

Office of Special Trial Counsel

Transcript: U.S. Army Resilience Directorate Outreach Webinar

October 19, 2022

Presenter:

Colonel Robert Stelle, Chief of Operations for the U.S. Army Office of Special Trial Counsel

Lytaria Walker: [00:00:27](#) Good morning, and welcome to the Army Resilience Directorate Outreach Webinar for October. At this time, all participants are in listen-only mode. However, you may ask questions at any time by placing them in the checkbox. There will be several opportunities for questions throughout the webinar, and we should have some time at the end as well. Today's webinar has been approved for one hour of live continuing education units. Please note that the views of ARD Outreach Webinar presenters are their own and are not endorsed by the Department of the Army or the Department of Defense. This month, our guest is Colonel Robert Stelle. Colonel Stelle is the Chief of Operations for the United States Army Office of Special Trial Counsel in Arlington, Virginia. He supports national security interests and the interest of good order and discipline in the United States Armed Forces. His focus is developing effective policies and prosecution practices to prevent and respond to incidents of sexual assault, domestic violence, child abuse, and other crimes of interpersonal violence.

Lytaria Walker: [00:01:47](#) Colonel Stelle has over 15 years of experience in criminal justice assignments with multiple tours of duty in Afghanistan, Europe, and Asia. He is also an Operation Desert Storm veteran and has experience as a Russian linguist. He holds a bachelor's degree in political science from the University of Colorado, a Juris Doctor, and Master of Public Administration from Southern Illinois University, a Master of Laws in military law from the United States Army Jack School, and a Master of Laws and prosecutorial science from Chapman University. He also served as a fellow with the United States Department of Justice from 2021 to 2022. Colonel Stelle, thank you for joining us this morning. Take it away, sir.

Colonel Rob Ste...: [00:02:46](#) Good morning. Thank you very much, Ms. Walker, for the introduction. It's my pleasure to talk with all of you. It's very fascinating to see in the chat all of the different locations that people are logged in from. I see Europe, all across the United

States, Puerto Rico also. There are some familiar names from people that I've worked with in the past popping up. Thank you again for this opportunity. And to the ARD team, I also say thank you for this opportunity to talk with all of you about something that I think is very exciting: a new program that the Army is phasing in over the next couple of years, the Office of Special Trial Counsel.

Colonel Rob Ste...: [00:03:35](#) I'll talk through a few slides and give a bit of an overview over what the Office of Special Trial Counsel is and try to touch base on what some of the impacts are going to be as we move into this new paradigm for military justice. With that, you see here my contact information, including my cell phone number and my government email address.

Colonel Rob Ste...: [00:04:26](#) I know we have an opportunity through the chat to ask questions, and we'll have some time at the end for me hopefully to address and answer some of those questions during this live session. But you can always follow up afterwards, either through the webinar chat or you can just email me directly at the address that's on the screen here. So look forward to the opportunity to engage with as many of you as possible both in the near term, but then also over the long term as we stand up this new program.

Colonel Rob Ste...: [00:05:27](#) This is a view of a number of different documents. My main point is that this is really an evolution. The UCMJ, the Uniform Code of Military Justice was brought into existence in the immediate aftermath of World War II, and it was finally passed into law in 1950, so we've had the UCMJ for about 70 years. Every so often we've had some very significant changes. And so I would argue that what we're doing now with the Office of Special Trial Counsel is really just the next step in a natural evolution of the process of any criminal justice system, but particularly in the military justice system.

Colonel Rob Ste...: [00:06:22](#) About 20 years after the UCMJ, in the late sixties, we created an independent judiciary for judges to be separate from the chain of command. In the 1980s we created an independent office for the defense attorneys to be separate from the chain of command. And then about a decade ago, we created a program for Special Victim Counsel attorneys who work for the local JAG office to be assigned to represent victims in the court-martial process. And here we are now another decade after that, and we've established an independent process for the prosecution function in the criminal justice system. So it's an evolution. Not to downplay the significance in the impact of these changes,

which I'll talk some about here in the next few minutes, but in a lot of ways it really is just an evolution.

- Colonel Rob Ste...: [00:07:06](#) This is an agenda, an overview of what we'll talk about during this next hour or so. Here is some background to give you a perspective on what exactly is in the legislation and where this new program got its origin. And I'll talk a little bit about what I anticipate and what we all anticipate. I have worked on this for almost a year now and have attended a number of meetings and engagements with the other services and with the Department of Defense about how we think this is going to impact day-to-day practice. That will certainly be something that we don't know all the answers to at this point, but something that we will all be learning and experiencing together as we implement this new program.
- Colonel Rob Ste...: [00:07:58](#) I'll talk about the installation-level implications before I get into the Office of Special Trial Counsel operations and structure. So, the order on the agenda is a little bit off. But I will also apologize up front for acronyms. I may use acronyms frequently. Just like the Army has its own acronyms that a lot of civilians don't understand, all the branches have different acronyms that maybe aren't obvious to others. My apologies if I use an acronym. I'll try not to do that. But if I do, please, someone just let me know that I've done that and ask me to explain what it means.
- Colonel Rob Ste...: [00:08:40](#) And the first one on this slide here is "oh-stick." That's how we say it, at least, OSTC, or the Office of Special Trial Counsel, is the acronym for this new office that's been created. This is a highlight of and some background about where this all starts—that is with last year's National Defense Authorization Act, the NDAA. We all are familiar with that most often because that's where guidance for sexual assault response programs, Sexual assault prevention programs is often found each year as Congress passes that and is also the source of our funding. And oftentimes, particularly at the start of a new fiscal year, there are continuing resolutions and things of that nature that we're working through in the field.
- Colonel Rob Ste...: [00:09:35](#) But the NDAA, the annual Authorization Act from Congress is also the place where Congress traditionally will make changes to military justice and to all aspects of how we respond to crime, particularly crimes of sexual violence. And so this last year was no different, and in that NDAA of FY22 was the creation of the Office of Special Trial Counsel. And the main takeaway from this slide is up in the top right corner. You'll see a yellow box that has the date. It says, "Effective 28 December of 2023." And so

these changes, again, are very significant changes that fundamentally change the way that we do military justice. Because of the complexity of that, Congress gave us two years to implement these changes.

