

Victim Witness Assistance Coordinator



Standard Operating Procedures
and Resources

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I. Mission Statement

The mission of the Victim Witness Assistance Coordinator is to ensure victims and witnesses understand their rights and are provided with quality and meaningful assistance throughout the military justice process.

II. Definitions

1. Victim and Witness Assistance Coordinator (VWAC). The command's primary point of contact for victim and witness assistance matters.
2. Victim and Witness Liaison Officer (VWLO). The installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
3. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the UCMJ or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by a department of defense (DoD) component. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice. Such individuals shall include, but are not limited to, the following:
 - a. Military members and their family members.
 - b. When stationed outside the continental United States, DOD civilian employees and contractors, if provided for by contract, and their family members. This program applies to services not available to DOD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.
 - c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following: a legal guardian, spouse, parent, child, sibling, another family member, or another person designated by the court or local responsible official, or designee.
 - d. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice, even though the individual may be one of the representatives described above.
 - e. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.
4. Witness. A person who has information or evidence concerning a crime, and provides that knowledge to a DON representative about an offense in the investigative jurisdiction of the DON. When the witness is a minor, the term includes a parent or legal guardian. The term "witness" does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

III. Billet Description

Assist the Commander in the execution of the Victim Witness Assistance Program at the Battalion level.

Ensure victims receive the proper counseling and services as required.

IV. Billet Duties

Overview:

- Provide assistance to required victims and witnesses
- Report quarterly numbers to Victim Witness Liaison Officer (VWLO)
- Conduct unit-wide annual VWAP training

The VWAC responsibilities vary depending on the relationship of a victim or witness to the VWAC's command. The VWAC shall:

1. Ensure victims and witnesses understand the rights afforded them under the law and this order and are provided with a completed Initial Information for Victims and Witnesses of Crime (DD Form 2701) if one has not already been provided.
2. Ensure processes are in place to maintain data on the number of victims and witnesses who receive DD Forms 2701.
3. Ensure the total number of victims and witnesses provided DD Form 2701 is reported to the installation VWLO per Enclosure
4. When the Victim or Witness is a Member of the VWAC's:
 - a. Once the command is aware a member of their command is a victim or a witness, the VWAC shall ensure the victim or witness is advised of applicable rights and provided DD Form 2701, if one has not already been provided.
 - b. Coordinate with the MF to ensure the victim or witness receives, when appropriate, information concerning the availability of resources, including information on compensation programs available to victims of intra-familial abuse offenses when the offender is a service member.
 - c. Assist the victim and/or witness in obtaining necessary counseling.
 - d. Maintain contact with all VWACs and VWAP personnel involved in the victim's or witness's case.

e. Assist the victim or witness, as appropriate and necessary, in the exercise of their rights.

For cases pending judicial action, the trial counsel will provide notifications, assistance, and explanation of rights (as contained in DD Forms 2702 and 2703).

5. Where the VWAC's Command is the Convening Authority

a. Once the command is aware an accused is a member of the command, the VWAC shall identify the victim and, if applicable, witnesses. For victims and witnesses from another command, the VWAC will notify the appropriate command VWAC. For victims or witnesses from the accused's command, the VWAC will provide the necessary assistance as outlined above.

b. After charges have been preferred, the VWAC shall ensure victims and witnesses have been provided the necessary notifications under VWAP. The VWAC must coordinate with PMO, the trial counsel, and VWACs of the victims' or witnesses' command to ensure these notifications are made and understood by the victims and/or witnesses.

c. The VWAC shall confirm the trial counsel detailed to the case has obtained the victim's views, if any, concerning pretrial plea negotiations and has forwarded that information to the convening authority. Additionally, the VWAC shall verify the trial counsel has notified the victim of the nature of the charges, date of preferral, and the commander's decisions concerning prosecution.

d. Confirm the trial counsel has complied with the victim's request to be notified of the following, when applicable:

1. The date charges are referred and the nature
2. Acceptance of a pretrial agreement.
3. The court-martial findings concerning guilt.
4. The sentence adjudged.

5. The Convening Authority's Action (CAA) on the findings and sentence of the court-martial.

e. In the event a case is not referred to court-martial, a VWAC may perform the above notifications and confer with victims; however, the VWAC should consult with trial counsel prior to doing so.

f. In pretrial confinement cases where the victim or witness has requested notification, the VWAC shall notify the victim or witness of changes in the accused's pretrial confinement status.

g. The VWAC shall obtain and distribute VWAP materials and provide VWAP training to the members of the command on an annual basis.

h. Generally the VWAC should not serve as a victim advocate due to potentially conflicting roles, responsibilities, and duties to the victim and command.

i. Unit VWACs have separate roles and responsibilities from VWACs assigned to support organizations (i.e. Confinement Facilities, LSSTs, PMO, MF).

j. In those commands where all members of the command are also members of a respective Headquarters or Headquarters and Service Battalion (e.g., Headquarters, Marine Corps; Marine Corps Forces Pacific; Marine Corps Forces Command) there is no requirement for the higher headquarters to have a separate VWAC.

k. The unit VWAC shall not serve as a trial counsel, defense counsel, or legal assistance attorney.

V. Reports

Provide the base VWLO with the number of victims and witnesses who received 2701s from the command.

A. MCB Quantico Points of Contact

Position	Name	Phone Number	E-mail
Installation Victim Witness Liaison Officer	1stLt Savino	703-784-3690	Angelissa.savino@usmc.mil
Regional Victim Legal Counsel	Maj Green	703-784-3872	james.m.green1@usmc.mil
Installation Victim Legal Counsel	Capt Papadopoulos	703-784-3877	panagiotis.papadopou@usmc.mil
H&SBn VWAC	Ms. Adriana Martinez	703-784-4468	adriana.martinez1@usmc.mil
SecBn VWAC	Capt Grieco	703-740-7287	justin.grieco@usmc.mil
SecBn Chief Investigator	MSgt Wenzel	703-784-0995	melinda.wenzel@usmc.mil
MCAF VWAC	1stLt Walton	703-784-1434	gabriel.walton@usmc.mil
HMX-1 VWAC	Maj Lack	571-494-4845	bernadette.lack@whmo.mil
MCESG VWAC	Capt Cronin	703-784-4833	robert.p.cronin@usmc.mil
TBS VWAC	Capt Patera	703-784-5677	matthew.patera@usmc.mil
OCS VWAC	Capt Greene	703-784-2351/2352	lawrence.greene@usmc.mil
CBIRF Indian Head VWAC	CWO2 Shapiro	301-744-2054	jeffrey.shapiro@usmc.mil
WTBn VWAC	GySgt Suarez	703-784-5058	alipio.suarez@usmc.mil
HQMC PPSL Corrections	Ms. Jenny Franks	703-604-4354	jenny.l.franksusmc.mil
8 th & I			
Brig VWAC (Rappahanock)	Ms. Jenny Franks	703-604-4354	jenny.l.franksusmc.mil
Brig VWAC (Chesapeake)	Ms. Brittney Mitchell	757-421-8819	brittney.f.mitchell@navy.mil
SARC	Ms. Cherrone Hester	703-784-3557	cherrone.hester@usmc.mil
SAPRO		703-432-1419/3557	
MFS – Marine Family Services	Mrs. Gail Ketola	703-432-0053	gail.ketola@usmc.mil
FAP- Family Advocacy Program	Ms. Nina Manganaris	703-784-5334	Manganarism@usmc-mccs.org
FAP- Family Advocacy Program	Mr. Chip Toney	703-784-6679	tonyge@usmc-mccs.org

B. Sample Appointing Letter



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS _____
MARINE CORPS BASE _____
ADDRESS _____
CITY, STATE ZIP CODE _____

IN REPLY REFER TO:
5800
B 052
1 Mon 15

From: Commanding Officer, _____ (UNIT)

To:

Subj: APPOINTMENT AS THE VICTIM AND WITNESS ASSISTANCE COORDINATOR
(VWAC) FOR _____ (UNIT)

Ref: (a) MCO 5800.14

1. Per the reference, you are hereby appointed as the hereby appointed as the Victim Witness Assistance Coordinator (VWAC). You will familiarize yourself with the reference and use as guidance to fulfill your duties.

2. The following information is provided for identification purposes:

- a. Title/Rank:
- b. Duty/Billet:
- c. E-mail address:
- d. Official address:
- e. Telephone Number:

3. This authority supersedes all previous appointments.

A. B. COMMANDER

C. Forms 2701-2706

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

(Name)

(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

(Name)

(Telephone Number)

In regard to the prosecution, contact the legal office below:

(Name)

(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

(Name)

(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
<http://vwwac.defense.gov/>

**DEPARTMENT OF
DEFENSE**



**INITIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME**

Initial Information For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is greatly needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed.

If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Injured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist.

If You Were a Victim of Spouse or Child Abuse.

For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2698) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

_____ (Name)

_____ (Telephone Number)

Trial Counsel

_____ (Name)

_____ (Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:

<http://dod.mil/vwac>

DEPARTMENT OF DEFENSE



COURT-MARTIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME

Court-Martial Information

For Victims and Witnesses of Crime

Introduction.

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of your experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferral of Charges.

Like a civilian criminal "complaint," the referral of charges begins the criminal trial process. Upon referral, you may participate in the case at several points as outlined below.

Pretrial Conference.

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing.

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

Court-Martial.

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

Testimony.

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

Pointers When Testifying.

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument.

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

Your Rights As A Victim.

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;
- To confer with the attorney for the Government (Trial Counsel) in the case;
- To receive available restitution;
- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

Points of Contact:

Service Central Repository

(Name)

(Telephone Number)

Confinement Facility

(Name)

(Telephone Number)

Service Clemency and Parole Board

(Name)

(Telephone Number)

Other

(Name)

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:

<http://dod.mil/vwvac>

**DEPARTMENT OF
DEFENSE**



**POST-TRIAL
INFORMATION FOR VICTIMS
AND WITNESSES
OF CRIME**

Post-Trial Information For Victims and Witnesses of Crime

Introduction.

This brochure details the post-trial process and your rights in that process. Most important is your right to be notified of changes in the confinement status of the offender in your case.

Location of Confinement Facility.

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "inmate", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the inmate will be held there temporarily.

Depending on the security level of the inmate, he/she may be assigned to various work details around the installation. If the inmate's period of confinement is minimal, and there are adequate facilities on the installation, the inmate may serve the entire sentence at the installation.

If there is no confinement facility at the installation, the facility is not adequate to house the inmate, or the sentence is in excess of what is handled on the installation, he/she will be taken to a regional confinement facility. The inmate may later be transferred to other facilities available,

based on length of sentence, programs and security levels. You will be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status." It is very important that you keep the confinement facility informed of your current address and telephone number.

Convening Authority Action.

The other parts of the sentence (e.g., forfeitures of pay, reduction in rank) will not be effective until the "convening authority", usually a senior officer, takes "action" on it, generally within 6 to 9 months. The convening authority may disapprove the findings, disapprove or reduce any part of the sentence, or approve everything except a punitive discharge. The convening authority cannot increase any part of the sentence. You have the right to submit a statement to the convening authority on how you feel about the inmate receiving clemency. You can ask the Trial Counsel about this right.

Clemency and Parole Consideration.

Military inmates are eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. You may make a statement to the Clemency and Parole Board on how the crime affected you. The statement may be on audio or video tape or in writing and may be sent to the Service Clemency and Parole Board at the address on the back of this page. A personal appearance before the Board may also be permitted.

Notification Rights.

You have the right to be notified in writing of the following changes in the inmate's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the inmate is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance.

How To Exercise Your Rights.

If you want to exercise these rights, and be notified of the dates of any clemency and parole hearings, and changes in the inmate's status, you must fill out DD Form 2704, "Victim/ Witness Certification and Election Concerning Inmate Status." You MUST notify the Service Central Repository of all address and telephone number changes if you want to receive notices. This information will be kept confidential.

Points of Contact.

From now on, your point of contact will be the confinement facility or the Service Central Repository listed on the back of this page. Please call if you have any questions.

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS

PRIVACY ACT STATEMENT

AUTHORITY: 42 U.S.C. 10607 et seq.; 18 U.S.C. 1512 et seq; DoDI 1325.07; DoDI 1030.2; and DoDD 1030.1.

PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in prisoner status.

ROUTINE USES: None.

DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the correctional facility from notifying victim or witness of changes in a criminal offender's status.

SECTION 1 - ADMINISTRATIVE INFORMATION

Incident Number _____
Installation _____ City _____ State _____ ZIP Code _____
Court-martial case of United States v. _____
Print Name of Accused (Last, First, Middle Initial) *Social Security Number (last 4 only)*
Convened by _____
Court-Martial Convening Order Number, Date, and Issuing Command

SECTION 2 - CERTIFICATION OF NO VICTIM(S) OR WITNESS(ES)

I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by 42 U.S.C. 10607 et seq., and U.S.C. 3771 et seq.

Date (YYYYMMDD) *Signature of Trial Counsel or Designee* *Type Name (Last, First, Middle Initial)*

Grade and Title *Telephone Number (Include area code)*

IF THERE ARE NO VICTIM(S) OR WITNESS(ES), STOP HERE AND SKIP TO SECTION 4.

SECTION 3 - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)

I certify that on this date I personally notified the victim(s) and witness(es) in the above-named court-martial case that included a sentence to confinement, of their right under 42 U.S.C. 10607 et seq., and U.S.C. 3771 et seq., to receive information about the status of the prisoner named in Section 1 of this form, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the prisoner's parole hearings, release from confinement, escape and death. I advised the victim(s) and witness(es) that to receive notification of the prisoner's transfer, parole hearings, and release confinement, the victim or witness **MUST PROVIDE THE INFORMATION REQUIRED ON PAGE 2 OF THIS FORM.** I advised all victim(s) and witness(es) that if they elect to terminate or reinstate notifications, or if they change their address, they must contact the Military Service Central Repository listed in Section 4. When a Victim or Witness is not present to initial box 4 (on page 2 of this form) the Trial Counsel or Designee shall contact the Victim or Witness in order to determine their election choice (Yes or No). Once verified, the Trial Counsel or Designee shall initial box 4 indicating and validating the Victim's or Witness's election choice.

Date (YYYYMMDD) *Signature of Trial Counsel or Designee* *Type Name (Last, First, Middle Initial)*

Grade and Title *Telephone Number (Include area code)*

SECTION 4 - DISTRIBUTION

1. MILITARY SERVICE CENTRAL REPOSITORY	2. LAW ENFORCEMENT/SPECIAL INVESTIGATION	3. CORRECTIONAL FACILITY
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**INSTRUCTIONS FOR COMPLETING DD FORM 2704,
VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS**

PURPOSE: This form shall be used for victims and appropriate witnesses (those who fear harm by the offender) to elect to be notified of changes in the offender's status while in confinement. For all cases resulting in a sentence to confinement, the DD Form 2704 shall be completed and forwarded to the Service Central Repository, the gaining confinement facility, local responsible official, and the victim or witness, if any.

SECTION 1 - ADMINISTRATIVE INFORMATION

Incident Number: Obtained from the DD Form 1569.

Installation, City, State and Zip Code: The geographical location of the Convening Authority (CA).

Court-Martial Case of United States v.: Add the offender's name and last four digits of his/her Social Security number.

Convened By: Add the court-martial convening order number, date, and issuing command.

SECTION 2 - CERTIFICATION OF NO VICTIM(S) OR WITNESS(ES)

Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.

Date and Signature certifying there are no victim(s) or witness(es) who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.

Print Name (Last, First, Middle Initial), **Grade, Title and Telephone Number.** Add the same identification as the individual signing the form.

If there are no victims or witnesses involved in this case, stop and go to Section 4.

