



Unlawful Command Influence: Informational Paper for Victim Advocates



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Background:

In May 2021, during the voir dire (questioning of potential panel members) for a General Court Martial on charges of a sex-related offense, the defense counsel discovered that a Victim Advocate sent an email to the District Staff regarding the rate of false reports of Sexual Assault. The Victim Advocate signed this email as “District Victim Advocate.” Defense counsel moved to dismiss the charges against the accused member because the email constituted Unlawful Command Influence. Although the charges were not dismissed, the military judge did find that the email constituted Unlawful Command Influence and disqualified several potential panel members who received the e-mail from sitting on the panel. The convening authority was also not able to take final action on the case.

What is Unlawful Command Influence?

Unlawful Command Influence (UCI) is the improper use, or perception of use, of superior authority to interfere with the court-martial process. The Court of Appeals of the Armed Forces (and its predecessor) have continually held that UCI is the “mortal enemy of military justice.”

UCI is not limited to those in command. Anyone subject to the Uniform Code of Military Justice can commit UCI by trying to coerce or improperly influence the court-martial or the members, or a convening, reviewing, or approving authority in respect to their judicial acts.

UCI can be either actual or apparent. This means that the outcome of an action, regardless of the intent, can be UCI if an action interferes with the court-martial process.

Why does it matter to Victim Advocates?

Victim Advocates are Coast Guard members chosen by their command to provide emotional support to victims during interviews, medical procedures, and legal proceedings. They also assist SARCs in sexual assault prevention activities like training. In these high visibility roles, Victim Advocates can be perceived as speaking for their unit’s command.

How to avoid UCI:

The first step in avoiding UCI is to understand with what title you are speaking: Are you speaking on behalf of yourself? On behalf of your client? On behalf of the command? Make sure you are clear about whether you are stating your own opinion, advocating for a client, or making a statement on behalf of your command.

Next, consult with your legal advisor. Every unit has either a Staff Judge Advocate or a servicing legal office which can review information you intend to disseminate in your role as a Victim Advocate. Coast Guard Judge Advocates are not censoring your communications; they are ensuring that there are not unforeseen consequences to your communications which could undermine your ultimate goals of eliminating sexual assault in the Coast Guard.

Finally, when speaking about cases, speak in general terms and focus on the military justice process, not specific outcomes.