Colonel Rob Ste...: [00:10:24](#) The law was signed into existence on the 27th of December last year, just before Christmas signed into existence by President Biden with an implementation date of two years after the date of passage of the act. So the 28th of December of 2023 is when this goes into effect. I'll just say this too for any attorneys that are on here and understand ex post facto and some of those aspects of this. These new rules that I'm going to talk about apply to crimes that happen after that two-year implementation date. So, if a crime happens on Christmas Day of 2023, it'll still be under the current system that we see. Sometimes cases aren't adjudicated until well into the following year, as these cases sometimes will take weeks or several months even to be adjudicated. For crimes or misconduct that happens on the 28th of December, 2023, or anytime thereafter, these new authorities that I'll discuss with you will apply to that misconduct.

Colonel Rob Ste...: [00:11:28](#) The key provision I'm going to talk about here is the Special Trial Counsel program. And you see the sections there. If anyone has that level of intellectual curiosity and the time to go and look at the statute itself, I encourage you to do so. There's a lot of really insightful information there on the internet in a dozen or so different places. If you just type in "National Defense Authorization Act" or "NDAA 22," you'll find the statute itself. And there's a section there as you see on the screen about Section 531. That is where the military justice reform sections are to be found. There are a lot of other things in that statute that apply to military justice and how we do court-martial sentencing and some of the victim services.

Colonel Rob Ste...: [00:12:15](#) Some of you, particularly on the SHARP and Victim Services side of the house may be already intimately familiar with some of the other requirements that are there. I'm happy to talk to any of you about those on a separate forum. But those are a little bit beyond the scope of what we're going to talk about here. We're going to focus here just on Section 531 and the subsequent sections that talk about the Office of Special Trial Counsel. This slide breaks down Section 531, and I'll talk about three different sections over the next three slides to give some background here. This first slide is the establishment of the Office of Special Trial Counsel or some of the requirements that are there and what that Special Trial Counsel Office is going to have the authority to do.

- Colonel Rob Ste...: [00:13:00](#) These are the requirements that attorneys and officers assigned to the Office of Special Trial Counsel, or someone who is has the title of Special Trial Counsel must have: they must be a Judge Advocate Officer, which is MOS 27 Alpha, for those of you that are out there that might not know that. Those individuals must be certified by the Judge Advocate General, Lieutenant General, a three-star General of the Army Jag Corps. They must be certified as meeting the criteria required for duty as a Special Trial Counsel. And that is essentially that those individuals have the requisite training, the requisite experience, the requisite education, and the requisite temperament to serve in that position as a Special Trial Counsel. And so those are very important factors that will be part of the selection process for individuals who apply within the service and who apply for a duty assignment as a Special Trial Counsel, whether it's at the headquarters or out in one of our field offices across the Army, as I'll talk about a little bit later during this presentation.
- Colonel Rob Ste...: [00:14:10](#) And within that office, the rest of this slide breaks down the four primary authorities that these Special Trial Counsel attorneys will have, which are currently belonging to the chain of command. These authorities reside at differing levels of the chain of command, whether it's at the company battalion brigade or higher, such as general court-martial level, which is usually the two- or three-star division or court commander. Those specific authorities that are on this screen are taken away from those commanders, and under the statute are given to the Special Trial Counsel. Those are the four that are listed here. The first being the exclusive authority at the very outset of an investigation to decide to analyze a case and decide: is this a case that is subject to the authority of the Special Trial Counsel?
- Colonel Rob Ste...: [00:15:01](#) And I'll show you in a couple of slides which cases are designated for the Special Trial Counsel. If it is a case that is not, that will then be deferred back to the chain of command for adjudication in accordance with current systems that we have for administrative actions or nonjudicial punishment or other actions. And then as a case is decided to be a covered case or a covered offense, a Special Trial Counsel then has the authority over the case and over whether or not to bring that case to court-martial. That is referring charges to court-martial, or whether or not to withdraw the charges or dismiss the charges. Or, If the case is going to have a plea agreement whether or not to enter into a plea agreement and what the terms of that plea agreement are, if there is a plea agreement that is going to be agreed to there.