Forward Page 1 only to the respective Military Central Repository.

SECTION 3 - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)

Complete this section, print, date and sign, certifying the victim(s) and/or witness(es) have been advised of their rights to be notified by the person signing this document.

Date and Signature certifying that any victim(s) or witness(es) have been advised of their rights to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2. The authorized signature per DoDI 1030.2 is the "Trial Counsel or Designee" as identified by Service specific regulations.

Print Name (Last, First, Middle Initial), **Grade, Title and Telephone Number.** Add the same identification as the individual signing the form.

When a victim or witness **is not present** to initial box 4 (on Page 2 of this form), **the certifying official of this document shall contact the Victim or Witness in order to determine their election choice (Yes or No). Once verified, the certifying official shall initial box 4 indicating and validating the Victim's or Witness's election choice.**

Forward Page 1 and all other pages listing victims and witnesses to the Military Central Repository.

SECTION 4 - DISTRIBUTION

A copy of the completed form shall be forwarded to each of the listed agencies.

Block 1 - Military Service Central Repository. Add the address for the offender's branch affiliation.

Block 2 - Law Enforcement/Special Investigation. Add the address for the offender's branch affiliation.

Block 3 - Correctional Facility. Add the location of the prisoner's confinement.

SECTION 5 - LIST OF VICTIM(S) AND WITNESS(ES)

Statement of Understanding should be read to the victim(s) and witness(es) when possible.

Statement of Transfer Notification should be read to the victim(s) and witness(es) when possible.

Column 1. Add the identified victim(s) and witness(es). Provide age if victim/witness is a minor. Indicate whether Adult, Parent, Legal Guardian, Minor, Incompetent, Incapacitated. If under 18 years old, incompetent or incapacitated, also list parent or legal guardian's name. Indicate whether victim (V), witness (W), or victim and witness (V&W) in this case.

Column 2. Add the address of the identified victim(s) and witness(es). If under 18 years old, incompetent or incapacitated, also list parent or legal guardian's address (if different from that of victim or witness).

Column 3. Add the complete telephone number of the identified victim(s) and witness(es). If under 18 years old, incompetent or incapacitated, also list parent or legal guardian's telephone number (if different from that of victim or witness).

Column 4. Victim, witness, or Trial Counsel or Designee are required to enter initials in the Yes or No column, indicating desire to be notified regarding the prisoner's status.

NOTE: Prevent victim(s) and witness(es) personal information from being released to other victim(s) and witness(es).

NOTE: DO NOT provide this form to the prisoner. This form (when filled in) is FOIA and PA exempt from release under DoD 5400.7R and 5 U.S.C.

TERMS AND DEFINITIONS

Victim: A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the UCMJ (Chapter 47 of the U.S.C., reference (b)) or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components. Refer to DoDD 1030.1, Enclosure 1, E1.1.5. - E1.1.5.4. for the list of individuals included as victims. When Victim is under 18 years of age, the term includes Parent, etc. (loco parentis precedence) and are afforded the same notification status as the victim due to the minor victim relationship. Ensure their loco parentis title, e.g., Parent, is completed after their name in Column 1.

Witness: A person who has information or evidence about a crime, and provides that knowledge to a DoD Component about an offense in the investigative jurisdiction of a DoD Component. When the victim is a minor, that term includes a family member or legal guardian.

THE TERM "WITNESS" DOES NOT INCLUDE A DEFENSE WITNESS OR AN INDIVIDUAL INVOLVED IN THE CRIME AS A PERPETRATOR OR ACCOMPLICE. Further state - when the parent or guardian are crime witnesses for which the accused is found guilty and ordered a confinement sentence (witnessed charges), in addition of being afforded the Victim status for the notification of a minor, as a parent/guardian, they are also afforded the Witness status - annotate as (V & W). Those parent(s)/legal guardians of minors who assume the Victim status for notification purposes but did not witness or provide evidence of the crime only assume the Witness status.

NOTIFICATION TO VICTIM/WITNESS OF PRISONER STATUS

(This form is exempt from Freedom of Information Act release.)

EXPLANATION: This form is being used to give basic information on changes in a prisoner's status to victims and witnesses who have elected, on the DD Form 2704, to be notified. The correctional facility holding the prisoner must promptly notify victims and witnesses of initial entry into confinement and of prisoner status changes in accordance with DoDI 1030.2 and DoDI 1325.07.

SECTION 1 - DISTRIBUTION

1. TO: (Victim or Witness)			2. FROM: (Victim/Witness Assistance Coordinator at Correctional Facility/Brig)		
a. NAME (Last, First, Middle Initial)			a. NAME (Last, First, Middle Initial)		
b. STREET ADDRESS (Include apartment no.)			b. STREET ADDRESS		
c. CITY	d. STATE	e. ZIP CODE	c. CITY	d. STATE	e. ZIP CODE
f. TELEPHONE NUMBER (Include area code)			f. TELEPHONE NUMBER (Incl. area code)	g. EMAIL	

SECTION 2 - PRISONER RELEASE ELIGIBILITY DATE AND DISPOSITION BOARD HEARINGS

3. PRISONER NAME (Last, First, Middle Initial)	4. REGISTRATION NUMBER	5. MINIMUM RELEASE DATE (YYYYMMDD)	6. MAXIMUM RELEASE DATE (YYYYMMDD)
7. SCHEDULED CORRECTIONAL FACILITY BOARD DATE (YYYYMMDD)	8. PAROLE ELIGIBILITY DATE (YYYYMMDD)		9. CLEMENCY ELIGIBILITY DATE (YYYYMMDD)

10. ADDRESS OF CORRECTIONAL FACILITY/BRIG DISPOSITION BOARD

NOTE 1: Prior to the Service Clemency and Parole Board meeting, each facility will hold a Disposition Board to review the prisoner's clemency and parole submissions.

NOTE 2: You may submit documentation to the Facility Disposition Board when the prisoner is scheduled to appear. If you would like to submit a Victim Impact Statement to the Board, please mail it to the above address as soon as possible. Your statement may be submitted in the form of a letter, or electronic media. This board reviews all Victim Impact Statement(s) in the original media they were submitted. Upon review of all the information available, the board adds its recommendation to the case file and the entire record, including the Victim Impact Statement(s), are forwarded to the Service Clemency and Parole Board.

NOTE 3: Victim Impact Statement(s) concerning U.S. Navy and Marine Corps Personnel will be submitted directly to the U.S. Naval Clemency and Parole Board.

NOTE 4: The facility Victim/Witness Coordinator will notify you in advance of the approximate date of an upcoming Service Clemency and Parole Board hearing.

11. ADDRESS OF SERVICE CLEMENCY AND PAROLE BOARD

NOTE 1: If you wish to appear at this Service board, you must obtain approval 30 days prior to the scheduled board date by contacting the appropriate Service board: US Army: 1-703-607-1180; US Navy 1-202-685-6455; US Marine Corps 1-202-685-6455; US Coast Guard 1-785-357-3450.

NOTE 2: The Air Force Clemency and Parole Board does not permit personal appearances by or on behalf of the prisoner, victims or other interested individuals; but urges these parties to submit written, audio or video statements.

SECTION 3 - CHANGE IN PRISONER STATUS

12. PRISONER'S SENTENCE TO CONFINEMENT CHANGED AS FOLLOWS:

13. PRISONER HAS BEEN APPROVED FOR (X and complete as applicable)

<input type="checkbox"/> a. CLEMENCY (Date - YYYYMMDD)	<input type="checkbox"/> b. PAROLE (Date - YYYYMMDD)	<input type="checkbox"/> c. MSR (Date - YYYYMMDD)	<input type="checkbox"/> d. RESTORATION TO DUTY (Date - YYYYMMDD)	<input type="checkbox"/> e. OTHER (Date - YYYYMMDD)
f. NAME OF U.S. PAROLE/PROBATION OFFICER (Last, First, Middle Initial)			g. TELEPHONE NUMBER (Include area code)	

14. RELEASE (If applicable)	a. PROJECTED RELEASE DATE (YYYYMMDD)	b. PLANNED RELEASE DESTINATION CITY AND STATE		
15. ESCAPE (If applicable)	a. ESCAPE DATE (YYYYMMDD)	b. RECAPTURE DATE (YYYYMMDD)	c. RECONFINEMENT LOCATION	
16. TRANSFER (If applicable)	a. TRANSFER DATE (YYYYMMDD)	b. FACILITY NAME	c. ADDRESS (Include ZIP Code)	
17. PRISONER DECEASED (YYYYMMDD)	18. TEMPORARY PAROLE (If applicable)	a. DATE BEGAN (YYYYMMDD)	b. DATE TERMINATED (YYYYMMDD)	c. SPECIFY TYPE

SECTION 4 - TERMINATION/SUSPENSION OF NOTIFICATION

19. THE ABOVE NAMED PRISONER STATUS NOTIFICATIONS HAVE BEEN (X)		<input type="checkbox"/> TERMINATED	<input type="checkbox"/> SUSPENDED DUE TO:
<input type="checkbox"/> a. REQUEST BY YOU	<input type="checkbox"/> b. OTHER (Specify)		

SECTION 5 - POINT OF CONTACT INFORMATION

20.a. NAME OF VICTIM/WITNESS ASSISTANCE COORDINATOR (Last, First, Middle Initial)	b. GRADE	c. SIGNATURE	d. DATE SIGNED (YYYYMMDD)
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**INSTRUCTIONS FOR COMPLETING DD FORM 2705,
NOTIFICATION TO VICTIM/WITNESS OF PRISONER STATUS**

PURPOSE: Use this form to make notifications to the victims and witnesses who have requested to be informed of the changes in the prisoner's status.

SECTION 1 - DISTRIBUTION

Block 1.a. - 1.f. Add the Victim or Witness name, address, and telephone number.

Block 2.a. - 2.g. Add the Victim/Witness Coordinator's name, address, telephone number and email address.

SECTION 2 - PRISONER RELEASE ELIGIBILITY DATE AND DISPOSITION BOARD HEARINGS

Block 3 - 4. Add the prisoner name and registration number.

Block 5. Add the prisoner's minimum release date.

Block 6. Add the prisoner's maximum release date.

Block 7. Add the date the facility will hold the disposition board.

Block 8. Add the prisoner's parole eligibility date.

Block 9. Add the prisoner's clemency eligibility date.

Block 10. Add the address for the correctional facility board.

Block 11. Add the address for the Service Clemency and Parole board.

SECTION 3 - CHANGE IN PRISONER STATUS

Block 12. Add the change that has taken place in the prisoner's status.

Block 13.a. - 13.e. Select the type of conditional release the prisoner has been approved for (if applicable).

Block 13.f. - 13.g. Add the prospective U.S. Probation Officer information including telephone number, if known.

Block 14.a. - 14.b. Annotate the projected release date, city and state where the prisoner plans to reside.

Block 15.a. - 15.c. Add date of escape and/or warrant issuance and the date the prisoner was taken into custody. Annotate where the prisoner is being held temporarily.

Block 16.a. - 16.c. Add the date, name and address of the facility where the prisoner is being transferred for further confinement.

Block 17. Add the date the prisoner expired.

Block 18.a. - 18.c. Add other types of release by Service as listed below and the date.

Air Force - Emergency Parole (EP): A conditional release authorized by the confinement officer. EP is for extreme emergency circumstances normally requiring physical presence of the prisoner to save the life of another, e.g., an organ donation/bone marrow donation. Prisoners released on EP return to confinement immediately following the period considered medically necessary, normally should not exceed a seven-day period.

Army - Emergency Home Parole (EHP): In accordance with AR 190-47, EHP may be used for prisoners that require a home visit for extreme emergency reasons.

Temporary Home Parole (THP): The purpose of THP is to strengthen family relationships and provide an incentive and reinforcement to positive behavior and morale.

Marine Corps, Navy and Coast Guard - Home Parole (HP): Is considered "Emergency Leave" per BUPERSINST 1640.22 "Emergency Leave", in which the procedures for granting emergency leave to pre-trial and post-trial prisoners is covered.

SECTION 4 - TERMINATION/SUSPENSION OF NOTIFICATION

Block 19. Select the applicable option when all efforts to complete a notification have failed due to incorrect or outdated address and telephone number.

SECTION 5 - POINT OF CONTACT INFORMATION

Block 20. Victim/Witness Assistance Coordinator. Add the information for victims and witnesses to contact the facility Victim/Witness Coordinator when necessary.

TERMS AND DEFINITIONS

Clemency: Remitting or suspending any part or amount of a court-martial sentence, other than a sentence approved by the President, and by article 74(b), UCMJ, for good cause, to substitute an administrative form of discharge for a discharge or dismissal executed in accordance with the sentence of a court-martial.

Mandatory Supervised Release (MSR): A form of conditional release granted to individuals who have served their sentence to confinement up to their minimum release date. This form of release is served until the adjusted maximum release, unless otherwise revoked or remitted by the Clemency and Parole Board concerned.

Abatement Time: Any deductions from the term of a sentence during confinement such as:

a. **Good Conduct Time:** A deduction from the adjusted maximum release date for faithful observance of all rules and regulations.

b. **Earned Time:** Deductions from a prisoner's release date earned for participation and graded effort in the areas of work, offense-related programs, education, self-improvement and personal growth, or other support activity specifically authorized by the correctional facility commander in accordance with Military Service policy.

Maximum Release Date: The sentence or sentences to confinement without reductions, but less 1 day for the day of confinement or release.

Minimum Release Date: The adjusted maximum release date reduced or increased for credit or forfeiture of good conduct time and abatements.

Release: A prisoner shall be released at the expiration of his/her sentence to confinement, less the time deducted for good time (and, if applicable, additional abatements).

ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE

**REPORT CONTROL
SYMBOL**

DD-P&R(A)1952

This report summarizes delivery of services to victims and witnesses as prescribed by the Victim and Witness Protection Act of 1982 (18 USC 1512) and the Victim's Rights and Restitution Act of 1990 (42 USC 10601-10607). It is submitted annually in accordance with DoD Instruction 1030.2.

