



Office of Special Trial Counsel – Overview Brief

BGen K. Scott Woodard

Lead Special Trial Counsel

U. S. Marine Corps

kevin.woodard@usmc.mil

703-693-6755

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Purpose

To provide an overview of the organization, mission, and operations of the Marine Corps Office of Special Trial Counsel (OSTC).



OSTC Mission

To provide expert, specialized, independent, and ethical representation of the United States in the investigation and trial-level litigation of “covered offenses” and “other offenses” over which the OSTC exercises authority pursuant to statute and regulation.



Covered Offenses

- 117a (Wrongful Broadcast or Distribution of Intimate Visual Images)
- 118 (Murder)
- 119 (Manslaughter)
- 119a (Death or Injury of an Unborn Child)
- 120 (Rape and Sexual Assault)
- 120a (Depositing Obscene Materials in the Mails)
- 120b (Rape and Sexual Assault of a Child)
- 120c (Other Sexual Misconduct)
- 125 (Kidnapping)
- 128b (Domestic Violence)
- 130 (Stalking)
- 132 (Retaliation)
- 134 (Child Pornography)
- 134 (Sexual Harassment) *Only Formal Substantiated Complaints-beginning 1 Jan 2025
- **“Other Offenses”** = Known and related offenses as defined by Article 24a, UCMJ

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Must Exercise Authority vs. Discretionary Exercise of Authority

- The OSTC must exercise its Article 24a authorities for covered offenses, except Sexual Harassment, committed on or after 28 December 2023. Must exercise authority over Sexual Harassment committed on or after 1 January 2025.
- The OSTC may exercise its Article 24a discretionary authority for any covered offense committed on or before 27 December 2023 (before 1 January 2025 for Sexual Harassment).
 - If the OSTC declines to exercise its discretionary authority for a covered offense committed, the subject's commander, victim, and victim's commander (if victim is a service member) will be notified of the OSTC's declination.
 - If the OSTC declines to exercise its discretionary authority for a covered offense committed, the subject's commander retains full authority over the disposition of the offense.



Commander Disposition Authorities for Covered Offense Incidents Occurring before 28 Dec 23 over which the OSTC DOES NOT Exercise Discretionary Authority

- No Action
- Administrative Action
- Direct Preferral (Submit Request for Legal Services to Law Center)
- Direct Article 32 UCMJ Preliminary Hearing
- Convene Courts-Martial
- Referral to any court-martial forum
- Withdraw
- Dismiss
- Enter into plea agreements on behalf of the United States



Commander Role in Covered Offense Cases when OSTC Exercises Authority

- Appoint Preliminary Hearing Officers to conduct Article 32, UCMJ, Preliminary Hearings.
- Convene Court-Martial
 - Appoint members, pursuant to Article 25, UCMJ
- Fund Court-Martial Related Expenses
- Provide non-binding input to the STC regarding the disposition of the offenses over which the STC exercises authority (to include non-binding input on any plea agreement)
- Take care of your Marine, regardless of whether they are the accused or a victim.



OSTC Disposition Authorities for Covered, Known, and Related Offenses over which the OSTC Exercises Authority

- Prefer
- Refer to a special or general court-martial
- Withdraw
- Dismiss
- Enter into plea agreements on behalf of the United States
- Defer offenses back to the commander for disposition



OSTC Charging Decision

For an offense to be charged by a Special Trial Counsel, the evidence must meet the OSTC charging standard and there must be sufficient military interest in charging the offense in a criminal forum.

Charging Standard:

- The Special Trial Counsel must believe that it is probable (more likely than not) that the admissible evidence will be sufficient to obtain and sustain a conviction rendered by a reasonable, unbiased trier of fact.