- Colonel Rob Ste...: [00:15:52](#) So those are the exclusive authorities that belong to the Office of Special Trial Counsel. This slide actually establishes the Office of Special Trial Counsel and simply directs that each of the service secretaries, not at the DOD level, but at the service level that they established within their respective service and office to execute this new mission that is given to us in a previous section under the NDAA. The Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force have designated and created Offices of the Special Trial Counsel that are to exercise that authority within the said service.
- Colonel Rob Ste...: [00:16:41](#) There are some complexities with the Space Force under the Air Force and the Marine Corps under the Navy, but those are beyond the scope here as we will be just focusing on what the Army will be doing here. But subsequently on this slide, it shows a requirement that the Office of Special Trial Counsel be led by an officer who is a Judge Advocate in the grade of O7 Brigadier General or higher and has “significant military justice experience.” And that individual will be in place, and they will lead the overall organization. That individual reports directly to the Secretary of the Army. The OSTC led by this Brigadier General will be a field operating agency of the United States Army but with direct reporting authority to the Secretary of the Army, not to a three- or four-star commander at the HQDA level, but instead directly to the civilian leadership of the Army, the civilian Secretary of the Army.
- Colonel Rob Ste...: [00:17:53](#) That individual is responsible for the overall supervision and day-to-day operations oversight from A to Z across the spectrum of different tasks and responsibilities of the operations of the OSTC. I’ll show you some graphics a little bit later that give you the locations where these individual offices will be housed. So even though these attorneys will be embedded in these offices, they will be completely and wholly independent of the change of command. And also the Staff Judge Advocates that work directly for those commanders are independent officers and support personnel who work for those prosecutors independent from any chain of command that might be on that local installation. And that independence.
- Colonel Rob Ste...: [00:18:45](#) That independence and the way the structure is designed is to ensure that the next bullet is functional, and that is that the STCs are free from any unlawful influence, because, as was on the previous slide the exclusive authority to make decisions about these court-martial cases resides with these Special Trial Counsel. And so to ensure that there is no unlawful influence or inappropriate influence either direct or indirect, subtle or not so subtle, that requirement of independence is there for that

reason. I want to show you what are the cover defenses. The jurisdiction of the Special Trial counsel is over cover defenses. And so as we go through the different sections in the NDAA, this is the last one I'm going to show you directly as part of this presentation.

Colonel Rob Ste...: [00:19:44](#) Section 533 establishes the jurisdiction of the Special Trial counsel both on the installation and up through the stovepipe structure that is the Office of Special Trial Counsel. What you see on the left side of this slide are 11 articles under the UCMJ. I left the word article off, but these are the numbers of those articles. And again, there are 11 of them that are listed on the left side of this slide. Any Soldier who commits a crime and is subject to the UCMJ (so this doesn't apply to a civilian that the military does not have jurisdiction over). A military member who commits one of these offenses on or off the installation, on or off duty at any time, 24/7, is subject to the UCMJ.

Colonel Rob Ste...: [00:20:35](#) One of these offenses is under the direct and exclusive authority of the Special Trial Counsel. For those of you that have been working in the SHARP community and working with the sexual assault response over the last decade or so, most of the ones on this list will not be surprising to you. For the last 13 years, since 2009, the Army has had a Special Victim Prosecution Program (SVP), and many of the SHARP professionals that are on this call work with their local SVP or have over the years. Looking at this list of offenses, you're not surprised because this is the traditional with a couple of exceptions. This is the traditional list of offenses that are part of the jurisdiction of the Special Victim Prosecutor.

Colonel Rob Ste...: [00:21:23](#) Rape and sexual assault are corollary crimes related there, but also other crimes of interpersonal violence like domestic violence, child abuse, whether physical or sexual or both offenses related to child pornography. The wrongful broadcast what we have colloquially come to refer to as revenge porn, which is Article 170 Alpha. This list, however, also includes things that have not traditionally been offenses that are under the Special Victim Prosecutor program. Those are the homicide offenses that you see listed there as well. Murder and manslaughter and crimes such as retaliation which are listed there toward the bottom of the slide. So all of those crimes, those 11 articles into the UCMJ, any offense committed there will fall under the jurisdiction of the Special Trial Counsel.

Colonel Rob Ste...: [00:22:15](#) That is a starting point. Add what you see on the right side of this slide, and that is this notion of conspiracy to commit one of the other 11 offenses, solicitation of another person to commit

one of those offenses or an attempted kidnapping, for instance, or a conspiracy to commit murder, those kinds of offenses, while themselves not expressly under those 11 articles. The statute specifically gives authority for those kinds of offenses, also to be under the exclusive with the Office of the Special Trial Council. And finally, the last part is known and related offenses, which you see on the slide here as well. And this is where things get a little bit tricky, and where we are working through feverishly with the other services with our working groups in the Army to define and to develop an operational structure so that we can make sure that known and related offenses are identified at the beginning of an allegation or an investigation so that the Special Trial Counsel authority can be exercised properly.

Colonel Rob Ste...:

[00:23:25](#)

Known offenses and related offenses are different. I'll talk about known offenses first. Known offenses are other offenses committed by an offender who is accused of one of the covered offenses. So if you have someone who is accused of sexual assault, but they are also accused of a completely unrelated offense, let's say they shoplifted from the PX, or they committed some other offense, which is not a covered offense. Because that is an additional offense for that same perpetrator, and we have a policy across the UCMJ, which is that all known offenses are prosecuted in the same court-martial. So, if someone is going to be prosecuted for a sexual assault, but they have other offenses, then those other offenses are also under the authority of the Special Trial Counsel.

Colonel Rob Ste...:

[00:24:11](#)

Not only would that prosecution team handle that sexual assault investigation, supporting the investigation, handling that case in court, but they would also be responsible for that larceny case to use my example, if someone shoplifted from the PX. That's what "known" means. And then the related offenses are even more complicated, and that is this notion that many times you have collateral offenses committed by a different person. The most common example that we see in our work in special victim work is this idea of collateral misconduct by a victim of sexual assault or domestic violence, or another scenario where we have authority under the Special Trial Counsel Office. But collateral misconduct is the one we see probably most commonly: a victim who is underage drinking, or maybe they're involved in a relationship that's determined to be fraternization in violation of either policies or regulations or maybe even an article of the UCMJ. Those related offenses, while themselves not one of the listed 11 offenses, for example, underage drinking.