1. REPORTING OFFICE		2. REPORTING PERIOD					
		a. FROM			b. TO		
		January 1,			December 31,		
3. DURING THE REPORTING PERIOD, OUR LAW ENFORCEMENT, SPECIAL INVESTIGATION, TRIAL COUNSEL, AND RELATED OFFICES ASSISTED:		(1) NUMBER OF CRIME VICTIMS			(2) NUMBER OF WITNESSES		
a. DD FORM 2701 UPON INITIAL CONTACT <i>(Number of crime victims and witnesses informed of their rights to assistance.)</i>							
b. DD FORM 2702 UPON REFERRAL TO COURT-MARTIAL <i>(Crime victims informed of their consultation rights in courts-martial.)</i>							
c. DD FORM 2703 UPON SENTENCING TO CONFINEMENT <i>(Number of crime victims and witnesses informed of their right to be notified of changes in the prisoner's status in confinement (i.e., release, transfer, escape, parole, death))</i>							
d. DD FORM 2704 ONCE INFORMED OF THEIR RIGHT TO BE NOTIFIED OF CHANGES IN THE PRISONER'S STATUS <i>(Number of crime victims and witnesses who elected to be notified of prisoner status changes.)</i>							
4. DURING THIS REPORTING PERIOD, NOTIFICATION LETTERS WERE SENT FROM OUR CORRECTIONAL FACILITIES:		(1) NUMBER OF PRISONER STATUS CHANGES			(2) NUMBER OF NOTIFICATION LETTERS		
DD FORM 2705 UPON STATUS CHANGE <i>(Number of status changes that required notification letters)</i>							
5. AS OF DECEMBER 31, _____		(1) ARMY	(2) NAVY	(3) AIR FORCE	(4) MARINES	(5) COAST GUARD	(6) OTHER
OUR CORRECTIONAL FACILITIES CUMULATIVE REPORT OF TOTAL SERVICE PRISONERS THAT REQUIRE VICTIM AND WITNESS NOTIFICATIONS:							
6. DOD COMPONENT RESPONSIBLE OFFICIAL							
a. NAME <i>(Last, First, Middle Initial)</i>		b. SIGNATURE			c. DATE SIGNED <i>(YYYYMMDD)</i>		

D. Inspection Checklist

DETAILED INSPECTION CHECKLIST

FA SC STMT	TEXT
092	<p>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) Functional Area Manager: LAO/JA-2 Point of Contact: CWO5 ROBERT HALL/MSGT DANIEL SEARS E-mail: ROBERT.M.HALL2@USMC.MIL/ DANIEL.W.SEARS@USMC.MIL (DSN) 224-8661 (COML) 703-614-8661/693-9283 DATE LAST REVISED: 7 October 2013</p>
092 01	INSTALLATION COMMANDERS
092 01 001	<p>Has the COMMCICOM, COMMARFORRES, and regional MCI CGs appointed in writing, by name, title, duty address, and telephone number, a Regional Victim Witness Liaison Officer (RVWLO)? Reference MCO 5800.14, ENCL (3), PAR 2(a)(2)</p>
092 01 002	<p>Did the installation commander appoint, in writing, by name, title, duty address, and telephone number, an officer or civilian member of the Installation Staff, as a Victim and Witness Liaison Officer (VWLO)? Reference MCO 5800.14, ENCL (3), PAR 2(b)(2)</p>
092 01 003	<p>Is the Installation Commander ensuring that VWAP representatives aboard the installation are provided the VWLO's name and phone number? Reference MCO 5800.14, ENCL (3), PAR 2(b)(3)</p>
092 01 004	<p>Has the Installation Commander established a local Victim and Witness Assistance Council chaired by the installation VWLO? Reference MCO 5800.14, ENCL (3), PAR 2(b)(4)</p>

- 092 01 005 When a Marine Corps confinement facility is located aboard the installation; has the Installation Commander appointed in writing, by name, title, duty address, and telephone number, a confinement facility representative to serve as the confinement facility Victim Witness Assistance Coordinator (VWAC) and representative to the local Victim and Witness Assistance Council?
Reference
MCO 5800.14, ENCL (3), PAR 2(b)(5)
- 092 01 006 With the assistance of the local Marine and Family Programs Office; has the Installation constructed and maintained a directory of military and civilian programs, services, and crime victim compensation funds available to victims and witnesses, and ensured the directory is published on the installation's public website?
Reference
MCO 5800.14, ENCL (3), PAR 2(b)(6)
- 092 01 007 Does the Installation Commander have processes in place to maintain data on the number of victims and witnesses who received DD Forms 2701-2703 and elect notification via DD Form 2704? What is the process?
Reference
MCO 5800.14, ENCL (3), PAR 2(b)(8)
- 092 02 REGIONAL VICTIM WITNESS LIAISON OFFICER (RVWLO)
- 092 02 001 Is the RVWLO an officer or civilian member of the commander's staff of appropriate experience, temperament, and rank?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(1)
- 092 02 002 Does the RVWLO maintain a list of VWLOs from each installation under the cognizance of their commanding general and ensure copies of this list are provided to all cognizant VWLOs and CMC (JA-2)?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(3)
- 092 02 003 Has the RVWLO ensured basic VWAP training is available to all new VWLOs and VWACs?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(4)

- 092 02 004 Has the RVWLO collected and maintained data on the number of victims and witnesses, in the region, who received DD Forms 2701-2703 and who elected notification via DD Form 2704?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(5)
- 092 02 005 Has the RVWLO compiled and maintained VWAP data and forwarded it to CMC (JA-2) on a quarterly basis?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(6)
- 092 02 006 Has the RVWLO chaired and conducted a semi-annual Regional VWLO meeting to discuss VWAP- related issues? When was the last meeting held?
Reference
MCO 5800.14, ENCL (3), PAR 3(a)(8)
- 092 03 INSTALLATION VICTIM WITNESS LIAISON OFFICER (VWLO)
- 092 03 001 Is the VWLO an officer or civilian member of the commander's staff of appropriate experience, temperament, rank, and not serving in a prohibited legal billet?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(1)
- 092 03 002 Does the VWLO maintain a list of VWACs, service providers, and SJAs aboard the installation? Are copies of this list provided to all VWACs and service providers?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(3)
- 092 03 003 Has the VWLO ensured that each organization (battalion/squadron level and above) assigned to the installation, including tenant commands, has appointed a VWAC in writing, by name, title, duty address, and telephone number?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(4)
- 092 03 004 Does the VWLO chair and conduct a quarterly installation-level Victim Witness Assistance Council meeting?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(5)

- 092 03 005 In conjunction with the installation Marine and Family Programs office and SAPR programs, does the VWLO maintain an installation website that includes, at a minimum, a current directory of installation VWAP personnel, military and civilian programs and services providing counseling, treatment, or other victim support services within the geographic area of the installation, and contact information for these programs?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(6)
- 092 03 006 Does the VWLO obtain and distribute relevant information and provide annual training to all VWACs aboard the installation?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(7)
- 092 03 007 Does the VWLO have a process in place to compile and maintain data, and forward data to the Installation Commander in accordance with reporting requirements?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(10)
- 092 03 008 Does the VWLO ensure that deploying units receive appropriate VWAP training and information prior to deployment?
Reference
MCO 5800.14, ENCL (3), PAR 3(b)(11)
- 092 04 LEGAL COMMUNITIY, LAW ENFORCEMENT AND CORRECTIONS ROLES AND RESPONSIBILITIES
- 092 04 001 Has the Convening Authority SJA provided a copy of the Convening Authority Action (CAA) to the trial counsel in those cases where a victim or witness has elected to be informed of the CAA?
Reference
MCO 5800.14, ENCL (3), PAR 4(a)(2)
- 092 04 002 Has the OIC, Legal Services Support Team (LSST) appointed a Legal Services VWAC in writing, by name, title, duty address, and telephone number?
Reference
MCO 5800.14, ENCL (3), PAR 4(b)(1)
- 092 04 003 Has the OIC, LSST ensured all VWAP data is entered into the SJA to CMC's Case Management System (CMS)?
Reference
MCO 5800.14, ENCL (3), PAR 4(b)(3)

- 092 04 004 Does the OIC, LSST ensure that the total number of victims and witnesses provided DD Forms 2702 and 2703, and the total number of victims and witnesses electing to be notified of prisoner status change in DD Form 2704, are reported to the installation VWLO quarterly?
Reference
MCO 5800.14, ENCL (3), PAR 4(b)(4)
- 092 04 005 Does the OIC, LSST ensure that a representative is assigned to the Victim and Witness Assistance Council located on installations to which the LSST provides direct support legal services?
Reference
MCO 5800.14, ENCL (3), PAR 4(b)(5)
- 092 04 006 After preferral of charges, do trial counsel provide all victims and witnesses in a case with the DD Form 2702 (Court-Martial Information for Victims and Witnesses of Crime), and determine their elections as to those rights?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(3)
- 092 04 007 When a victim or witness has requested notification, do detailed trial counsel to each case ensure, at their earliest possible opportunity, reasonable, accurate, and timely notification to the victim or witness of the required trial events and procedural milestones? How is this accomplished?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(4)
- 092 04 008 During court-martial proceedings, do detailed trial counsel ensure that victims, victim witness support personnel, and prosecution witnesses are provided, if desired, with a waiting area that is separate from, and out of the sight and hearing of, the accused and defense witnesses?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(8)
- 092 04 009 Upon request by the victim and/or witness, do trial counsel take reasonable steps to inform that person's employer of the reasons for that person's absence from work?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(10)

- 092 04 010 When trial counsel has possession of a victim's or witness's property, does trial counsel safeguard the property held as evidence and return it as soon as possible with due consideration of the possibility of appeals and other post-trial requirements?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(11)
- 092 04 011 At the conclusion of a court-martial resulting in a conviction, does the detailed trial counsel inform victims and witnesses of basic information about the post-trial process and provide each with a completed DD Form 2703 (Post-Trial Information for Victims and Witnesses)?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(13)
- 092 04 012 At the conclusion of every court-martial in which confinement is adjudged, does the trial counsel complete a DD Form 2704 and provide copies to the confinement facility, victim and witnesses entitled to a copy, and responsible VWACs?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(14)
- 092 04 013 Are LSST Trial Counsel maintaining data on the number of victims and witnesses provided DD Forms 2702 and 2703, and the number of victims and witnesses, using DD form 2704, which elected to be notified of a prisoner's status change? How is this data being maintained?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(15)
- 092 04 014 Is all VWAP data entered into the Case Management System record for each victim and witness when required?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(15)
- 092 04 015 Are LSST Trial counsel determining whether victims and witnesses elect to receive further information and updates regarding appeals? If they do, has detailed trial counsel forwarded their contact information and a copy of the DD Form 2704 to U.S. Navy OJAG (Code 46)?
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(16)(b)

- 092 04 016 In cases remanded for rehearing on findings and/or sentence, has the LSST VWAC coordinated with U.S. Navy OJAG (Code 46) to re-assume the role as primary point of contact for victims and witnesses associated with the case.
Reference
MCO 5800.14, ENCL (3), PAR 4(d)(16)(c)
- 092 04 017 Has each law enforcement agency or office aboard the installation appointed a Law Enforcement VWAC to serve on the Victim Witness Assistance Council?
Reference
MCO 5800.14, ENCL (3), PAR 4(c)(1)
- 092 04 018 Are DD Form 2701s being provided to victims and witnesses, and do the forms contain accurate contact information for that specific installation?
Reference
MCO 5800.14, ENCL (3), PAR 4(c)(1)(b)
- 092 04 019 Are DD Form 2701s being accurately tracked and reported to the installation VWLO?
Reference
MCO 5800.14, ENCL (3), PAR 4(c)(1)(c)
- 092 04 020 Are law enforcement agencies conducting annual training on the requirements of the VWAP and applicable orders regarding the treatment of victims and witnesses?
Reference
MCO 5800.14, ENCL (3), PAR 4(c)(1)(d)
- 092 04 021 Are law enforcement agencies ensuring that command VWACs are notified of criminal investigations requiring action?
Reference
MCO 5800.14, ENCL (3), PAR 4(c)(10)
- 092 04 022 In situations where one party to a Military Protective Order (MPO) resides off-base, is there an MOU/MOA established with local police and sheriff departments and other municipal organizations?
Reference
MCO 5580.2B w/Ch 1, encl (1), par 3402
- 092 04 023 Has the brig/PCF commanding officer (CO) or OIC appointed, in writing, a Confinement Facility VWAC and an alternate VWAC?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(1)(a)

- 092 04 024 Are individual confinement records of prisoners included in the victim and witness program identified by placing a white label on the outside of the file with the letters "VW" written at least high in black?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(4)
- 092 04 025 Does the confinement facility VWAC maintain a separate adjunct file by individual name of the prisoner, cross-referenced to the brig/PCF-specific number?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(5)
- 092 04 026 Is the brig/PCF-specific number developed using the brig/PCF's CORMIS unit identification code (UIC), the year and month the prisoner's case was adjudged, and a sequential number of the file for that calendar year (e.g., 31001 10-11 001)?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(5)
- 092 04 027 Is all contact with a victim or witness, including telephonic and unsuccessful contact attempts, properly documented in CORMIS?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(5)
- 092 04 028 Is the DD Form 2705, Victim/Witness Notification of Inmate Status used to advise victims and witnesses of all release and release-related activities, transfers, and escapes? Additionally, is notification made at least 45 days prior to the relevant action utilizing certified mail, return receipt?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(6)
- 092 04 029 Does the confinement facility VWAC send an acknowledgement of request to participate in the program to victims and witnesses within ten working days of receipt of the DD Form 2704, and is a completed DD Form 2705 (section I; section II, block 3, 4, 5 and 6; section III, block 8.a and 8.b; and section V) included with the initial enrollment letter?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(6)(a)
- 092 04 030 When a prisoner is to be released does the brig/PCF VWAC notify victims and witnesses through the use of a DD Form 2705, providing the date, reason for release, and destination (city and state)?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(6)(c)

- 092 04 031 In the event of a prisoner escape, does the confinement facility VWAC notify victims and witnesses telephonically as soon as possible?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(6)(d)
- 092 04 032 Does the confinement facility VWAC notify victims and witnesses of all planned transfers including the address of the receiving brig/PCF?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(6)(e)1
- 092 04 033 Are all brig/PCF personnel provided information about the VWAP and staff responsibilities at least annually?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(9)
- 092 04 034 Do confinement facility VWACs ensure all VWAP information is entered in CORMIS within five days of the end of each quarter (i.e., by January 5, April 5, July 5, or October 5, as applicable)?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(10)
- 092 04 035 Are all documents pertaining to victims and witnesses maintained in a secure and separate manner from the prisoner record for two years after the prisoner's full term release date. Additionally, after the second anniversary of release, is all victim and witness information destroyed in accordance with service regulations regarding PII?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(12)(b)
- 092 04 036 Have Brig/PCF COs and OICs established internal controls to ensure all information held on victims and witnesses is kept strictly confidential and that no unauthorized person(s) or any prisoner(s) shall access the information?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(13)

- 092 04 037 Is all victim and witness information placed in a separate envelope stamped on both sides "EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION"? In addition, is a cover sheet placed inside the envelope on top of the material stamped "ALL VICTIM AND WITNESS INFORMATION IS EXEMPT FROM RELEASE UNDER THE FREEDOM OF INFORMATION ACT, ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION?"
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(13)
- 092 04 038 Is the Victim and Witness Notification Program included in the brig/PCF standard operating procedures?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(13)
- 092 05 SERVICE PROVIDERS
INSTALLATION MARINE AND FAMILY SERVICES (MF)
- 092 05 001 What process is in place to inform crime victims and witnesses about VWAP rights, services, and assistance when they receive counseling, treatment, or advice, if such information has not already been provided?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(1)
- 092 05 002 Does MF ensure that victims and witnesses in a case understand the rights afforded them under the law and are provided with a completed DD Form 2701 if one has not already been provided?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(2)
- 092 05 003 What is the process in place to maintain data on the number of victims and witnesses who received DD Form 2701?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(3)
- 092 05 004 Does MF compile and report the total number of victims and witnesses provided DD Form 2701 to the installation VWLO quarterly?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(4)

- 092 05 005 Does MF inform victims of spousal or interfamilial abuse of the benefits provided under Transitional Compensation for Abused Family Members?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(5)
- 092 05 006 Has MF appointed, by name and in writing, a representative to the local Victim and Witness Assistance Council?
Reference
MCO 5800.14, ENCL (3), PAR 5(a)(9)
- 092 06 UNIT COMMANDERS
- 092 06 001 Has the Unit Commander appointed in writing, by name, title, duty address, and telephone number, a VWAC?
Reference
MCO 5800.14, ENCL (3), PAR 2(c)(1)
- 092 06 002 In cases of summary courts-martial where confinement is adjudged and approved, did the unit commander coordinate with a trial counsel assigned to the Legal Services Support Team (LSST) supporting their command prior to completing the DD Form 2704?
Reference
MCO 5800.14, ENCL (3), PAR 2(c)(3)
- 092 06 003 Have Commanders provided annual VWAP training to ensure that unit personnel know the identity of their VWAC and understand victim and witness rights?
Reference
MCO 5800.14, ENCL (3), PAR 2(c)(5)
- 092 07 VICTIM WITNESS ASSISTANCE COORDINATORS (VWAC)
- 092 07 001 Is the VWAC an Officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank?
Reference
MCO 5800.14, ENCL (3), PAR 2(d)(1)
- 092 07 002 What is the process in place to maintain data on the number of victims and witnesses who receive DD Forms 2701?
Reference
MCO 5800.14, ENCL (3), PAR 2(d)(4)

- 092 07 003 Are the total number of victims and witnesses provided DD Form 2701 being reported to the installation VWLO quarterly?
Reference
MCO 5800.14, ENCL (3), PAR 2(d)(5)
- 092 07 004 In pretrial confinement cases where the victim or witness has requested notification, did the VWAC notify the victim or witness of changes in the accused's pretrial confinement status?
Reference
MCO 5800.14, ENCL (3), PAR 2(d)(8)
- 092 07 005 Has the VWAC obtained and distributed VWAP materials and provide VWAP training to the members of the command on an annual basis?
Reference
MCO 5800.14, ENCL (3), PAR 2(d)(9)

E. VWAC Intake Form

23 Jun 14

VWAP INTAKE FORM

PRIVACY ACT STATEMENT

Information contained on this form is maintained under Privacy Act System of Records Notice N05810-2, Military Justice and Correspondence Information File (January 08, 2001, 66 FR 1321) **AUTHORITY:** 5 U.S.C. 301, Departmental Regulations and 42 U.S.C. 10601 et seq., Victim's Rights and Restitution Act of 1990 as implemented by DoD Instruction 1030.2, Victim and Witness Assistance Procedures. **PURPOSE:** To provide information and support to victims and witnesses in compliance with the Victim and Witness Assistance Program, the Sexual Assault Prevention and Response Program, and the Victims' Rights and Restitution Act of 1990. **ROUTINE USE:** In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows: To victims and witnesses to comply with the Victim and Witness Assistance Program, the Sexual Assault Prevention and Response Program, and the Victims' Rights and Restitution Act of 1990. **DISCLOSURE:** Voluntary, however failure to provide this information may result in lack of information and services provided under the Victim Witness Assistance Program.