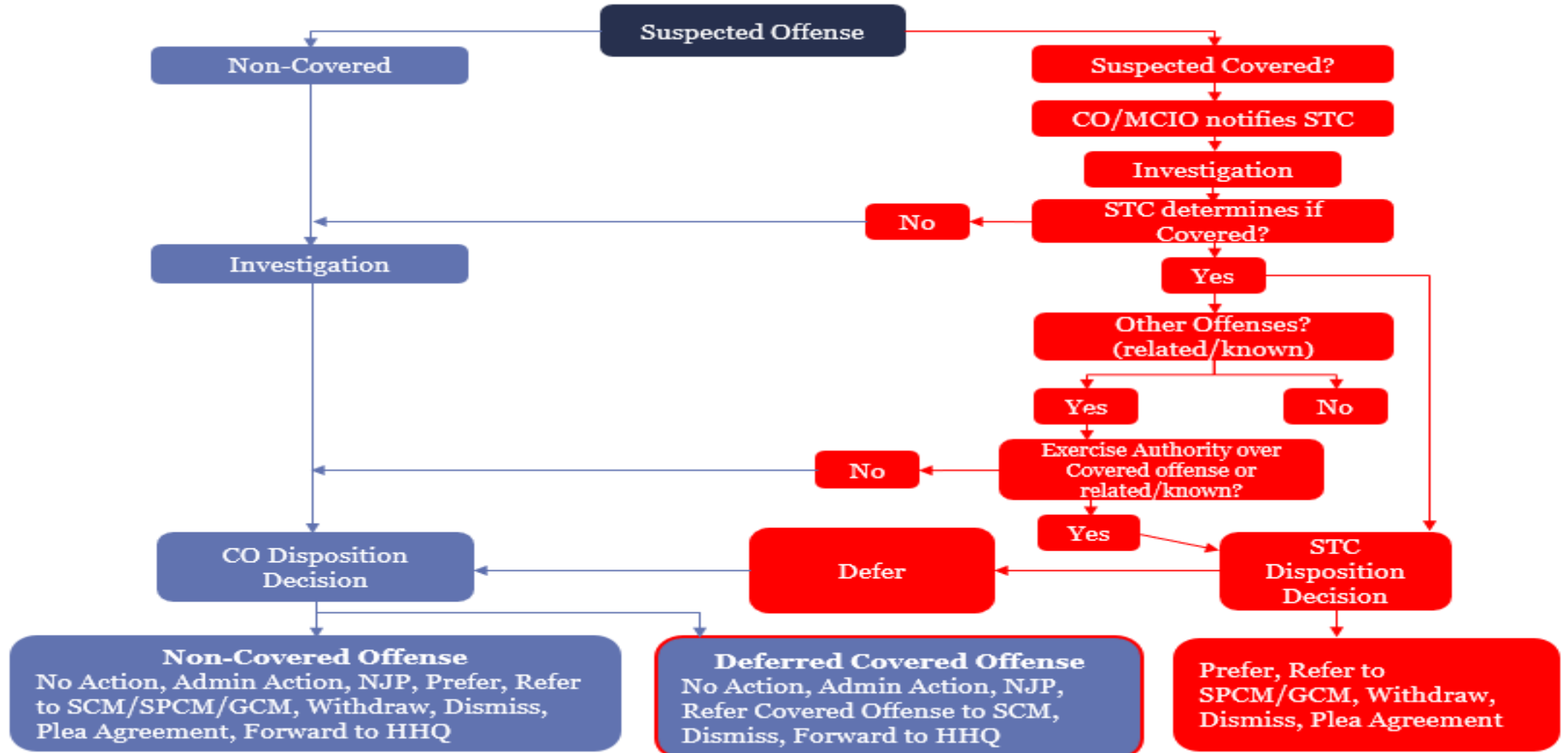
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Military Interest:

- The Special Trial Counsel must also believe that the misconduct is more appropriately addressed in a criminal forum (special or general court-martial) than in a non-criminal forum by a commander through administrative means such as formal counseling, NJP, administrative separation, or other adverse administrative action.