Colonel Rob Ste...: [00:25:21](#) Neither is disobedience of an order, but if someone is underage drinking and that offense is related to the covered offense, then that related offense is also under the authority of the Special Trial Counsel. This is going to be most impactful in our work, again, in those collateral misconduct cases involving victims while their alleged misconduct is not necessarily itself a covered offense. If it happened in the process or in the course of there being a victim of someone else, or at some event where that is a covered offense, then that offense is also under the authority of the Special Trial Counsel. It's a little bit complicated. I know a lot of lawyers are spending a lot of brain power working through that, but it is something that is going to be impactful, particularly in this area of work as we look at and often see, as all of you know. I know I'm preaching to the choir when I say that there is very commonly collateral misconduct and the sensitivity of how we deal with that and take action or choose not to take action is something that we all need to be very cognizant of. That decision and how that's going to process will at least initially be under the authority of the Special Trial Counsel. So again, an important and significant development there. This next slide is called Implications for the Army. There are a number of bullets here, and there are a lot of words on this slide, and I apologize for that.

Colonel Rob Ste...: [00:26:55](#) I wanted to lay out what we think and what we anticipate are going to be the most impactful. I've seen some of the questions pop up in the chat preview on the bottom here. This slide may answer some of those questions, but I'm sure that it may even prompt other questions. The bottom line up front here is that first bullet, which just is simply that effective on the 28th of December 2023, this new legal office will be established well before that. In many places, it's already established now. But this new legal office will begin to exercise this independent exclusive authority over these covered offense cases independent from the local chain of command.

Colonel Rob Ste...: [00:27:36](#) That local chain of command is both the chain of command of the victim and of the alleged perpetrator. Sometimes that's the same chain of command if two Soldiers are in the same unit. Sometimes the victim is a civilian who is not a member of the military community, and sometimes it's a spouse, and so there is no chain of command for that victim. But if it is a victim who's a service member who is in one unit and an offender who's in the other unit or in a different unit then this authority is exclusive and independent from both of those chains of command to include the higher-level chain of command on that installation. Again, there is no Garrison commander; there is no CG of any local installation that any of these Special Trial

Counsel attorneys are responsible to when it comes to this decision making.

Colonel Rob Ste...: [00:28:25](#) They will begin to exercise that authority over decision making as to whether or not these cover defenses are taken to court-martial. Now the second bullet on this slide talks about the criteria that Congress established and made mandatory for selection of the attorneys who will serve in this Office of Special Trial Counsel, both at the HQDA, the headquarters level, and also at the installation level. The criteria being education, experience, training, and temperament. A process for selecting those individuals to serve in these positions is underway now as we lean into the assignment and the selection of this. Those individuals that will be working in these positions will meet those criteria. They will have been screened and vetted, and then selected and then will undergo a significant amount of additional training in addition to whatever they bring to the table at the onset before they hit the ground and start exercising this authority at the installation level.

Colonel Rob Ste...: [00:29:26](#) The next two bullets get into the external, outside of the OSTC. And outside of even the JAG community on this idea that the OSTC attorneys will be working very closely with our partners across the interdisciplinary spectrum of different agencies and partners that support victims of sexual assault. This program, the OSTC or Office of Special Trial Counsel, is a response program as opposed to prevention in the world of sexual assault response and prevention. This is a response program. However, we are going to very deliberately study lessons learned and trends and feed that information back into prevention efforts that are ongoing at the local installation. But our main focus, while we are going to support prevention and aggressively get after prevention in every way that we can, our main mission, our reason for existence is on the response side of the dynamic.

Colonel Rob Ste...: [00:30:29](#) In that regard, we're working very closely with SARCs, VAs, and other survivor support personnel that are at the installation level to keep them involved. I always talk about the three E's: engaged, informed, and involved. We want survivors of these crimes to be involved, engaged, and informed throughout all phases and stages of the process. Whether the case goes to court-martial, I might take a year from initiation to conclusion, or it might go very quickly. It might be resolved through an administrative action. If it's the case, it doesn't rise to the level of a court-martial. We want to ensure that that engagement is happening. Without our partners from the SHARP community, whether they're at the SARC or VA level, and our partners off post that are often involved in these cases from local rape crisis

centers, multidisciplinary teams, sexual assault response teams, and the like without those partners, we are completely ineffective.

Colonel Rob Ste...: [00:31:33](#)

We have to have very strong relationships there. And so there's an entire line of effort within our organization and our standup to look at how we do that, how we better partner with local victim support agencies. It's very critical. That is the same with regard to local law enforcement. CID, MPI, the agencies on the installation and off the installation that are investigating these cases that are building the evidence, collecting the evidence, building the case that we will subsequently take to court. If the evidence is there to support the allegation we must and only are successful if we work closely with those individuals as well. So the partnerships and how we establish and maintain and foster and develop and strengthen those partnerships over time is critically important to what we do.

Colonel Rob Ste...: [00:32:26](#)

I would say particularly with the number of victim support personnel that are on this call, I welcome your thoughts. Please email me recommendations, ideas that you have. How can we do better at strengthening ties between the prosecution function, the JAGs that are working on the prosecution function and those of you that are supporting victims of sexual assault and domestic violence, and some of the other crimes that are there? That is key. Again, we can only be successful with your help and assistance. Those last two bullets on this slide, just very briefly, I talked about covered defenses, and it may be intuitive to all of you, but I think it's worth saying anyway. I showed you those exclusive authorities that the Special Trial Counsel have those authorities that are not taken from commanders and given to the Special Trial Counsel remain with the commander.