Victim/Witness Information	
Victim/Witness Name:	
Type of Crime:	Date of Incident:
	Incident Number:
Determine if there is intra-familial abuse by the service member? Yes or No If yes, ensure that the victim received information on Transitional Compensation for Abused Family Members Program from Marine and Family Programs.	
What date was the DD Form 2701 issued on: _____ and by who: _____	
Victim/Witness Work Phone:	Home Phone: _____ Cellular Phone: _____
Victim/Witness Work Email address:	
Victim/Witness Personnel Email address:	
How does the Victim/Witness wish to receive additional information?	
Does the Victim/Witness request notification of pretrial confinement status changes? Yes or No	
Victim/Witness Unit/home address:	VWAC Unit:
	VWAC Name:
	VWAC Phone:
	VWAC Email:
Witness Names (complete additional Intake Form for each witness)	
1.	4.
2.	5.
3.	6.
Accused Information	
Are there multiple accused: Yes or No	Accused Unit VWAC Name:
Accused Name:	Accused Unit VWAC Phone:
Accused Unit:	Accused Unit VWAC Email:
Accused in confinement? Yes or No	Date confined:
Has the Accused been released from confinement? Yes or No	Date released:
Multiple Accused use the space below for Name(s), Unit, VWAC and Phone numbers:	
Victim Legal Counsel Organization	
Has the Victim been notified that they may seek assistance via the Victim Legal Counsel Organization? Yes or No	
Did the VWAC need to assist the Victim with obtaining counseling services? Yes or No	
Is the Victim represented by Victim Legal Counsel? Yes or No	
Name of the Victim Legal Counsel:	
Phone number of the Victim Legal Counsel:	
Email address for the Victim Legal Counsel:	

Transfer Information	
Has the victim request a transfer? Yes or No	Transfer date:
Victim's new Unit:	New Unit's VWAC Name:
Victim's new Phone:	New Unit's VWAC Phone:
Victim's Email if changed:	Date New VWAC notified:
Has the Accused transferred? Yes or No	Transfer date:
VWAP Personnel Contact Information	
Trial Counsel:	Phone Number:
NCIS Agent:	Phone Number:
CID Agent:	Phone Number:
UVA:	Phone Number:
VA:	Phone Number:
Members OIC/SNCO:	Phone Number:
Courts-martial Process	
Victim/Witness aware of the next stage of the legal process: preferral of charges, referral of charges, and then arraignment? Yes or No	
Did the Victim/Witness receive and understand the DD Form 2702? Yes or No	
Is the Victim/Witness aware of the general nature of the charges preferred? Yes or No	
Does the Victim/Witness request notification of confinement status? Yes or No	
Did the accused receive a pretrial agreement (PTA)? Yes or No - If yes, was the victim notified? Yes or No	
General Courts-martial Only	
Is the Victim/Witness aware of the Article 32 date? Yes or No	Date of Article 32:
Is the Victim/Witness aware of the legal forum recommended by the Art 32 Investigating Officer? Yes or No	
General and Special Courts-martial	
Is the Victim/Witness aware of the arraignment date? Yes or No	Date of arraignment:
Is the Victim/Witness aware of the Motions date? Yes or No	Date of Motions:
Is the Victim/Witness aware of the Trial date? Yes or No	Date of Trial:
Was the Accused convicted of any crime? Yes or No	Did the TC issues 2703? Yes or No
Was the Accused sentence to serve any future time in the Brig? Yes or No	Did the TC issue 2704? Yes or No
Summary Courts-martial Only	
Was the accused found guilty? Yes or No - If yes, did the VWAC or the Summary Court-martial Officer issue the 2703? Yes or No	
Did the accused receive confinement? Yes or No - If yes, did the VWAC or the Summary Court-martial Officer issue the 2704? Yes or No	
Special Instructions for Article 120 Offenses	
Was the Accused charged with an Article 120 offense? Yes or No	
If yes: Did the Victim testify during court-martial proceeding? Yes or No	
If yes: Did the TC provide the victim notification of the right to receive a copy of the record of trial? Yes or No	
Case Closed on this date, _____	
File under SSIC 5811, SECNAV M-5210.1, PART III, CHAP. 5, PARA 5811.1 - 2 YRS	

F. General Training Materials

VWAP Overview

Maj Sameit
HQMC, VWAP
703 693 8955

GOALS of the Training

1. Understand the VWAP Order and your role
2. Understand impact of crime and the justice system upon victims, especially victims of violent crime
3. Improve the VWAP programs to provide best support to our victims and witnesses
4. Focus on best practices to accomplish #3

VWAP 101

VWAP: PURPOSE & GOALS

- Ensure that all victims and witnesses are treated with dignity and respect.
- Ensure all victims are aware of their rights, the trial process and are provided services they need
- Protect victims from further harm or hardship
- Employ a multi-disciplinary approach to assisting victims and witnesses by combining the services of law enforcement, family advocacy, medical, legal corrections, and command personnel.

VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- MCO 5800.14 – VWAP – current policy
 - Undergoing MCATS review
- DODD 1030.01 & DODI 1030.2 – current policy
 - DODI 1030.02 – forthcoming
- MCO 5800.16A – Legal Services Administration Manual
- DTM 14-003 – Special Victim Capabilities
- Article 6b, UCMJ – military crime victim's rights
- Article 54(e), UCMJ – right for SA victim to ROT
- Article 60(d), UCMJ – right to submit matters for CA's consideration when taking action

Victims Eligible for VWAP Services

- Person who suffers physical, emotional, or pecuniary harm as a result of a crime if any portion of the investigation is conducted primarily by DoD component:
 - Includes, *but is not limited to*:
 - Military members and dependents.
 - Outside the Continental U.S. - DoD civilian employees, contractors, and family members.
 - If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court or convening authority.
 - Authorized representative of Institutional Entity – but not entitled to individual services – such as, transitional compensation, etc.
- Civilians if the offense is punishable under the UCMJ and any portion of the investigation is conducted primarily by a DoD Component.

VWAP: VICTIMS' RIGHTS

- To be reasonably protected from the accused.
 - MPO, CPO
- To be reasonable, accurate, and timely notice of
 - Public hearing concerning the continuation of confinement prior to trial – IRO hearing
 - An Article 32 preliminary hearing
 - A court-martial
 - A public proceeding of the Navy Clemency & Parole Board
 - The release or escape of the accused
- Not to be excluded from any such public hearing or proceeding described above, unless the military judge or hearing officer, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered

VWAP: VICTIMS' RIGHTS

- to be reasonably heard at:
 - A public hearing concerning the continuation of confinement – IRO hearing
 - A sentencing hearing related to the offense
 - A public proceeding of the Navy Clemency & Parole Board
- The reasonable right to confer with the attorney for the Government in the case.
- to full and timely restitution as provided in law.
 - Article 139, PCA, state compensation funds
- to proceedings free from unreasonable delay.
- to be treated with fairness and with respect for the victim's dignity and privacy.

VWAP: VICTIMS' RIGHTS

- Sexual Assault victims are entitled to a copy of the record of trial
 - Does not matter the outcome (guilty/not guilty)
 - Does not matter if they testify (RCM 1105)
- Victims are entitled to submit matters for the CA to consider before taking action
 - Only if there's a conviction of an offense regarding that victim

VWAP: Witnesses eligible for services

- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
 - When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness, professionals testifying in a professional capacity (NCIS, USACIL), character witnesses, or a perpetrator or accomplice.

VWAP: WITNESS' RIGHTS

- To be treated with fairness and respect for the witness's dignity and privacy.
 - Protect PII & keep informed
- To be reasonably protected from the accused.
 - MPO, CPO
- To be notified of any scheduling changes which will affect their appearance at court-martial.

VWAP: WITNESS' RIGHTS

- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

VWAP: DOD POLICY

- *Particular attention should be paid to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.*
- *DTM 14-003 - These are now categorized as "Special Victim Cases" that require special victim capable personnel to handle the sensitivities of these cases (including VWAP personnel)*

VWAP: HOW IT WORKS

- Base and Installation commanders are responsible for implementing VWAP and shall be the central points of contact for VWAP issues aboard the installation.
- Base and Installation Commander manage through Victim Witness Liaison Officer (VWLO), VWAP Council and Victim Witness Assistance Coordinators for commands.

VWAP OFFICIALS

- USMC - SJA to CMC
 - CMC provides DoD VWAP Council Rep – That's me!
- CMC (PSL) Corrections
- MCI Regional Commanding Generals RVWLO
- Installation commanders – VWLO
- Unit commanders – Bn/Sq and above – VWAC
- Law enforcement - VWAP Representative
- LSST representatives- VWAP Representative
- Corrections Personnel - VWAP Representative
- Service providers (advocates, chaplain, medical) - VWAP Representatives

VWAP Definitions

- **RVWLO** – MCI Region/MCICOM/MFR CG's primary representative on all VWAP matters.
- **VWLO** - The installation commander's representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
- **VWAC** - The command's primary point of contact for victim and witness assistance matters.

INSTALLATION LEVEL: WHO DOES WHAT

- **RVWLO** – Manages VWAP throughout the Commander's area of responsibility
- **VWLO** - manage base programs for Commanders
- **NCIS/CID/PMO** – normally first responsibility to inform crime victims and witnesses of rights under program; perform threat assessment; assist in contacting other services; safeguard property; contact command VWACs
- **Prosecutors and legal personnel** - have continuing responsibility to ensure rights and services afforded victims and witnesses
- **Victim Witness Assistance Coordinator** – provides information & assistance to victims in receiving restitution
- **Corrections personnel** - manage post-trial confinement forms, reports & notifications

INSTALLATION LEVEL: WHO DOES WHAT

- Sexual Assault Prevention and Response Program/ SARC, UVAs – SA Only
- Victim Legal Counsel – represents eligible victims
- Family Advocacy Program – Domestic Abuse Victim Advocates
- Transitional Compensation – HOMC via commanders – FAP managed
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – counseling, comfort
- Medical - services
- Civilian advocacy services, social services, medical

VWAP: COORDINATION IS KEY

- “All offices responsible for a part of the military justice process (including, but not limited to, law enforcement and criminal investigative agencies, convening authorities, legal, corrections) are responsible for ensuring a smooth transition of victim and witness assistance at each stage of the criminal justice process. ***This means that close coordination is required among the VWAP personnel assigned to each of these offices during the transition from one phase of the criminal justice process to the next.***”
- Ensure right contact information is given on each DD Form to each Victim or Witness
- Ensure continuing coverage for Victims/Witnesses of services and rights.

RVWLO REQUIREMENTS

- Ensures training is available to all VWLOs and VWACs
- Maintains list of all VWLOs in region
- Chair semi-annual Regional VWLO Meeting
- Ensure data (2701-2704) collection for the region
- Available to inspect VWLOs and VWACs as part of CGIP
- Liaise with Program Manager – me about problems/trends in region

VWLO REQUIREMENTS

- Ensures coordination among all offices
- Maintains list of all VWACs
- Ensures VWACs have relevant information, including VWAC roster and directory of local services/programs
- Chairs VWAP Council
- Ensures victims are notified of all support, services and rights available and VWAC information.
- Assists Base CO in reporting requirements

VWLO REQUIREMENTS

- "Maintain a directory of military and civilian programs and services . . . within geographic area of the installation."
- If necessary, assist in contacting the people responsible for providing victim and witness services and relief
- VWLO – Maintains Base VWAP website

VWAP vs SAPR/FAP

- VWAP is an overarching assistance program for victims and witnesses of any crime, regardless of type and criminal proceeding.
- SAPR is a specialized victim assistance program for non-familial adult sexual assault cases.
- FAP is a specialized assistance & counseling program for victims and offenders for familial violence cases (including Sexual Assault).