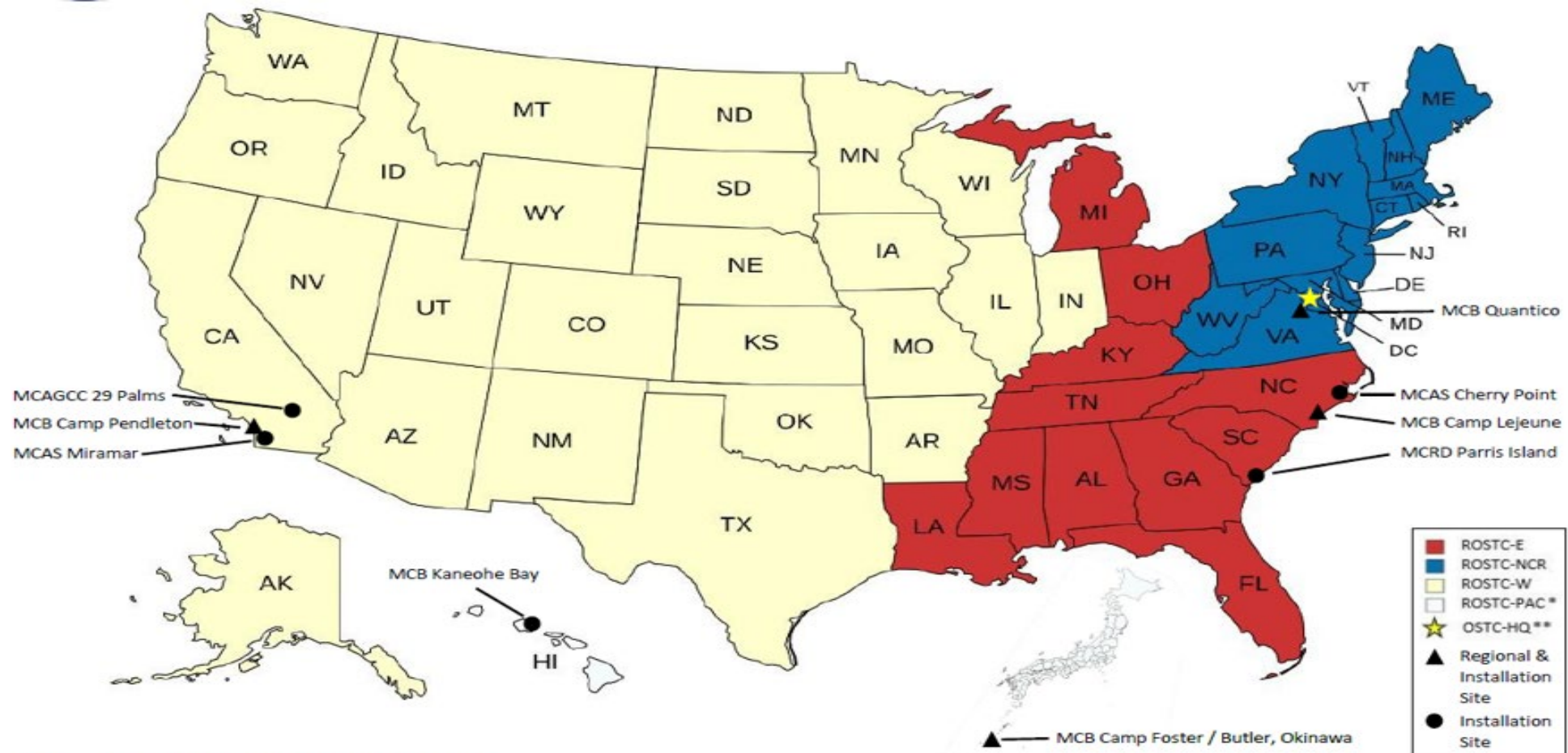


Offense Disposition Flowchart





USMC OSTC HQ, Regional, and Installation Offices



*ROSTC-PAC AOR includes all of USINDOPACOM

**OSTC-HQ AOR includes all OCONUS areas outside of PAC's AOR



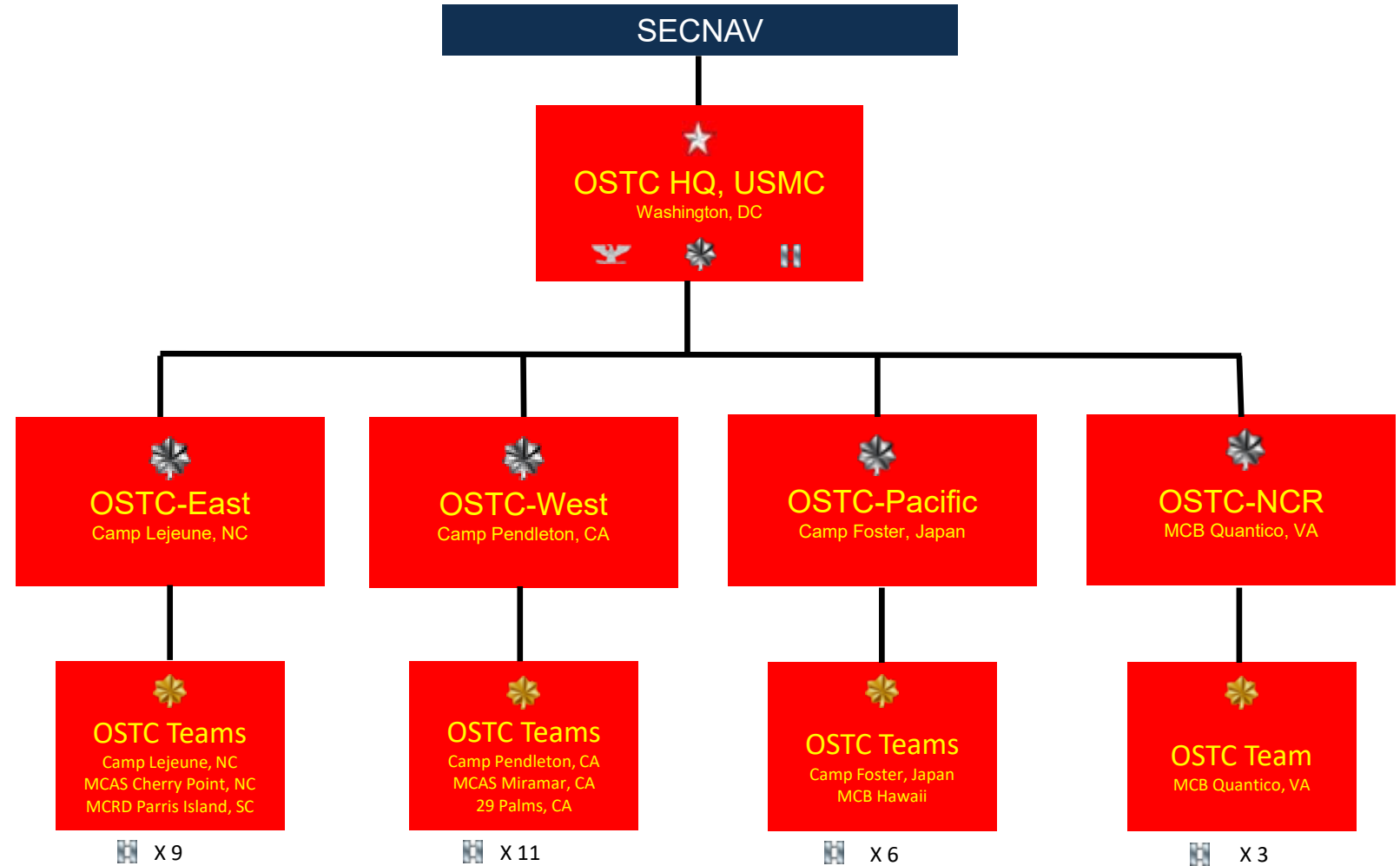
USMC OSTC Structure

3 February 2025

OSTC Personnel On-Hand

Total Personnel = 91*

- Counsel = 47
 - 33 STC
 - 3 Aux Counsel
 - 11 TSO Support*
- Enlisted = 28
- GS Employees = 15
- Investigators = 1*





OSTC Deferral Authorities/Decision Makers

Lead Special Trial Counsel (O7)

- 118 (Murder)
- 119 (Manslaughter)
- 119a (Death or Injury of an Unborn Child)

Regional Special Trial Counsel (O5)*

- 117a (Wrongful Broadcast or Distribution of Intimate Visual Images)
- 120 (Rape and Sexual Assault)
- 120a (Depositing Obscene Materials in the Mails)
- 120b (Rape and Sexual Assault of a Child)
- 120c (Other Sexual Misconduct)
- 125 (Kidnapping)
- 128b (Domestic Violence)
- 130 (Stalking)
- 132 (Retaliation)
- 134 (Child Pornography)
- 134 (Sexual Harassment)

***RSTC can further delegate authority to Team Lead with concurrence of LSTC**



OSTC Referral Authorities/Decision Makers

Lead Special Trial Counsel (O7)

- Any covered offense (Only the LSTC can refer an offense to trial when a PHO has found no probable cause for the offense)

Deputy Lead Special Trial Counsel (O6)

- For O6 and below and any enlisted: any covered offense except 118, 119, and 119a (unless acting in the absence of the LSTC)

Regional Special Trial Counsel (O5)

- For O5 and below and any enlisted: any covered offense except 118, 119, 119a, and those offenses for which a PHO finds no probable cause

Special Trial Counsel Team Lead (O4)

- For O4 and below and E7 and below: any covered offense except 118, 119, 119a, 120, 120b, and those offenses for which a PHO finds no probable cause



Questions and Comments?

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