Colonel Rob Ste...: [00:33:20](#)

And so, as those last two bullets describe commanders remain responsible for administrative actions. The Special Trial Counsel decide whether or not cases go to court-martial. If a case does not go to court-martial, then it reverts back to the command. The legal term there is "deferred;" the case is deferred back to the command for administrative action and/or non-judicial punishment or whatever appropriate actions that the command under current authorities and the current structure of the UCMJ deem to be appropriate. And when it comes to non-covered offenses, those offenses and crimes that do not meet the definition of the 11 covered offenses, and they don't fall into the category of known and related offenses, those offenses will also remain under the authority of the commanders under current structure.

- Colonel Rob Ste...: [00:34:06](#) Commanders fundamentally and ultimately still remain responsible through the SHARP program, through the FAP program and other programs that exist within the victim services community, within the medical community, et cetera. They remain responsible for ensuring victim care and services are provided. Compliance with AR 600-20 requires compliance with the, DoDI requirements. All of that remains with the commanders under the current construct. We are well underway. And so this slide is just a screenshot of a general order. This is not a part of this presentation because of the time limitations, but we have a series of benchmarks and timeline requirements that have been established.
- Colonel Rob Ste...: [00:34:56](#) In addition to what I've talked about previously with the OSTC and what Congress did in the act last year, they also directed the DOD to establish for the services a timeline and to oversee the creation and the implementation of this process. The Army has already gotten well underway. I've talked a little bit about working groups and different lines of effort that are underway. What you see on the screen here is a general order signed by the Secretary of the Army, the Honorable Ms. Wormuth, back in July. This is the Army General Order, which officially established the United States Army Office of Special Trial Counsel, effective 15 July of this summer. So just a little over three months ago the Office of Special Trial Counsel was actually created and established by the Secretary of the Army.
- Colonel Rob Ste...: [00:35:52](#) The authorities, as I talked about, don't kick in until late December of 2023. In addition to this establishment, there are a number of different benchmarks along the way that we have to meet: different timelines roughly every quarter or so, reports back to Congress to lay out resource requirements, and other aspects, as you might imagine for something this significant and this sizeable. The amount of resourcing and the amount of azimuth checking that we need to do along the way as we build this is a pretty intense operation. But notwithstanding that, this document here is the start of it all; this is the document that we'll probably hang on the wall in our headquarters for many years which actually officially established the new organization.
- Colonel Rob Ste...: [00:36:48](#) I want to talk a little bit about the structure of the Office of Special Trial Counsel, the OSTC, and larger than that, the structure of the entire military justice enterprise. What you see on this slide is something that we, frankly within the JAG Corps we've talked about for years, and that is this idea of aligning all of our practice areas across military justice with either the same regional or circuit construct. And so this past year, our TJAG,

Lieutenant General Rich directed that we do this after many years of discussion and debate on this.

- Colonel Rob Ste...: [00:37:33](#) This is the creation of an eight-circuit structure across the Army for efficiencies, and for clarity as far as where authorities lie, particularly when it comes to Reserve and Compo 2 and 3 cases that might fall into our subject matter jurisdiction. What you see on this slide is a map laying out the eight circuits that the entire military justice operation will be divided into. It aligns all the different functional areas within these eight circuits. Historically, our judges are the Army trial judiciary. They've had five circuits. Our defense attorneys, child defense TDS has had eight regions. Our Special Victim Counsel is divided into six regions. Our court reporter program is also divided into regions.
- Colonel Rob Ste...: [00:38:27](#) And now the new Special Trial Counsel Office will also be subject to this regional guidance. The prosecution function historically has been decentralized down to the installation. And even at the installation, sometimes you have a big place like Fort Bragg, Fort Hood, where you have multiple general court-martial convenient authorities at even the same installation, but it's been decentralized such that there are about 60 places across the Army where prosecutors are operating. When it comes to cover defenses, all of those changes under this new paradigm. And all of these different functional areas will fit into these eight circuits. And so you'll see across the Army over the next few years a phasing in of this circuit process for all cases that fall into this area. And the map here shows six circuits in CONUS.
- Colonel Rob Ste...: [00:39:16](#) The seventh circuit is Asia, Hawaii, Korea, Japan, and the eighth circuit is Europe. The sixth circuit in CONUS, of course, Alaska, is obviously technically an OCONUS location. But Alaska's going to fall under the sixth circuit, which is going to be headquartered. Those yellow star clusters that you see on this map symbolize the headquarters installation within each of those eight circuits. As you go across the map, you'll see the National Capital Region, and most likely be at Fort McNair, Fort Bragg, Fort Campbell, Fort Leavenworth, Fort Hood, JBLM, Schofield Barracks, and the 21st TSC in the Kaiserslautern area of Germany. Those are going to be the eight headquarters locations for these eight circuits. So that's something that's new and different, and I think gives a little bit of insight into long term, how our structure is going to be fundamentally changing as we address crimes that fall under the covered events category.