VWAP vs SAPR Applicability

VWAP

- Applies to all victims of crimes committed in violation of the UCMJ

FAP

- Applies to all eligible victims of domestic violence or child abuse
 - Current or former spouse
 - A person with whom the abuser shares a common child
 - A current or former intimate partner with whom the abuser shares or has shared a common domicile
 - Child, foster child, or the abuser is the caregiver

SAPR

- Applies to all eligible adult victims of sexual assault that aren't eligible for FAP
 - Eligible – service members, dependents, or DOD employees overseas

VWAP vs SAPR Personnel Involved

SAPR

- Uniform Victims Advocates

VWAP

- Victim Witness Assistance Coordinators

FAP

- Domestic Abuse Victim Advocates & Counselors
- Cannot be the same people
 - Privilege issues under MRE 513/514
 - VWAP reports to COMMANDER, FAP/SAPR serve the victim

VWAP FORMS

- An end to themselves?
- No –
 - Ensures that the support, services and rights are provided and ensured.
- **DD Forms 2701-2704 do not replace genuine service and support.**

VWAP: Pretrial & DD Form 2701

- NCIS/CID/PMO provide V/Ws with DD Form 2701
- If no investigation – Prosecution team provides DD Form 2701
- 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance

VWAP: Military Trial Process & DD Form 2702

- Upon first contact with victim or witness, prosecution provides DD Form 2702
- DD Form 2702 explains military trial process, gives tips and restates rights.
- 2702 includes rights regarding participating in trial process.
- 2702 provides VWAP responsible official contact information and prosecutor contact information

VWAP: Post Trial & DD Form 2703

- Prosecution provides victim or witness with DD Form 2703 at finish of trial.
- Includes "Right to receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused"
- Provides Contact info for Service Central Repository (CMC PSL (Corrections)), Confinement Facility, Service Clemency and Parole Board and any other necessary agency/office
- *"From now on, your POC will be the confinement facility or the Service Central Repository listed on the back of this page."*

VWAP: Post Trial & DD Form 2704

- TC provides brig with DD Form 2704 at finish of trial.
- Requires election by each V/W whether to receive information on confinement status
- Provided to victims and witnesses upon request (redacted)
- **The 2700s are never included in the ROT – these have personal info of victims and witnesses and should not be shared**

VWAP: Post Trial Notifications & DD Form 2705

- Corrections personnel ensure notifications made to V or Ws listed on DD Form 2704
- Clemency Eligibility
- Parole Eligibility
- Change in status – Parole/Clemency Approved, Released, Deceased, Escaped, Transferred, Work release

MCO 5800.14 VWAP

- Creates RVWLO
- TCs shall not serve at VWLO/RVWLO
- Quarterly reporting of 2701-2704 for VWLOs
- Addition of Legal Assistance Attorney Role
 - Now superseded by Victim Legal Counsel
- Additional requirements for Confinement facilities
- VWACs should not serve as UVAs (SAPR Order is more restrictive)
- LSST OICs have requirement for VWAP Data in CMS

Functional Area Checklist

- USMC IG
 - 092 Functional Area Checklist for VWAP
 - New in 2012
 - The Marine Corps Standard for VWAP
 - Soon to be core inspection area
 - <http://www.hqmc.marines.mil/igmc/Resources/FunctionalAreaChecklists.aspx>

VWAP: RESOURCES AND FORMS

- CMC – Maj Mark Sameit (703) 693-8955; mark.sameit@usmc.mil / Capt Joe Neely (703)693-8407; joseph.t.neely@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)
- <http://www.defenselink.mil/vwac/dodprograms.html> (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- <http://www.ncvc.org/ncvc/Main.aspx> (National Center for Victims of Crime)
- <http://www.ojp.usdoj.gov/programs/victims.htm> (DOJ Office for Victims of Crime)
- <http://vwac.defense.gov/> (DoD Victim Witness Assistance Council)

SUMMARY

- Victims/Witnesses of Crime deserve protection and assistance
- Interdisciplinary Program
- Coordination is Key
- Base Commanders own Local Base Programs
- All agencies have a role

VWAP Roles and Responsibilities

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Parties involved in the VWAP

- Component Responsible Official (SJA to CMC)
- Local Responsible Official (Installation Commanders)
- Unit Commanders
- SJA
- LSST OIC
- Law Enforcement
- RVWLO
- VWLO
- VWAC
- Trial Counsel
- Victim Legal Counsel
- Service Providers
- Confinement CO/OIC

SJA to CMC

- Coordinate, implement and manage the VWAP
- Receive complete VWAP reports and forward to SecNav
- Designate a Functional Area Manager for FAC (092)

COMMCIOM, MFR, and Regional MCI Commanders

- Ensure that the VWAP is properly implemented by installation Commanders
- Appoint a Regional VWLO to ensure compliance with VWAP
- Report data to HQMC wrt DD form 27XX

Installation Commanders

- Ensure coordination between VWAP reps, law enforcement, legal service providers, medical facilities, corrections facilities, and Marine and Family programs
- Establish a local Victim Witness Assistance Council

Unit Commanders

- Appoint a VWAC/legal officer in writing
- Protect victims to the extent possible
- Provide annual training to their personnel
 - This requirement is likely going away

SJA

- Advise the Commander on the VWAP
- Ensure commander's consider the victim's views when making a disposition decision
- If a sexual assault victim expresses a preference for a civilian prosecution, ensure the appropriate civilian authority is notified
- Ensure victims are provided an opportunity to submit matters for the CA's consideration before taking action.

LSST OIC

- Appoint a VWAC to the Victim Witness Council
- Supervise TCs
- Ensure CMS data wrt VWAP is entered correctly and completely
- Ensure defense/government witnesses have separate waiting rooms

Law Enforcement

- Appoint a VWAC to the Victim Witness Council
- Provide DD 2701 forms to victims and witnesses
- Maintain data on the number of victims and witnesses provided DD 2701s
- Provide a threat assessment as required
- Notify Command VWAC when investigation cases with an accused or victim that is the member of the command

RVWLO

- Ensures training is available to all VWLOs and VWACs
- Maintains list of all VWLOs in region
- Chair semi-annual Regional VWLO Meeting
- Ensure data (2701-2704) collection for the region
- Available to inspect VWLOs and VWACs as part of CGIP

VWLO

- Ensures coordination among all offices
- Maintains list of all VWACs
- Ensures VWACs have relevant information, including VWAC roster and directory of local services/programs
- Chairs VWAP Council
- Ensures victims are notified of all support, services and rights available and VWAC information.
- Assists Base CO in reporting requirements

VWLO

- "Maintain a directory of military and civilian programs and services . . . within geographic area of the installation."
- If necessary, assist in contacting the people responsible for providing victim and witness services and relief
- VWLO – Maintains Base VWAP website

VWAC

- Officer/SNCO/Civilian Equivalent
- Victim
 - Ensure victim understands rights
 - Provided 2701
 - Find out if victim feels in danger/needs MPO
 - Ensure victim is in touch with MFS, VWLC, & SAPR if appropriate
 - Assist in obtaining counseling as necessary
 - Discuss availability of transitional comp, Article 139, PCA, state comp, and other civilian resources

VWAC

- If charges preferred
 - Ensure TC accounts for victim's views about trial/sentencing/pta
 - Ensure victim is aware of ALL trial milestones and rights including right to a copy of the Record of Trial
- Provide annual training to the Command

Trial Counsel

- Once assigned to a case must:
 - Identify victims and witnesses
 - Provide DD 2702
 - Ensure victims/witnesses are provided information about MJ process, including what to expect from the system, what the system expects from them, and the stages of the MJ process
 - Comply with notification requirements
 - Comply with consultation requirement

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TC - Notification Requirements

- Victim must advised of:
 - The availability of an MPO/CPO
 - The availability of Article 139 restitution or PCA
 - The opportunity for the victim to express view's on commander's disposition decisions (initial, referral, PTAs, other decision to withdraw and dismiss).
 - For sexual assault victims, the opportunity to express a preference for civilian/military prosecution
 - Any change in pretrial confinement status of suspected offender & IRO hearing
 - Date charges are preferred and / or referred and the nature of the charges
 - Offer/Acceptance of a pretrial agreement
 - Scheduling of court proceedings

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TC Notification Requirements

- Victim must be advised of:
 - Right to be heard on any 412/513/514 motions
 - Findings of a court-martial
 - For Article 120, 120b, 125, or 80 – right to a redacted copy of the ROT
 - Sentence adjudged
 - Opportunity to submit matters for CA's consideration before taking action
 - SJAR & Convening authority's action regarding findings and sentence
 - Right to notification of appellate proceedings
- TC must notify all victims who have been scheduled to attend any MJ proceedings of scheduling changes that affect their appearance
- TC must notify of right to the record of trial in a sexual assault case
- TC must liaise with MCIO upon final disposition of case to ensure return of property

TC - Notification Requirements

- Witness must be advise of:
 - Acceptance of a plea
 - Findings of a court-martial
 - Sentence adjudged
 - Convening authority's action regarding findings and sentence
- TC must notify all witnesses who have been scheduled to attend any MJ proceedings of scheduling changes that affect their appearance

18

TC - Consultation Requirement

- Victims have a designated advisory role in decisions involving prosecutorial discretion such as plea bargaining
- TC shall ensure victims are aware of the right to act in this advisory capacity
- When a victim has elected to act in advisory capacity, TC shall ensure victim's views regarding prosecution and plea negotiations are obtained and forwarded to convening authority

19

TC - Other Assistance

- Separate waiting room
- Provide victims/witnesses with information concerning services such as transportation, parking, child care, lodging, translators and interpreters
- Take reasonable steps to inform employers that victim/witness is involved in court-martial (upon request)
- Contact creditor if victim/witness subject to serious financial strain caused by crime or cooperation in investigation / prosecution
- Safeguard victim's property held as evidence and return it as soon as possible

20

TC - Sentencing

- Inform victims of the opportunity to present evidence to the court at sentencing, including statement concerning impact of the crime, such as financial, psychological and physical harm

21

Victim Legal Counsel

- Not yet included in the current VWAP Order
 - Provide counseling to all victims regarding their rights.
 - Represent eligible sexual assault victims throughout the court-martial process.
 - Represent eligible victims on mental health, victim advocate, or prior sexual act motions.

22

Legal Assistance

- When requested by an eligible victim or witness, or their representative, assist in civil matters related to the crime such as divorce, drafting new wills, or contacting creditor.

Service Providers

- Determined by Service Providers Order
 - MCO 1752.5B – SAPR
 - MCO 1754.11 – FAP
 - BUMEDINST – medical
 - MCO 5580.2B – law enforcement manual
 - NCIS manuals
 - Chaplains – SECNAVInst 1730.9

24

Brig and PTC Facility CO/OIC

- Appoint a VWAC to the Victim Witness Assistance Council
- Manage victim and witness information in a central repository
- Provide notification with regards to prisoner status change pursuant to DD 2704 election

25

*Special Victim Capable VWAP Personnel

- Required by the Section 573 of the FY13 NDAA
- Not yet enacted in DoN Policy or USMC Policy
 - We do have policy out for review
- Each installation will be required to appoint 1 SVC VWAC in writing
- Will directly assist all civilian victims that aren't eligible for VLC/SAPR/FAP services

*Special Victim Capable VWAP Personnel

- Advise civilian victims on:
 - Availability of state victim compensation
 - Availability of restitution under Article 139 & PCA
 - Availability of other victim assistance programs locally available
- Assist civilian victims by:
 - As requested, attending all legal meetings, administrative and judicial proceedings
 - As requested, assist with base access, child care, transportation, and parking for all court related interviews, meetings, and proceedings

Commanding General

Inspection Process

Functional Area TAB 092

Victim Witness Assistance Program (VWAP)

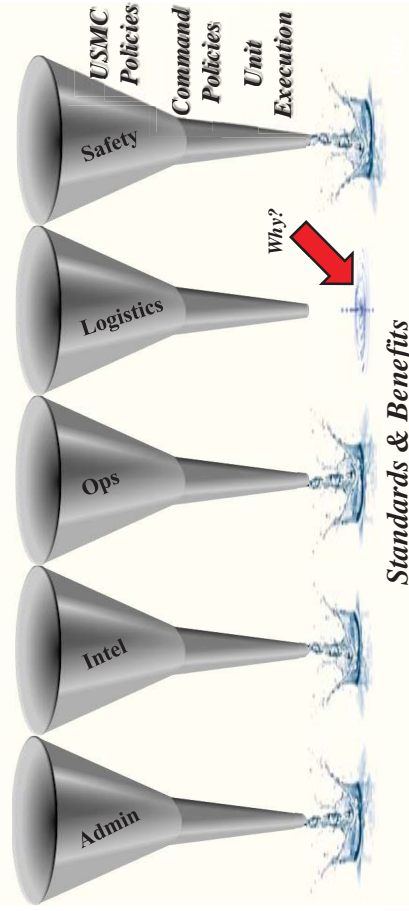


Presented by:
William Yables Jr.
Installation Victim Witness Liaison Officer
Marine Corps Air Station New River

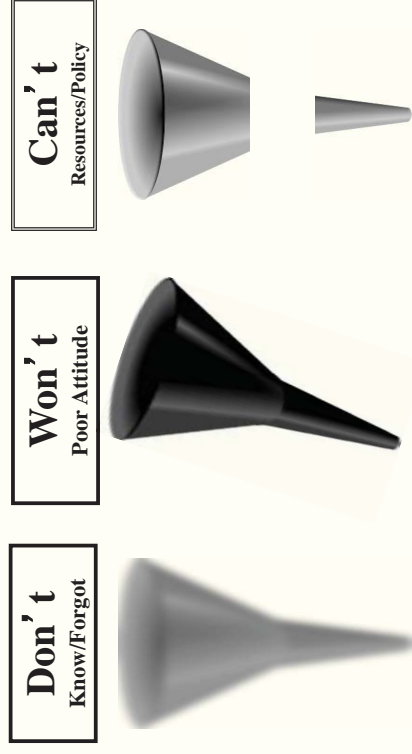
A Visit From The Inspector General...



Department of Defense Resources & Concerns



Finding the Root Cause...



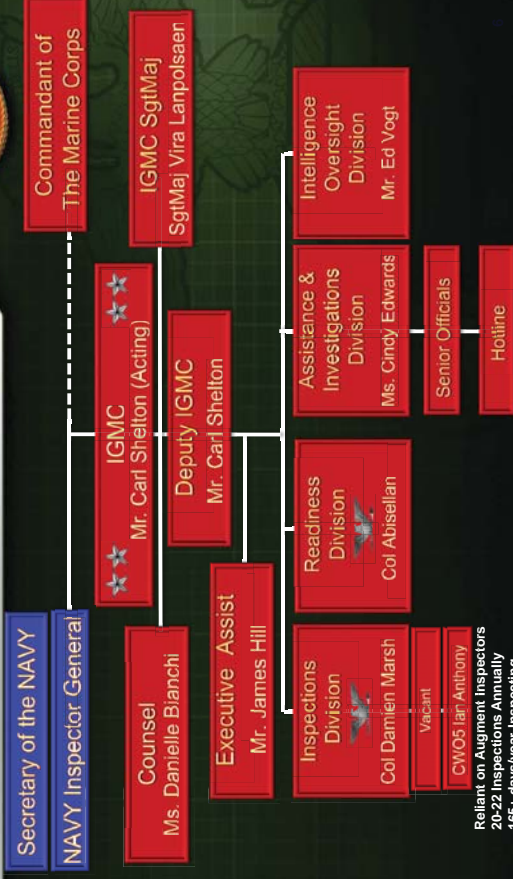
Inspection Authority

- USC Title 10, Office of SECNAV, Inspector General
- SECNAVINST Inspections & Investigations
- MCO 5040.6H (2007)
 - Oversight and Follow Up, (reports & returns)
 - SPIN
 - Request Mast
 - Investigations
- NAVMC Directive 5040.6H (2007)
 - Types of Inspections
 - Frequency
 - No Notice
 - Checklists
 - Grading
 - Core Requirements



DOD ICI LETTERS:
DOD ICI Trained & Sym
Credentialed Naval Investigators

INSPECTOR GENERAL OF THE MARINE CORPS



Reliant on Augment Inspectors
20-22 Inspections Annually
185+ days/year Inspecting

Mission

“Serve as the Eyes, Ears, and Voice of the Commandant”

To serve as the principal advisor to the Inspector General on all inspection matters. Through the Unit Inspection Program coordinate, conduct and inspect independent commands not under the operational or administrative chain of command of a Major Subordinate Commander. Through the Command Inspection Program ascertain the status of commands and assess the overall effectiveness of Commanding Generals’ Inspection Programs. Additionally, during inspections provide Special Interests Briefs and the opportunity to request Mast to the Commandant of the Marine Corps.

Inspection Philosophy

1. Expect excellence and accept no less through consistent, independent, impartial, and professional inspections.
2. Add value through instructional based inspections of relevant and meaningful areas.
3. Assess holistically but measure against well established and known standards.
4. Provide accurate, straightforward, and candid results while maintaining focus through the corrective actions and verification.
5. Respect and never usurp the authority and responsibilities of command.



8

Two fundamentally different types of inspections

- Unit Inspection Program (UIP) the Inspections Division shall coordinate, conduct and inspect those independent units/activities that are not under the operational or administrative chain of command of a Major Subordinate Commander.
 - Only oversight of these Units
 - Conducted every 2 years
 - Units not in Ops or Admin Chains
- Command Inspection Program (CIP) the Inspections Division shall assess the overall effectiveness of Commanding Generals’ Inspection Programs.
 - Conducted every 3 years



Short / No-Notice Inspections

NO MORE
PAINTING ROCKS!

