attorney. These exceptions are very narrow and, in my experience, rarely exercised. For example, I may be required to reveal information to prevent serious physical harm to any person, including you, or to comply with court orders. If I believe it necessary to reveal confidential information under one of these exceptions, I will attempt to discuss my intentions with you and only disclose information to the extent necessary to comply with my professional and legal obligations.

The confidentiality described above exists only between an attorney and his or her client. There are different professional and legal rules of confidentiality relating to medical providers, psychotherapists or psychologists, chaplains, and victim advocates.

Finally, our confidentiality does not extend to communications between you and I made in the presence of third-parties, such as friends or relatives. What this means is that those third-parties can be required to disclose what was said or shared in their presence.

4. Scope of Legal Services Provided. As your VLC, I will provide you legal services that are connected to your reported sexual assault. My focus will be to promote and protect your rights and interests related to that assault. The legal services I can provide include:

a. Legal Rights. As above, I will assist you in understanding and exercising your legal rights connected to your reported sexual assault. This will include advocating on your behalf to promote, preserve, and protect those rights. With your permission, I can advocate on your behalf to military authorities. Within the military, these rights include the right to be treated with fairness and respect for your dignity and privacy; the right to be reasonably protected from the offender [to include my advocacy for a Military Protective Order (MPO)]; the right to be notified of court proceedings; the right to be present at all public court proceedings unless the court determines your testimony would be materially altered if you heard other testimony; the right to confer with government counsel in the case; the right to receive restitution, if available; and the right to be provided information about any conviction, sentence, imprisonment, and release of the offender.

If you are an eligible servicemember, you may have the right to an expedited transfer from your current unit. I can assist you in exercising this legal right.

There may also be additional legal rights implicated in your case, depending on the circumstances, which I will discuss with you during the course of our attorney-client relationship.

Victims' Legal Counsel (VLC) Scope of Representation Letter

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b. Military Justice System. I will assist you in understanding the military justice system, which includes the investigative and disciplinary processes. I can answer any questions you have regarding the investigative and disciplinary processes.

I will promote and protect your rights and interests in the military justice system. This will include, with your permission, advocating on your behalf to various parties in the military justice system including: investigators such as NCIS; military commanders, including convening authorities; lawyers for military commanders, also known as staff judge advocates; military prosecutors, also known as trial counsel; the offender's defense counsel; pretrial investigation officers; pretrial confinement initial review officers; and military judges. At your request, and if locally available, I will attend your interviews with investigators, trial counsel, and defense counsel. If I am unable to attend in person, I will try to attend your interviews via video-teleconferencing or by telephone, or attempt to reschedule the interview to permit my attendance if possible.

I will assist you in obtaining information relevant to your case that you have a right to obtain, to include the status of the investigation and the status of the accused(s).

I will assist and facilitate your communication with trial counsel where you have a right to confer; this may include the status of disciplinary or court-martial processing, whether or not charges will be preferred, whether charges will be dismissed, or whether a pretrial agreement will be approved.

If the accused is charged, I will represent you in military justice proceedings, such as court-martial or Article 32 pretrial investigation, where you are afforded an opportunity to be present and heard. When necessary and appropriate, I will present facts and legal arguments on your behalf to the court.

I also plan to attend military justice proceedings when it is both necessary and appropriate that I do so.

If you believe you are the subject of harassment, retaliation, or intimidation related to your report of sexual assault, I will discuss, advise, and assist you on avenues of complaint to redress that treatment.

c. Advocacy to Civilian Prosecutors/Law Enforcement. My representation of you will be more limited with civilian authorities than military authorities. I cannot represent you in civilian court proceedings or effectively advocate on your behalf with civilian prosecutors. If there is a joint military and civilian investigation, I can assist in obtaining the status of the investigation and may possibly attend, in person or via phone or VTC, your interviews with investigators. If desired, you may obtain civilian counsel at your own expense to represent you with civilian authorities.

d. Collateral Misconduct. "Collateral misconduct" is misconduct that you may have committed that has a direct connection to your reported sexual assault, such as underage

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drinking, adultery, fraternization, or violating liberty policy. If, through our conversations, either you or I believe it may be alleged that you committed collateral misconduct, I can provide you limited personal representation legal advice regarding that alleged misconduct. What this means is that I can explain the potential consequences of your alleged collateral misconduct and what, if any, disciplinary action could be taken against you. With your permission, I may advocate to military authorities on your behalf regarding your alleged collateral misconduct.