Colonel Rob Ste...: [00:40:24](#) And so what this next slide shows is a breakdown now of the headquarters. I'll do a second subsequent slide here in a moment that shows you the different field offices that exist under the OSTC. This slide shows you our headquarters, and it captures this notion that the LSTC, the Leader of the Office of Special Trial Counsel will report directly to the Secretary of the Army. We maintain a dotted line relationship. There are some ADCON relationships that go back to the JAG Corps when it comes to some of the resourcing and things of that nature. But the decision making, the exclusive authority to make decisions about these cases, is completely independent of the change of command.

Colonel Rob Ste...: [00:41:08](#) All of those individuals who work down out into the field level under the Office of Special Trial Counsel all report back up through a stovepipe hierarchical structure that ultimately leads to the LSTC who reports directed to the Secretary of the Army. Those decisions that I talked about before, and not just the decisions, but the execution of those decisions. When it's decided that a case is going to go to court-martial, those attorneys who made that decision who had been working on that case with law enforcement along the way in developing that case, those are the same attorneys that are going to then prosecute that case in court. Those individuals that I described before that have been selected and identified and then assigned because of their temperament, their training experience, and education will not then jettison the case back to someone else once they've made the decision.

Colonel Rob Ste...: [00:41:59](#) They will then take that case to court and prosecute the case, and lead the prosecution effort of that case. At the headquarters level, you'll see across the middle those three boxes: policy training, operations, and referrals. I want to talk about that just for a second. Policy and Training is pretty straightforward: that branch of the OSTC will do essentially what the title describes, as will Operations. Operations will be ensuring that the processes, policies that are implemented and promulgated for the field will be adhered to, and then addressing issues and keeping the operations moving. The third block there, which is here called Referrals is really just an example of how this is in fact a work in progress. I think we're going to ultimately be changing the title of that branch to call it case management.

Colonel Rob Ste...: [00:42:51](#) So you're going to have three branches: a policy and training branch, an operations branch, and a case management branch within that headquarters element. And the case management branch will be responsible for, as the name suggests, ensuring

the flow of cases. When those cases require decisions to be made at the headquarters level, or at the Department of the Army level. A case might be at any installation across the Army, but if there's a decision that has to be made at the headquarters, HQDA level, the case management branch is there to ensure that the case moves with efficiency and that is that it doesn't get sent from Fort Carson, Colorado, just randomly picking a place on the map. A decision about the case has to be made in Washington DC at HQDA level.

Colonel Rob Ste...: [00:43:38](#)

The case management branch is there to ensure that that happens in a timely manner, that the case isn't as pushed up to headquarters, and then it gets lost, falls through the cracks, it gets lost in an abyss somewhere, and it takes weeks or even months for a decision to be made and for the case to get sent back out to the installation where it started. That's not good for anyone. It's not good for victims in particular. It's certainly not good just for the administration of justice generally. The case management branch is reflected in the boxes as Referrals. Referral is our technical term for making a decision on whether or not a case goes to court-martial. That branch will be operating with that mission in mind. So that's the headquarters, and you'll see there, there's another black box across the middle that says Complex Litigation.

Colonel Rob Ste...: [00:44:24](#)

In addition to the folks down range at the different installations, we will also have a flyaway team that will be operating here at the headquarters level that will respond in an emergency situation. Think of it as a QRF of sorts. If an installation is getting a significant backlog or if a big case comes up where there just isn't the bandwidth at the time at that installation because of other cases that are there, we're going to have a flyaway team that can surge in capacity to come in and assist again, and to keep things moving with efficiency. That's the goal that we hope to execute here.

Colonel Rob Ste...: [00:45:07](#)

This breaks it down even further and shows you across the bottom here the installations within those eight circuits where we will have field offices. And so the OSTC, under headquarters level has eight circuit offices, so each of the eight circuits will have a head circuit headquarters, a chief circuit special trial council, and a small staff that that is there. Those eight locations in those installations that were represented by the yellow star clusters two slides ago. You see those headquarters installations listed there. Underneath each of those circuit headquarters, you have a total across the Army of 28 field offices that will be established. 25 of those 28 exist right now, but as part of the local OSJA, the Office of Staff Judge Advocate.

Colonel Rob Ste...: [00:46:02](#) That is the Special Victim Prosecution team that is there at that installation. Some places like Fort Hood have two teams. There's a Special Victim Prosecution team that sits both at III Corps in that office and a separate team that sits in the 1st Cav Division Office. Same thing in Fort Bragg with 18th Airborne Corps and the 82nd Airborne Division. Korea has a similar situation with Eighth Army and 2 ID where those offices have multiple personnel. Those installations that have multiple offices will consolidate within that installation. And the offices where those individuals are embedded within that JAG office, those individuals will become independent of that JAG office. And they will be their own operating field office of the Office of Special Trial Counsel.

Colonel Rob Ste...: [00:46:50](#) We have 25 Special Victim Prosecution locations across the Army, and we're adding three additional locations, and you see them on the slide here. One of those is Fort Irwin under the Sixth Circuit. One of those is Vicenza, Italy under the Eighth Circuit. And then the other will be at Fort Jackson, South Carolina under the Second Circuit. Those are three installations now that do not have their own embedded team. They're receiving services from another geographically proximate office. Fort Jackson receives its support from Fort Gordon. The team in Italy receives their support from the Seventh JFTC area, Grafenwöhr. And Fort Irwin gets its support from JBLM, and we're expanding that out. So again, 28 field offices. Each of these field offices will have at least one, and in many cases, in the bigger busier installations, you'll have two or three or even four in some places.