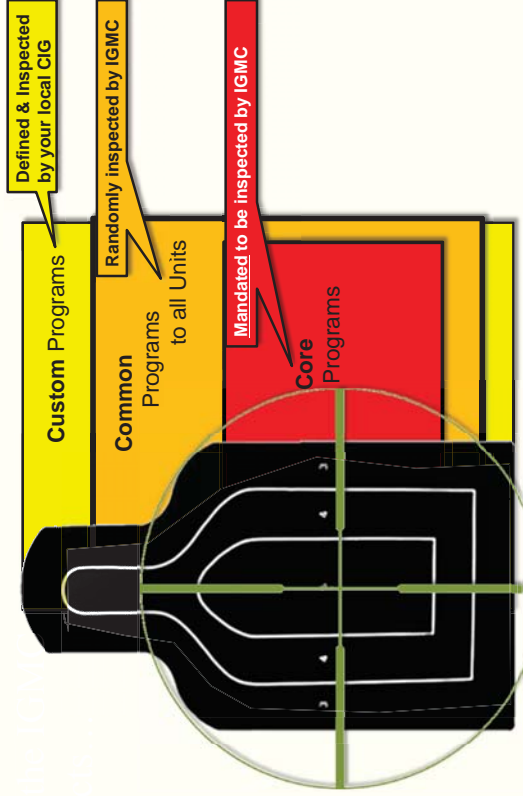
Want to see
Ordinary Operations

Expect to see
Normal Wear & Tear



10

What the IGMC inspects...



The Core Programs (33)

- | | |
|---|---|
| 020 Request Mast | 350 Body Composition and Military Appearance |
| 030 Hazing Prevention and Response | 380 Unit Training Management |
| 066 Marine Corps Officer and Enlisted Promotion Process | 470 Physical Security |
| 070 Personnel Administration | 480 Anti-Terrorism |
| 071 Military Awards | 481 Operation Security |
| 075 Defense Travel System | 500 Health Services Support |
| 080 Marine Corps Total Forces System | 510 Dental |
| 090 Legal Administration | 510 Dental |
| 092 Victim and Witness Assistance Program | 753 Ground Supply |
| 100 Postal Affairs | 755 Ground Ordnance Maintenance |
| 120 Casualty Affairs | 963 Sexual Assault Prevention and Response Program |
| 121 Separation and Retirement | 968 Marine Corps Unit Personal and Family Readiness |
| 130 Safety (Non-Aviation) | 970 Unit Readiness |
| 190 Equal Opportunity Program | 992 Government Travel Charge Card Program |
| 200 Substance Abuse Program | 994 Suicide Prevention Program |
| 210 Voter Registration Program | |
| 240 Intelligence Oversight | |
| 270 Information and Personnel Security Program | |
| 340 Physical Fitness Program | |

Grading

Non-Mission Capable

- **Mission Capable / Non-Mission Capable:**

- Does Unit possess requisite...

- Skills?
- Equipment?
- Personnel?
- Understanding of directives?

in order to accomplish assigned mission, tasks, and functions.

Findings

Checklist items may be found with:

- **Finding:** An error that detracts from readiness, involves waste fraud or abuse, health, safety, morale, welfare, or deviate from Higher Headquarters policies.

Discrepancies

- **Discrepancy:** Failure to comply with guidance, direction, and required actions.

Mission Capable

Inspection End State

- ✓ Enhanced Knowledge of Functional Area & USMC Policies

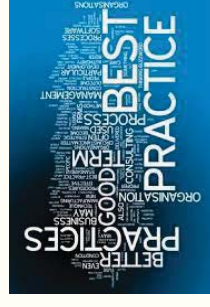
- ✓ Identified & shared Best Practices

- ✓ Recognize Individual Excellence

- ✓ Provide an Accurate Assessment with Recommendations.

- ✓ Enhance trust of the IGMC inspection process

- ✓ Continual Improvement of IGMC Inspection Process



Inspection Trends

VWLO, Legal Community, Law Enforcement, and Service Providers:

- Appointment letters missing information;
- Websites don't have all required information;
- No process written down;
- No training could be verified;
- Not keeping copies of reports;



Inspection Trends cont.

092.06.001 Has the Unit Commander appointed in writing, by name, title, duty address, and telephone number, a VWAC?

- Missing required information (title: Legal Officer)

092.06.002: In cases of summary courts-martial where confinement is adjudged and approved, did the unit commander coordinate with a trial counsel assigned to the Legal Services Support Team (LSST) supporting their command prior to completing the DD Form 2704?

- Don't know why they are calling the trial counsel

Inspection Trends cont.

092.06.003: Have Commanders provided annual VWAP training to ensure that unit personnel know the identity of their VWAC and understand victim and witness rights?

- No one knows the identity of the VWAC
- No annual training (no roster, slides or LOI)



092.07.001: Is the VWAC an Officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank?

- Don't have the appropriate experience or temperament

Inspection Trends cont.

092.07.002: What is the process in place to maintain data on the number of victims and witnesses who receive DD Forms 2701?

- Don't have processes and/or written down.

092.07.003: Are the total number of victims and witnesses provided DD Form 2701 being reported to the installation VWLO quarterly?

- Common answer we didn't give any out so no report is needed. WRONG!
- Don't keep copies of the reports
 - Current year plus 2 years should be maintained on file.



Inspection Trends cont.

092.07.004: In pretrial confinement cases where the victim or witness has requested notification, did the VWAC notify the victim or witness of changes in the accused's pretrial confinement status?

- Common answer: we haven't had anyone in pretrial confinement.
- You still need to know what to do if you do.

092.07.005: Has the VWAC obtained and distributed VWAP materials and provide VWAP training to the members of the command on an annual basis?

- Haven't obtained and distributed anything
- No training; same as in question 092.06.003

Questions



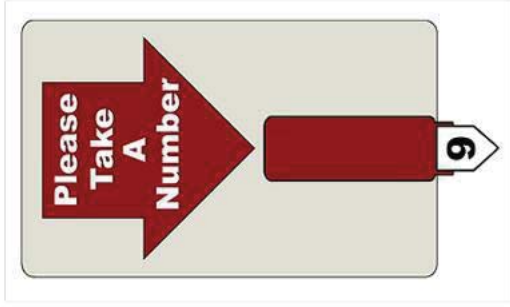
DOD VICTIM WITNESS ASSISTANCE

Update



Office of Legal Policy, OUSD (P&R)





3

VWAP Challenges

- **Understanding your vital role in the process**
 - Expanding range of victim assistance support providers
 - Keeping up to date on changes in law, DoD/Service policies, programs, procedures, and standards for victim assistance personnel
- **Helping victims understand their rights and navigate the military justice system during a time of great change**
- **Improving care and support one person at a time**

4

Overview

- References
- Major Law and Policy Changes
- Enhanced Victims' Rights
- DoD Victim Assistance Standards
- Special Victim Investigation and Prosecution Capability
- Specialized Training
- Collaboration and Feedback



5

Key References

- **National Defense Authorization Act (FY 14 & 15)**
- **DoD Instruction 5505.19**, “Establishment of Special Victim Investigation and Prosecution (SVIP) Capability within the Military Criminal Investigative Organizations”
- **DTM 14-003**, “DoD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support”
- **DRAFT DoDI 1030.02**, “Victim Witness Assistance” (Proposed rule to be published in Federal Register)

6



Changes to UCMJ/MCM Since 2012

The FY14 NDAA was the “most extensive UCMJ revision since the Military Justice Act of 1968.”

-MG(Ret) John D. Altenburg, USA

Changes to the UCMJ	Changes to the MCM
FY12 NDAA: 8 Articles FY13 NDAA: 4 Articles FY14 NDAA: 14 Articles FY15 NDAA: 10 Articles Total: 36 Articles	Implemented EO 13643: ~110 changes EO 13669: ~41 changes Total: ~151 changes Pending implementation (With OMB) Residuum EO: ~121 Changes 2014 EO: ~147 Changes Total: ~268 changes



Key Reforms

1. Crime victims’ rights article enacted within the UCMJ (Article 6b) (modeled on 18 U.S.C. § 3771)
2. Codification of SVC/VLC program
 - 10 U.S.C. § 1044e
 - Includes representation of legal assistance-eligible victims of not only sexual assaults of adults, but also victims of stalking, voyeurism, forcible pandering, indecent exposure, and child sexual offenses
3. Expansion of SVC/VLC program for members of the Reserve Component
 - Covers Reservists not in a title 10 status, where the sex-related offense has a nexus to the victim’s military service

Significant DoD Policy Changes

- DoDI 1030.02, *Victim and Witness Assistance* Combined
- Expands crime victims’ rights and requires the Military Services to create mechanisms for the enforcement of these rights IAW section 1701 of the FY 14 NDAA
- Implements section 1716 of the FY14 NDAA requiring that Military Services to provide **Special Victims’ Counsel/Victims’ Legal Counsel** to personally represent victims of certain offenses
- Requires the Military Services to establish a **special victim investigation and prosecution capability (SVIP)** comprised to provide enhanced support to local installations and victims in cases of sexual assault, serious domestic violence, and child abuse
- **DD Forms 2701 to 2705** are being revised to reflect these changes

Enhanced crime victims’ rights

1. Be reasonably protected from the accused offender.
2. Be provided with reasonable, accurate, and timely notice of:
 - (a) A public hearing on the continuation of confinement before the trial of the accused.
 - (b) A preliminary Article 32 hearing relating to the offense.
 - (c) A court-martial relating to the offense
 - (d) A public proceeding of the Military Department Clemency and Parole Board hearing relating to the offense
 - (e) The release or escape of the accused, unless such notice may endanger the safety of any person.

Enhanced crime victims' rights

3. Be present at, and not be excluded from any public hearing or proceeding described in this enclosure
...Unless the military judge or Article 32 hearing officer of a preliminary hearing, after receiving clear and convincing evidence, determines that testimony by the victim would be materially affected if the victim heard that hearing or proceeding.
4. Be reasonably heard at preliminary hearings, public sentencing hearings, and public clemency and parole board hearing
5. Confer with the attorney for the U.S. Government in the case
6. Receive restitution under State and federal law
7. Have proceedings free from unreasonable delay
8. Be treated with fairness and respect for his/her dignity and privacy
9. Express his or her views to the commander or convening authority as to the disposition of the case

Legal and VWAP Support

6

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DoD Standards for Victim Assistance Services

- DoDI 6400.07 was published in November 2013
- Sets competence, ethical, and foundational program standards for all SAPR, FAP, and VWAP personnel
- Establishes DoD Victim Assistance Leadership Council to advise the Secretary of Defense on policies and practices related to the provision of victim assistance across the DoD

Communicating Effectively

- Recognize basic principles of effective communication, including verbal, nonverbal, and cultural variation
- Listen attentively to the victims and use the information they provide to offer appropriate assistance and referrals for services
 - Recognize the range of reactions to victimization (e.g. anger, self-blame, helplessness, etc.) and respond to the victim accordingly
 - Understand the impact of trauma on victims' ability to connect to services and to assist in the military justice or administrative process
 - De-escalate crisis situations, providing support as necessary so that assessment and assistance planning may take place.
 - Educate and explain your role to victims and to other agency personnel in order to address victims' needs
 - Understand the impact of specific types of crime or offense on the needs of victims and use specific support as appropriate to the type of victimization (e.g. utilizing safety planning).
 - Understand and describe to victims the variety of resources and referral, advocacy, and outreach services available in the immediate environment

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Maintaining High Ethical Standards

- 1) Ensure victims understand that participation is voluntary.
- 2) Respect the privacy of information per restricted reporting, applicable privileged communications, and privacy rules,
- 3) Understand your role, responsibilities, limitations, and perform duties IAW applicable laws, policies, and regulations.
- 4) Respect victims' rights and act accordingly.
- 5) Refrain from behaviors that communicate blame, suspicion regarding victim accounts of the crime or offense, condemnation for past behavior, or other judgmental sentiments to the victim.
- 6) Avoid conflicts of interest and disclose any possible conflict to the appropriate program personnel and victims served.
- 7) Seek support and increased levels of supervision when necessary to serve the best interests of a victim

14

Foundational Program Standards

- Document and administer services to ensure quality and responsiveness to victims' needs
- Provide Access and Referral to Available Resources/Services
- Respect victim's right to make own decisions about services
- Ensure victim understands his/her rights
- Provide information about military justice system and process
- Manage expectations
- Ensure victims understand what constitutes legal advice and representation, and who can and cannot provide
- Coordinate with victim's chain of command, SVCMLC, an other support personnel as needed

15

Special Victim Investigation and Prosecution Capability (SVIP)



- Distinct, collaborative group of skilled investigators, prosecutors, paralegals/legal support and VWAP personnel
- Applies sexual assault, serious domestic violence, and child abuse cases
- Intended to enhance, not replace legacy systems (i.e. FAP, victim advocates)

16

Who is in the SVIP?

- Military Service SVIP programs will include, at a minimum, specially trained and selected:
 1. **MCIOs Investigators**
 2. **Judge advocates** to serve as prosecutors.
 3. **VWAP personnel**
 4. **Paralegal or administrative legal support personnel**
- SVIP personnel will collaborate closely with local **SARCs, victim advocates, FAPs and DAVAs** during all stages of investigative and military justice process

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Activation Protocol

- **All SVIP members notified w/in 24 hours** of MCIO determination that an allegation meets covered offense criteria to activate the Service SVIP support.
- **SVIP members meet w/in 48 hours** (w/o regard to the day of the week). May be in person, by phone, or VTC.
- **Minimal monthly MCIO-JA case reviews** and consultation and to ensure all aspects of the victim's needs are being met.



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Specialized MCIO Training

- Legal jurisdiction for conducting criminal investigations.
- Elements of proof for covered offenses
- Crime scene management, DNA collection, and forensic evidence preservation
- Rights of crime victims and available victim and witness assistance, support, and counseling services
- Sensitivities associated with adult sexual assault, domestic violence, and child abuse victims
- Obtaining protection orders for military members and civilians
- Working with the FAP in accordance with DoD policy

19

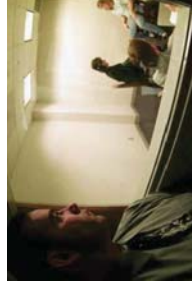
Specialized Legal Support/VWAP Training

- Elements of proof for covered UCMJ offenses.
- Effective interviewing techniques and the impact of trauma on memory.
- Unique legal issues and sensitivities associated w/ sexual assault, domestic violence, and child abuse victims
- Best practices for interacting with/supporting victims
- Ensuring victim rights are understood, respected, and enforced
- Building advanced litigation, trial advocacy case management, and related technical skills
- Understanding the impact of trauma and its effect on behavior and the memory of a traumatic incident when interacting with a victim
- Identification of any safety concerns and specific needs
- How to request appropriate experts, such as specially-trained pediatric forensic interviewers to support complex child abuse cases

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SVIP-C Implementation

- NAVY
 - 9 regional Senior Trial Counsel work with Navy Criminal Investigative Service (NCIS) special agents
 - Trial Counsel Assistance Program (TCAP) provides case review, advisory, and direct trial support
 - HQE support
- USMC
 - Regional Trial Counsel work with NCIS
 - HQE Support



Legal and VWAP Support 21

Collaboration and Teamwork

- Active liaisons should be established at the installation level with:
 - Local military and civilian law enforcement agencies
 - Sexual Assault Response Coordinators
 - Victim advocates (sexual assault and domestic violence)
 - Family Advocacy Program Managers
 - Chaplains
 - Medical and mental health care providers, and experts, such as Sexual assault forensic examiners
 - Commanders
 - Other persons designated by the Secretaries of the Military Departments necessary to support special victims
- SJAs or designated legal rep will participate in FAP and adult sexual assault case management meetings

22

Victim Feedback

- Did victim receive key notifications and advice?
 - Understood rights as a victim?
 - Aware of available support services?
 - Felt able/empowered to exercise these rights during the process?
 - Perceived military justice as fair?
 - Specific comments and suggested improvements?
- The goal is improving victim care and support



23

Legal and VWAP Support

“Nobody washes a rental car”

TOM FRIEDMAN



24

Conclusion

- You are at the vanguard of developing, implementing, and improving these capabilities
- Effective selection, certification & training support
SVIP Capability and victim assistance program is key to success
- Takeaways
 - Continue to improve linkages between service providers
 - Work as a team. Share best practices across Service
 - Provide a continuum of care to meet victim's needs.