If you face an administrative separation board or court-martial for collateral misconduct you will be assigned a military defense counsel to represent you in that proceeding. I will work closely with your defense counsel to continue to promote and protect your rights and interests related to your reported sexual assault.

If, through our conversations, either you or I believe it may be alleged you committed misconduct that is not directly connected to your reported sexual assault, I will coordinate your referral to the nearest Defense Service Office, which provides legal advice and services to Sailors who may have committed misconduct or are facing disciplinary action. I will be largely uninvolved with respect to misconduct that is not directly connected to your reported sexual assault; however our conversations regarding that misconduct will remain confidential.

e. Personal Civil Legal Affairs. I can provide you basic legal assistance services that are directly connected to your reported sexual assault, to include notarizations and basic powers of attorney. If you need assistance in more substantive matters such as estate planning, family law, consumer law, or landlord/tenant matters, I will coordinate your referral to the nearest Legal Assistance Office.

5. Duration of Attorney-Client Relationship. In general, our attorney-client relationship will continue unless you release me, the legal aspects of your reported sexual assault are concluded, or per the exceptions noted below, either of us transfers to a new duty station or terminates military service.

Generally, the legal aspects of your case will conclude shortly after a disposition decision is made by the appropriate Sexual Assault Initial Disposition Authority or, in the case of a court-martial, shortly after the court's findings and sentence, if any, are acted upon by the convening authority.

If I transfer or leave military service before completion of your case, I will protect your interests. This will include giving you reasonable notice of my transfer/separation, providing you assistance in acquiring a new VLC to serve as your attorney, and completing a turnover of your case with your new VLC to assure continuity of legal services. No matter my next assignment or status, discussions you and I have had related to your case will remain confidential, subject to the exceptions previously mentioned.

If you transfer out of my geographic area of responsibility before completion of the legal aspects of your reported sexual assault, you may request a new VLC at your new duty station.

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Generally, if you request a new VLC, I will be released as your attorney unless continued representation is approved by my chain of command.

If you transfer but the legal processing of your reported sexual assault remains active with military authorities at this location, I will continue representation in your case unless you seek my release and/or appointment of an alternate VLC.

Finally, sometimes there are unforeseen legal or ethical obligations that apply to all attorneys that require an attorney to seek release or to withdraw from the attorney-client relationship. For example, a conflict of interest could require me to withdraw as your attorney. If I am required to withdraw or seek release as your attorney, I will protect your interests. This includes giving you reasonable notice of my withdrawal, allowing you time to obtain alternate VLC if applicable, and delivery of papers and property to which you are entitled.

6. Your Role: Your full participation and cooperation are critical to successful representation of your rights and interests. As we proceed, please contact me immediately with any questions or concerns that you have about your legal rights or the legal services I can provide.

My contact information is:

LT Ima Lawyer, JAGC, USN
Rm 201, Building 1, NAS Pensacola, FL
Ph: (850) 452-1234
ima.lawyer@navy.mil

As a [Naval/Marine Corps] officer and your attorney, I am concerned about your general health, morale, welfare, and safety. I urge you to take advantage of the other available support services including medical treatment and counseling.

Client Acknowledgment

I understand the nature and limitations of my attorney-client relationship with my VLC.

Name and Rank of Client

Client's Signature

Date

I. LAWYER, LT, JAGC, USN Date
Victims' Legal Counsel