Colonel Rob Ste...: [00:47:47](#) Attorneys, 27 alpha, active duty, maybe a mobilized reservist on active duty, but uniformed 27 Alpha JAG officers who are assigned as Special Trial Counsel, having met the criteria that we talked about before, are at that office, at that installation, running an operating that field office and overseeing all of the things I've talked about before with how these cases are driven through the process. And they will have a support staff as well. 27 Delta Military justice paralegals are enlisted MOS for Judge Advocate for the JAG Corps. These offices will be staffed with paralegals and also noteworthy, every office will also have one civilian assigned at least. And some offices will have more than one, but at least one civilian assigned. These are GS-11 positions that we refer to as a Special Victim Liaison, and we have 23 of those across the Army now at 23 of our 25 locations.

Colonel Rob Ste...: [00:48:46](#) And you are very likely familiar with those if you're working in the SHARP arena. Now they are the SVL, a Special Victim Liaison that works right now for the Special Victim Prosecutor. And so

that program will expand out so that every one of these 28 field offices has at least one of those GS-11 civilian support individuals. And that person will be the main touchpoint for our relationships with SHARP and FAP and off-post agencies that support victims of sexual assault. These are very exciting times with a lot of growth and a lot of change. I am extremely excited about this and to be a part of it. It's an evolution as I said at the beginning of this into a different system that in many ways is going to have a much higher level of functionality.

Colonel Rob Ste...: [00:49:42](#)

There will be challenges as we are going to necessarily have to coordinate and build relationships across different service providers and across different command enterprises. Because again, victim services remain under the responsibility of the commander. The Soldiers both on the victim side and on the accused side are in a unit; they have a commander. And so the requirement for coordination is going to still be there. There are a lot of challenges that we've already identified, but we're working through those. We have been out to a number of installations already to do some site survey visits, and those will continue over the next year or so as we lean into this. One last point, then I'll answer questions.

Colonel Rob Ste...: [00:50:30](#)

In June and July of 2023, so in the next summer PCS cycle, you should see most of these positions being filled at these different installations. The growth of these new offices and the hiring of the new personnel that I mentioned before, you should see all of that taking place. So by the summer of 2023, and certainly by the end of the summer, we hope to have everyone in place. Then that gives us really a three- or four-month period to lean into the training and the prep, the final stages of preparation for this transfer of authority that will happen in December. So with that, I will stop talking. There are several questions in the chat. I'll defer to the administrative team here to ask some of those questions, and I'll answer as many as I can before we run out of time.

Lytaria Walker: [00:51:30](#)

If you would like to ask a question, please type your question in the chat box and we will read them aloud. First question: "Given that healthcare support provision is the responsibility of the military employer to all in uniform, and knowing there is also to often be significant negative health stress impacts up to and including suicidality to those accused of these types of behaviors, in particular, what resources, supports are linked into your office for their Family, for them, and their Family support?"

- Colonel Rob Ste...: [00:52:26](#) That's a tremendous question, and thank you for asking that. This is something that we are very cognizant of: the emotional impacts. That's one of the reasons why when we talk about the criteria, the experience in education, the training, and temperament that is required for the individuals that are working in these positions. And it's not just for those attorneys, it's also for those paralegals, and for those victim witness liaisons. We know how emotionally impactful being involved in one of these cases can be. The question, I think specifically talks more about someone who's a subject. Obviously the same is true for a victim. The emotional impact, the trauma related to either being a victim or being someone who's accused of this is significant. That's something that we are looking very closely at.
- Colonel Rob Ste...: [00:53:09](#) And so while we will be stove piped and independent of the chains of command, we are at those installations. We are embedded in likely the legal office or in the same general footprint on the installation as where the legal office is. One of the primary tasks of these individuals is to be plugged in with all of the other resources that are on that installation. We're looking at a protocol for multidisciplinary teams to work and have regular meetings and touchpoints. Already, we had some discussions at a couple of the installations across the Army that are piloting the fusion directorates. I think some of you on this call are familiar with that, to be plugged into that, and to not only have access and to know who the touchpoints are within behavioral health, within the military medical community, and within the off-post local community. This is so that when an issue is raised, we can be immediately responsive to get that individual, whatever their part is in the process, the help that they need.
- Colonel Rob Ste...: [00:54:19](#) Again, the people that are going into these jobs are going to be trained and stressed to be on the lookout for those kinds of things. That is something that we are very, very deliberately ensuring that we're paying very close attention to, and we have a plan to address issues as they come up because they will. It's tragic and very difficult, but in fact that it is a reality. And so we have to be prepared for that. So that's a great question. I appreciate that.
- Lytaria Walker: [00:54:48](#) Next question: "What are the Special Victims Liaisons and how are they integrated into states for the National Guard and in what program are they housed?"
- Colonel Rob Ste...: [00:54:57](#) Right now, the 23 Special Victim Liaisons that we have across the Army are part of the Special Victim Prosecution, SVP, teams that are at the installation. Those offices are embedded within

the JAG office, and the authorities for the cases as they currently reside under the chain of command. Those SVLs work for those SVPs, those Judge Advocate attorneys, who run those offices at those 25 installations where they're housed currently. Although two of those don't have SVLs—there are 23 SVL spread across to 25 installations. As those Special Victim Prosecutors migrate over under the Office of Special Trial counsel with this change of authority, those SVLs will move as well. Their positions will move, and they will be part of that stovepipe structure responsive to the SVP, but again, one of their primary missions is to be plugged in and to be that touchpoint both externally going out, but also inwardly to be that point of contact.