Legal and VWAP Support

25

Questions?

26

Article 139 and the PCA

Capt Neely
HQMC, VVAP
703 693 8407

GOALS of the Training

1. Understand Article 139
2. Learn how to assist our victims and witnesses in making an Art 139 complaint
3. Understand the Personnel Claims Act (PCA)
4. Learn how to assist our victims and witnesses in making PCA claims

Article 139, UCMJ

Article 139

- 10 U.S.C. § 939 = Art 139
- JAGMAN Chapter IV
- Redress of injuries to property
- Commanders have the authority to deduct money from one military member's pay and give it to another member or civilian.

Article 139

- Start with an example:
- LCpl Accused gets into a fight with his girlfriend. He launches her iPhone 6 across the room like he's trying out for Angry Birds. She comes to you with her shattered phone. You help her make an Art 139 complaint to LCpl Accused's commander. The commander can direct that the cost of the damage be deducted from LCpl Accused's pay and given to his girlfriend.
- Plus side: maybe you'll get invited to the wedding after salvaging the relationship.

Article 139

- Whenever (a) **complaint** is made to any **commanding officer** that **willful damage** has been done to the **property** of any person or that his property has been **wrongfully taken by members of the armed forces**, he may, under such regulations as the Secretary concerned may prescribe, **convene a board** to investigate the complaint. The board shall consist of **from one to three commissioned officers** and, for the purpose of investigation, it has the power to **summon witnesses** and examine them upon oath, to **receive depositions** or other **documentary evidence**, and to **assess the damages** sustained against the responsible parties. The assessment of damages made by the board is **subject to the approval of the commanding officer**, and in the amount approved by him shall be charged against the pay of the offenders. The order of the commanding officer directing charges herein authorized is **conclusive on any disbursing officer** for the payment by him to the injured parties of the damages as assessed and approved."

Article 139

- What kind of damage?
 - Private property damage, destruction, or loss
- What kind of conduct causes the damage or loss?
 - Willfully damaged
 - Reckless, riotous, or disorderly conduct
 - Not involving simple negligence or inadvertent
 - Intentionally, knowingly, and purposefully without justifiable excuse
 - Wrongfully taken
 - Unauthorized taking or withholding of property
 - Done with intent to temporarily OR permanently deprive the owner
- Who can make a claim?
 - Any individual, either civilian or military, business, charity, or a state or local government that lawfully own or possesses property.

Article 139

- What is it not?
 - No claims resulting from simple negligence.
 - No third party subrogees.
 - You can't make a 139 claim for breach of contract.
 - Bad check? No 139 claim.
 - LCpl 85%APR defaults on payments? Civilian business can't get at it via Art 139.

Article 139 – Submitting a Claim

- To the commanding officer within 90 days of the incident
 - CO can extend time period for good cause
 - Good cause? Never knew Art 139 existed (does anyone?), had no idea who caused the damage until recently
- Which CO?
 - Ideally, you want to submit the claim to the CO of the unit that the damager-Marine is assigned to.
 - If that's not practical, may go to commander of the nearest military installation (tap into Lance Commander underground)
 - The claim is then routed to the CO that has SPCMA over damager
 - This is the CO that appoints a board

Article 139 – Submitting a Claim

- Where's my form?
 - Making the claim orally gets the process started, BUT
 - An official Art 139 complaint must be drafted AND include the sum asked for in compensation before final action can be taken.
- What needs to be included:
 - Amount of the claim,
 - Facts and circumstances surrounding the claims,
 - Any other relevant information
- Each claimant must file separately
- Must be personally signed by claimant or authorized representative

Article 139 – The Investigation

- Who is it? The CO convenes an investigation under JAGMAN Chapter 2.
- Review all available witnesses and evidence
- Three principal functions:
 - Determine if this is really an Art 139 claim;
 - Identify the party responsible for the damage; and
 - Determine the liability for damages.
 - "Preponderance of the evidence" standard

Article 139 – The Investigation

- IO Recommendation
 - Assess the damages against the identified service member or members
 - Deduct from the assessment any voluntary or partial payments already made
 - Proximate cause? Comparative Responsibility?
 - Assess damages against member that were present during the incident, if authorities can't individually identify the offender
 - Disapprove the claim

Article 139 – JA Review

- Investigating Officer forwards to SJA
 - Limited review
 - Does the evidence support the findings?
 - Are the recommendations consistent with the findings?
 - SJA may kick-back to IO for further investigation
- SJA then forwards investigation and review to CO
 - No idea what format or substance the SJA comments/review take

Article 139 – Commander's Action

- The Commander evaluates the board's recommendations
 - Is this really an Art 139 claim?
 - Change amount appropriated to each offender (board sets ceiling)
- Amount charged in any single month cannot exceed one-half of basic pay
- Notifies the offender and claimant of action

Article 139 – Commander's Action

- If the CO is not a GCMCA...
 - The written claim,
 - The IO report,
 - The offender's statement, and
 - The SPCMCA recommendation...
- Are all forwarded to the GCMCA for review and action
- Directs DFAS to withhold the specified amount from each paycheck to the claimant
 - Special review if greater than \$5,000
- Notifies the offender and claimant of action

Article 139 – Appeal

- Claimant or offender may request reconsideration within 5 working days of GCMCA decision, goes to OJAG
- No action can be taken until after opportunity for reconsideration and final action is complete
- A successor commander may change or cancel the assessed compensation based only on newly discovered evidence, fraud, or obvious error of law or fact.

Article 139

- This is a real thing. Promise.
- Like all things people in the military have never heard of, be prepared for push-back and confusing looks. It's in the JAGMAN.
- These are not SJA decisions. These are commander decisions.
- Article 138 complaint?

Article 139 – Realistic Scenario

- Domestic violence incident.
- Charges are pending for assault, and let's say some kind of unlawful detention (went around breaking all communications devices.)
- Victim wants compensation because the accused busted her phone and computer.
- Accused is pleading not guilty to charges that are directly related to these allegations.
- Go ahead, it's administrative? What evidence is coming in? 31(b)? Punt it? Wait until trial is over?

Article 139 – Realistic Answer

- I dunno, maybe?
- JAGMAN 0409 says to fire away.
- Acquittal or conviction is “not determinative” on the issue of responsibility for damages

Personnel Claims Act

- Military Personnel and Civilian Employees' Claims Act (PCA), 31 U.S.C. § 3721 – Gratuitous act to compensate Navy and Marine Corps military and civilians for loss, damage or destruction of personal property “incident to service.”
- If there is one thing you learn from this entire section of the presentation, learn Code 15.

Personnel Claims Act

U.S. NAVY JUDGE ADVOCATE GENERAL'S CORPS

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ABOUT NAVY JAG

Claims & Tort Litigation (Code 15)

MISSION

The Claims and Tort Litigation Division (Code 15) has worldwide responsibility for processing different types of claims under various statutes and regulations. Code 15 processes approximately 45,000 civil claims with claims paid and recovered totaling \$60-\$70 million.

Code 15 is comprised of a headquarters unit at the Washington Navy Yard, D.C.; a Tort Claims Unit (TCU) in Norfolk, VA; a Personnel Claims Unit (PCU) in Norfolk, VA; and three Medical Care Recovery Units (MCRU), one each in Norfolk, VA, Pensacola, FL, and San Diego, CA.

Code 15 is also the custodian and designated release authority for all command investigations conveyed pursuant to Chapter II of the Manual of the Judge Advocate General conducted prior to December 1995; and all litigation report investigations. Code 15 is not the custodian or release authority for command investigations conveyed after December 1995 nor investigations involving breaches of classified information or information security regulations maintained by the Chief of Naval Operations (N09N).

FUNCTION

As the manager of the Navy Claims System, Code 15 develops and implements claims policy for the Judge Advocate General (JAG) and the Secretary of the Navy (SECNAV), and processes all claims brought for or against the Navy under the following statutes:

- Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 1346(b), 2674-2680 – Limited waiver of U.S. sovereign immunity for damages for personal injury, death or property damage caused by negligence of Federal

DO YOU WANT TO FILE A CLAIM?
These links have all the information and documents you will need:

- Camp Lejeune Claims Packets & Forms
- Claims POCs/Addresses

Personnel Claims Act

■ Scenario:

Victim reports a sexual assault. NCIS politely requests to take the phone. Litigation goes on for 6-8 months...maybe years? Victim would like to have a phone during this time. Victim purchases new phone. Is more than a little upset with just about everyone involved.

■ This is exactly what the PCA is for!

Personnel Claims Act

- Things worth remembering, Part 2
 - Payment is permitted for the damage or loss of use of the property if held for 60 days or more, and
 - Upon a showing by the claimant that the loss of the property is causing a "grave hardship" to them.
- Payments to civilian victims would not be authorized under the PCA.
- You only get depreciated value, no-boondoggling.

Personnel Claims Act

- Maybe you've heard of the Military Claims Act (MCA)?
- Maybe you think that sounds like a reasonable way to get reimbursement for your phone?
- You're wrong! How dare you!
- The Army and the Air Force have been using the MCA in these situations. Code 15 found out about it. They were not amused.

Personnel Claims Act

Personnel Claims Act

0802 RESPONSIBILITIES

JAGMAN

- a. The Judge Advocate General (JAG) is responsible for the resolution of claims arising under the Federal Tort Claims Act (FTCA), Military Claims Act (MCA), Nonscope Claims Act, Military Personnel and Civilian Employees' Claims Act (PCA), Foreign Claims Act (FCA), International Agreements Claims Act (IACA), Medical Care Recovery Act (MCRA), the Third Party Payers Act, and the Federal Claims Collection Act (FCCA) (affirmative claims). The Office of the Judge Advocate General (OJAG), Claims and Tort Litigation Division (Code 15) executes this responsibility on behalf of the JAG.
- b. The Division Director, Claims and Tort Litigation (OJAG Code 15) is the manager of the Department of the Navy (DON) claims system that evaluates, adjudicates, and provides litigation support for claims arising under the acts listed above. The claims system consists of attorneys and support personnel assigned to OJAG (Code 15). Code 15 personnel responsible for processing tort

SUMMARY

- You are now the smartest person in the room.
- Article 139 – compensation for personal property damage by service member
- PCA – NCIS takes a victim's phone for greater than 60 days



BRIG VICTIM / WITNESS ASSISTANCE PROGRAM



PSL Corrections, Plans, Policies, and Operations
Headquarters, U.S. Marine Corps
701 South Courthouse Road Bldg 2
Arlington, VA 22204
Commercial: (703) 604-4354



AGENDA



- References
- VWAP Mission Statement
- CMC PSL Corrections Responsibilities
- Brig Responsibilities
- Quality Control
- Statistics





REFERENCES



- Victim Witness Protection Act of 1982 – Establishes VWAP
- Victims of Crime Act of 1984 – DOJ funded/Victims have fund
- Crime Control Act of 1990 – Victims right to information about offenders
- NDAA 1994 – Mandates notification of inmate status changes
- 18 U.S.C. § 3771(a) “Justice for All Act of 2004” – most recent
- DoDD 1030.1 of April 13, 2004 “Victim and Witness Assistance”
- DoDI 1030.2 of June 4, 2004 “Victim and Witness Assistance Procedures”
- SECNAVINST 5800.11B “Victim and Witness Assistance Program”
- MCO P5800.16A (LEGADMINMAN) Chapter 6



CMC PSL CORRECTIONS VWAP MISSION STATEMENT



In support of DoD Instruction 1030.2 and in accordance with MCO 5800.14, CMC (PSL Corrections) is designated as the Marine Corps central repository for the purpose of collecting and reporting data on prisoner status changes resulting in notifications to victims and witnesses.



CMC PSL CORRECTIONS RESPONSIBILITIES



- Ensure that a victim and witness notification program is established in each brig.
 - VWAP procedures will apply to all prisoners regardless of service.
- Ensure a **properly completed** DD Form 2704 is received for every post-trial prisoner.
- The DD forms and adjunct files will be destroyed 2 years from the date the prisoner is released from confinement or parole, whichever is later.
- Ensure that the corrections database accurately reflects all prisoners enrolled in the notification program.
- Verify compliance with notification requirements prior to directing any prisoner transfer or transport.



CMC PSL CORRECTIONS RESPONSIBILITIES CONT'D



- When appropriate, direct termination from the notification program of victims or witnesses that brig personnel are unable to contact after reasonable efforts.
 - For prisoners of other services, forward the request of termination to the appropriate service central repository.
- Inform brig of any victim or witness requests received indicating a desire to be terminated from the notification program.
- Report via DD Form 2706, by 1 February, the total number of victims and witnesses to whom Marine Corps brig personnel provided notice of prisoner status changes, and a cumulative total (as of 31 December) of each service's prisoners for whom brig must provide victim or witness notifications.



BRIG RESPONSIBILITIES



- Establish a Victim Witness Assistance Program for persons entered into the program through receipt of a DD 2704.
- Ensure every prisoner confined has a DD 2704 completed regardless if victims/witnesses elect to be part of the program.
- All brig staff are required to have annual VWAP familiarization training.
- Submit a monthly report to PSL Corrections concerning the status of service members confined in Marine Corps Brigs.



BRIG RESPONSIBILITIES CONT'D



- VWAP file shall be maintained separately by the appointed VWAP Coordinator on all prisoners enrolled in the program.
 - DD 2704 Certification & Election
 - DD 2705 Notification of inmate status
 - Copies of correspondence
 - Record of telephone contacts
- Notify victims / witnesses:
 - Initial contact
 - Parole/Clemency hearing
 - Escape
 - Transfer
 - Release
 - Death
 - Emergency leave
 - **Notifications are not limited to the above**



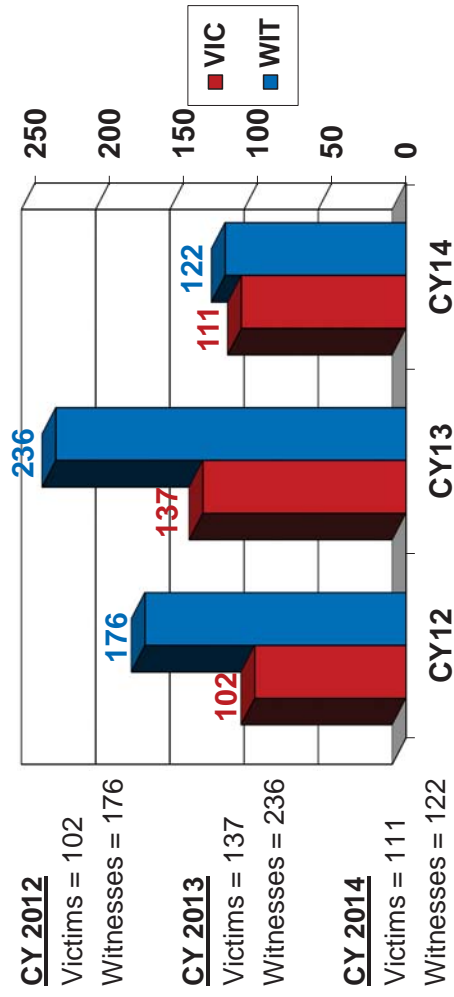
QUALITY CONTROL



- How does PSL Corrections ensure victims / witnesses are enrolled in the program, notifications are being made in a timely manner, and the corrections database is accurate?
 - Monthly Reports
 - » Helps PSL Corrections produce an accurate annual report.
 - » Provides all program information necessary to ensure accurate tracking of victim/witness notifications.
 - CORMIS (Currently not in use) - A newer version of CORMIS (V8.0) is scheduled to be released in May 2015.
 - » Error Reports
 - » Notifications
 - » V/W types
 - » Documentation
 - NJIS - The Corrections module is scheduled for testing in Jan 2016.