- Colonel Rob Ste...: [00:56:02](#) They are on the team to one civilian that will not be transitioning. The attorneys and the paralegals will be assigned to these offices in probably two to three years, maybe sometimes a little bit longer, but they will eventually PCS and rotate out those civilians in GS-11. There should be the continuity that will help ensure cases and relationships don't fall through the cracks. I think I saw someone asking about Title 10. These requirements in the NDA only apply to Title 10 cases, where the accused, the offender is on is subject to the UCMJ under a Title 10 status.
- Colonel Rob Ste...: [00:56:52](#) If that individual is subject to the UCMJ, then this system that I've described will be triggered and then will be energized in support of that case. I would also offer though that on cases that don't fall under that, that these individuals at these installations across the Army are those primary points of contact even when it comes to issues and resources and services. They can help be a liaison and connect someone whose case might not be subject to this because it might be under a civilian jurisdiction or a National Guard Title 32 type scenario. That Special Victim Liaison is going to be a key resource for everyone to be able to touch base with for coordination and for information across the entire spectrum of issues that comes up.
- Lytaria Walker: [00:57:42](#) Next question: "Does sexual harassment fall under any of this such as 120c?"
- Colonel Rob Ste...: [00:57:48](#) No, last year in the same NDA that created the OSTC, Congress created a new punitive article under the UCMDA for sexual harassment. Sexual harassment has always been criminal even before that new article was passed. It was typically handled as a form of maltreatment, or it was handled under an administrative process that will still exist. Sexual harassment

cases are not a covered offense directly. The short answer to the question is that is not one of the cover defenses that was identified by Congress. Although in our study, and I don't have a statistic or hard data to back this up, but anecdotally, I can tell you that many times sexual harassment falls into the known and related category because where you'll have sexual harassment, you also will have unlawful touching, abuse of sexual contact type conduct, which many people who aren't trained in the nuances of the law think of as sexual harassments and often refer to it as sexual harassment.

Colonel Rob Ste...: [00:58:55](#) But when you really look into the conduct, you'll see that it is in fact a form of sexual assault, abuse of sexual contact most commonly. And those offenses will be part of the Office of Special Trial Counsel Authority. But a case that is by definition, legal definition, purely sexual harassment will only be referred to the Office of Special Trial Counsel under the current legal structure if it is a known or related offense under the guidance that I had described earlier, right from section 533.

Lytaria Walker: [00:59:29](#) Next question: "What about intimate partner violence? I know this is often a gap in reporting."

Colonel Rob Ste...: [00:59:35](#) Oh, it is indeed. So intimate partner is under the definition of domestic violence. So intimate partner violence where the offender is subject to the UCMJ is a covered offense. And so we will have authority under the OSTC over all incidents of interpersonal or intimate partner violence. Intimate partner violence is defined as a dating relationship or any intimate relationship where there's violence involved. That falls under the definition of Article 128B, one of the 11 offenses that I showed before under the definition of domestic violence. So we will have authority over intimate partner violence.

Lytaria Walker: [01:00:25](#) Last question: "STC must be independent of the COC of both the accused and the victim. How will cases that are involving JAG's STC members themselves in special trial-related issues be dealt with?"

Colonel Rob Ste...: [01:00:40](#) Great question. The DOD has directed that we establish a MOU with the other services. So, if there is someone who's assigned to our program that has an incident, it will be under an MOU with the other services of the Army, Navy, Air Force, Marines, Space Force, and even the Coast Guard. We're going to sign a multi-party memorandum of agreement and understanding that another service will handle that misconduct, and we might handle it from the other service. And so if a member of our team let's say at Joint Base Lewis-McChord, most likely the Air

Force JAG team at JBLM on the McChord side of the house will handle that case.

Colonel Rob Ste...: [01:01:30](#) If we're at in Norfolk and we have Special Victim Prosecutors at Fort Lee who are responsible for that area, and there's a Navy individual who is assigned to the Navy OSTC and they get in trouble, then the Army there will handle it. We'll work it through the joint base installations where it'll be the easiest, but for places that aren't subject to a joint base, we'll just work it out on a case-by-case basis, but it will fall under another service. Just like we will again exercise that over cases of members of the other services' Offices of Special Trial Counsel.

Colonel Rob Ste...: [01:02:09](#) I see a lot of the chat questions here are asking for copies of the slides, and I know Mr. Williams has inserted them. So by all means, feel free to share these. I know we're running out of time here, so I just want to say thank you all very, very much for attending this, for your questions, and for your attentiveness to this. Not just now, but in the future. As I said, my main takeaway would be all of us working together closely. This is the only way that we make this work. The goal is to make things better for victims to increase accountability of offenders and to make the Army a better place to serve for our children and grandchildren and our friends and Family and colleagues that are out there now. Thank you all for not only this, but for what I know all of you are doing each and every day and for what we're all going to do going into the future here. With that, I will say thank you, and please email me any further questions. I look forward to hopefully having a chance to engage with you in the future. We appreciate it. Thank you.

Lytaria Walker: [01:03:16](#) We will conclude this morning's webinar at this time. We've run out of time for questions. I do want to extend a gracious thank you to Colonel Stelle for taking time today to provide this great presentation for us. Thank you for joining us today as well. Once the webinar ends, you will be prompted to complete a survey. We appreciate your feedback as this helps us to improve upon future webinars. If you'd like to receive invitations for ARD webinars in the future and receive the latest news and information, please go to ARD's website armyresilience.army.mil and sign up for notifications. Also, please follow us on ARD's newly launched Instagram and LinkedIn platforms. Again, thank you for joining us and have a wonderful rest of your day.