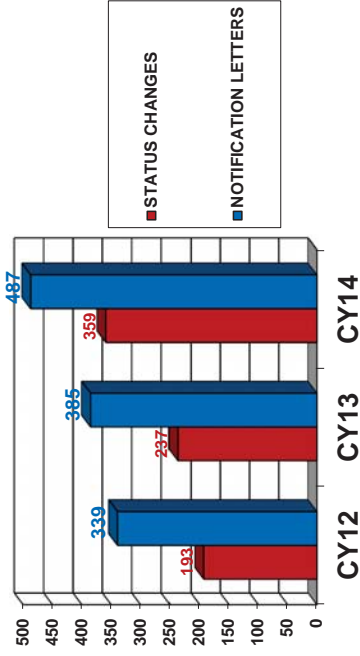


VICTIMS/WITNESSES ENROLLED IN PROGRAM





PRISONER STATUS CHANGES & NOTIFICATIONS



CY 2012

Status Changes = 193
Notification Letters = 339

CY 2013

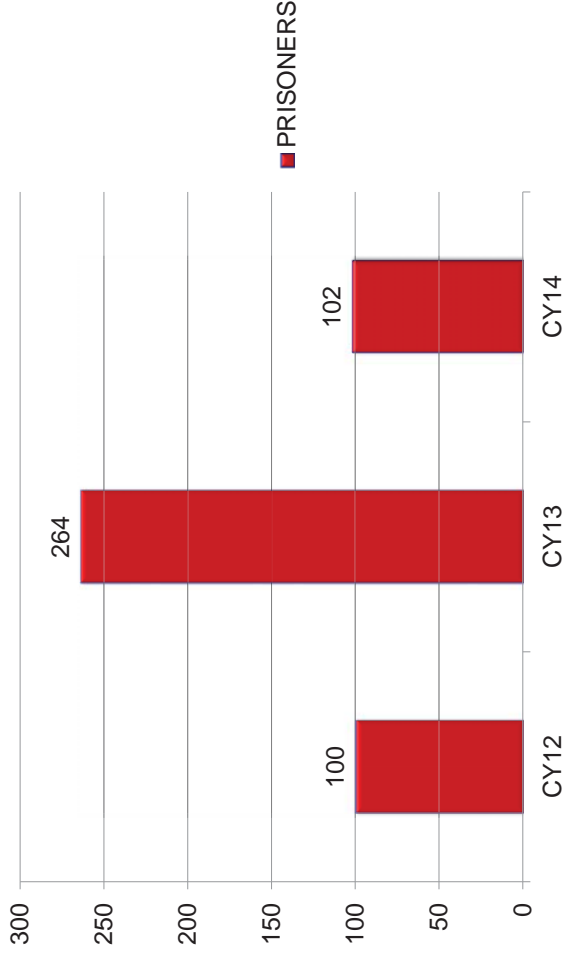
Status Changes = 237
Notification Letters = 385

CY 2014

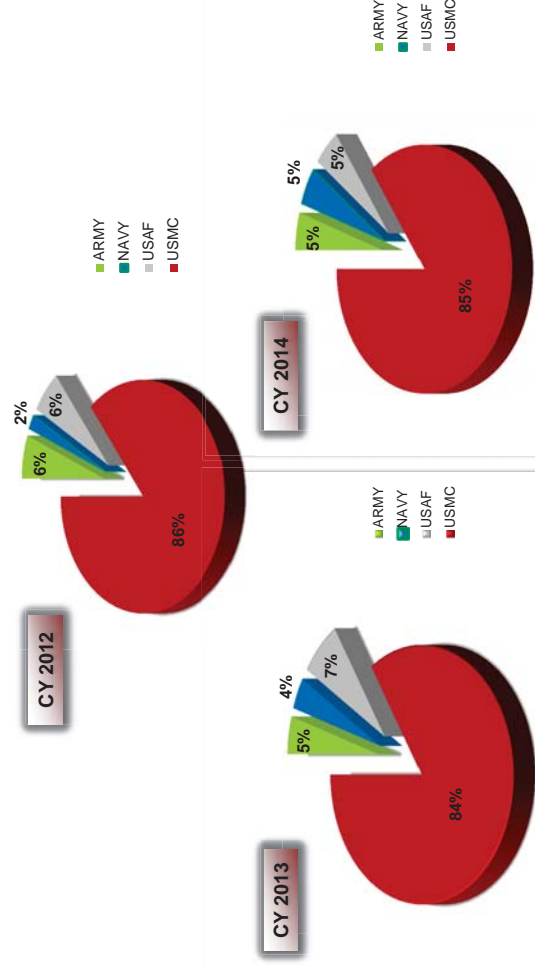
Status Changes = 141
Notification Letters = 200



PRISONERS ENROLLED IN VWAP



PERCENTAGE OF PRISONERS ENROLLED IN VWAP



HOW CAN YOU HELP?



- Continue to ensure complete and accurate DD Form 2704's:
 - Enables timely notifications to be made to victims and witnesses
 - Fulfills the purpose of the VWAP program
- Process for incomplete, incorrect, or undelivered DD 2704's:
 - Brig attempts to rectify discrepancies through trial counsel
 - Brig notifies CMC PSL Corrections of unresponsive actions
 - CMC PSL Corrections attempts to rectify through SJA
 - CMC PSL Corrections notifies CMC JA of unresponsive actions



QUESTIONS

An Overview of The Court-Martial Process & MRE 514



Marine Corps TCAP



Class Agenda

- 1) Overview of Court Martial Process
 - Process/types/anatomy of courts-martial
 - Role of the actors: trial counsel (prosecutor), defense counsel, victim legal counsel, military judge, court-martial members (the jury)
- 2) MRE 514



Getting Started

- Investigation ≠ Court-Martial
- An alleged sexual assault (or other misconduct) DOES NOT start the court-martial process.
- The court-martial process begins when a command submits a request for legal services (RLS) to the law center/LSSS.



From RLS to Referral

- Once the law center receives an RLS, the trial counsel process the case and, if warranted, will prefer charges.
 - Trial Counsel should contact victim for interview. Victim Advocate involved and may be present if victim requests.
- Article 32 Preliminary Hearing (req for GCM only)
 - In most cases victim will not testify.
 - Preliminary Hearing Officer makes report and recommendation
- Convening Authority may refer charges to CM.



Types of Courts-Martial

- General Court-Martial
 - Felony "Equivalent" Conviction
 - Max Punishment varies by UCMJ Article
- Special Court-Martial
 - Misdemeanor "Equivalent" Conviction
 - Max Punishment: 1 year confinement, reduction in rank to E-1, forfeitures of 2/3 pay per month for 1 year
- Summary Court-Martial
 - Not a Criminal Conviction (normally)
 - Max Punishment: 30 days confinement, reduction in rank, forfeitures of 2/3 pay for 1 month



Trial Process / Anatomy

- Voir Dire
- Opening Statements
- Government's case-in-chief*
- Defense case-in-chief*
- Government rebuttal case*
- Closing statements
- Verdict
- Sentencing
- Sentence

* Victim may NOT be excluded from the court-room without a hearing



Pre-trial 39a Sessions

- Motions concerning the victim
 - Military Rule of Evidence 412 – Victim's past sexual behavior generally NOT admissible.
 - Exceptions: 1) other source of injury;
2) other acts w/ accused; and
3) constitutionally required.
 - E-mail, Phone Records, Facebook, etc.
 - SART examination evidence (statement, photos)
- Difference between discovery and evidence

Pre-trial Agreements (PTA)



- "PTA" is the military version of a plea bargain
 - Accused (most commonly) agrees to plead guilty and forfeit some rights otherwise afforded in court-martial process
 - Convening Authority agrees to limit accused's exposure to types of punishment and other miscellaneous protections as negotiated
- Victims have the right to consult with Government prior to a Convening Authority agreeing to PTA

Verdict and Sentence



- Verdict – "not guilty" ≠ innocent
 - A verdict of "not guilty" simply means that the government did not prove its case **beyond a reasonable doubt** (highest standard of proof known to law).
- Sentence
 - 5 principals reasons of sentencing:
 1. Protection of society from the wrongdoer;
 2. Punishment of the wrongdoer;
 3. Rehabilitation of the wrongdoer;
 4. Preservation of good order and discipline in the military;
 5. General and specific deterrence.
 - Victim allowed to **testify** or may be allowed to submit a victim-impact statement regarding how the incident affected her/him.
 - Kicking around the idea of victim's unsworn during sentencing

Role of the Trial Counsel



- Trial Counsel (prosecutor) is not a victim advocate
- What can the victim expect from the trial counsel?
 - Respect and dignity
 - Keep the victim informed
 - Refer the victim to locally available assistance
 - Explain court-martial process
 - Thoroughly prepare the victim for trial
- Direct examination
 - Detailed account of incident/aftermath
 - Can take a long time (often more than 2 hours)

Role of the Defense Counsel



- The mission of the defense counsel is to zealously advocate for his client.
- What can the victim expect from the defense counsel?
 - Interviews (VA can be present)
 - Requests for information
 - Inquiries to command, friends, coworkers, family
 - Defense Investigator?
 - Should expect him/her to act like a Marine Officer
- Cross-examination
 - Confrontational
 - Goal is to expose inconsistencies and damage credibility



Role of the Military Judge

- The military judge will be an officer (Major – Col) with trial experience.
- The Military Judge does not take sides, referee.
- Ultimate goal is to conduct a fair and impartial trial, wherein the constitutional rights of both victim and accused are protected.
 - Rights of the accused are paramount.
 - Respect for the victim is an important concern.



Members (a.k.a. The Jury)

- Members are drawn from the local population of officers/enlisted.
 - Must be senior to the accused.
 - Enlisted cannot be from the command (company/squadron) of the accused.
 - Members are “**best qualified for duty by reason of their age, education, training, experience, length of service, and judicial temperament.**” (*Art 25 criteria*)
 - Could ultimately be from the command of the victim.

MRE 514 Victim Advocate – Victim Privilege

Background

- Executive Order 13593
 - Signed 13 Dec 2011
 - Effective 30 days from EO date
 - **12 January 2012**

The Privilege

“A **victim** has a **privilege to refuse to disclose** and to **prevent any other person** from disclosing a **confidential communication** made between the **victim and a victim advocate**, in a **case arising under the UCMJ**, if such communication was made for the purpose of **facilitating advice or supportive assistance** to the victim.”

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Who Claims Privilege?

- **Victim**
 - Any person who suffered direct physical or emotional harm as the result of a **sexual or violent offense**
- **Guardian or Conservator of Victim**
- **Trial Counsel** (if authorized by victim)
- **Defense Counsel** (if representing & authorized by victim)

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Who Claims Privilege?

- **Victim Advocate** who received communication
 - Designated in writing as a VA **OR**
 - Authorized to perform VA duties IAW service regulations, and is acting in the performance of those duties **OR**
 - Certified as a VA pursuant to Federal or State requirements
- Authority to assert privilege is presumed in absence of evidence to the contrary

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What Info is Protected?

- Confidential Communications
 - Communication made to a VA acting in the capacity of a VA **AND**
 - Not intended to be disclosed to third persons other than...
 - Those to whom disclosure is made in furtherance of the rendition of advice or assistance to the victim **OR**
 - An assistant to a VA
- Must be a case **arising under UCMJ**
 - When assailant is civilian, victim's records **probably** not privileged
- Must be made for the purpose of facilitating
 - Advice **OR**
 - Supportive assistance to the victim

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Exceptions – 514(d)

- There is no privilege when
 - The victim is **dead**
 - Federal/State law or Service regulation impose **duty to report** information contained in the communication (e.g. California)
 - Communication clearly contemplated the **future commission of a fraud or crime**

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Exceptions – 514(d)

- The VA services are sought or obtained to **enable or aid** anyone to **commit or plan to commit** what the victim knew or reasonably should have known to be a **crime or fraud**
- **Necessary to ensure safety & security** of military personnel, military dependants, military property, classified information, or accomplishment of a military mission
- **Necessary to ensure safety of any other person** (including the victim) when a VA believes that **victim's mental or emotional** condition makes the victim a danger
- Admission or disclosure is **constitutionally required**

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MRE 514 – Judicial Process

- Evidence is known or suspected to exist
- Dispute about disclosure, admissibility, or use of evidence (testimony, records, etc)
- Seek interlocutory (preliminary, no finder of fact) ruling from the military judge by filing a motion and allowing opposing party to respond (victim has opportunity to be heard)
- 39(a) court session, can be closed due to privacy concerns

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MRE 514 – Judicial Process

- Witness testimony and presentation of evidence that is necessary to decide the issue at hand
- Military judge can review evidence in camera (by himself) in order to preserve confidentiality
- Military judge can limit use or issue protective order to prevent unnecessary disclosure
- Portions of the record of trial (motion, related papers, etc.) shall be sealed unless military judge or appellate court orders otherwise

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MRE 514 – Reporting

- MRE 514 **does not change** the unrestricted reporting process
- NCIS, law enforcement, JAs, and the chain of command **are not VAs and are not covered** by the MRE 514 privilege
- Victim who first makes a restricted report and then decides to make an unrestricted report *can* claim MRE 514 privilege with regard to communications to a VA

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MRE 514 – Takeaways

- No longer a “free for all” WRT victim’s records and testimony by SARC or VA at trial
- Privilege is limited to certain situations
 - Likely covers the vast majority of normal VA-victim interaction
- Privilege is not absolute
 - Portions of records/testimony may be released (e.g., if Military Judge determines accused has need in order to meaningfully confront victim due to contradictory statements)

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MRE 514 – Takeaways

- Trial Counsel **are not covered**, but victim can authorize a TC to claim privilege on their behalf (MRE 514 (c))
- Legal assistance attorneys **are not covered** (MRE 514 (b)(3)), but victim and LA attorney may have attorney-client privilege (depends on type of communication)
- VA-V privilege **does not protect all communication**, such as: exculpatory information, information about future crimes or for the safety of victim, military personnel, dependents, or property (MRE 514 (d) (2), (3) and (4))

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MRE 514 – Takeaways

- Inform victim of privilege, but clearly discuss the potential that their records could get released
- Privilege operates similarly to MRE 513 (Psychotherapist-Patient Privilege)

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MRE 514 – Hypothetical #1

- Defense Counsel calls Victim Advocate and says “I’d like to set up a time to interview you about what the victim discussed with you.”

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MRE 514 – Hypothetical #2

- Defense Counsel is interviewing victim and says “I heard that you told the victim advocate the accused probably couldn’t tell how drunk you were the night of the assault.”

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QUESTIONS?



Victims' Legal Counsel Organization (VLCO)

MAJOR MARC TILNEY
REGIONAL VICTIMS' LEGAL COUNSEL
MARINE CORPS NATIONAL CAPITAL REGION
MARCO.TILNEY@USMC.MIL
(703) 784-3872

Background

- **10 U.S.C. § 1044**, *Traditional Legal Assistance*, (enacted 30 Oct 2000)
- **USD Memo**, *Legal Assistance for Crime Victims*, (17 Oct 2011)
- **10 U.S.C. § 1555b**, *Legal Assistance to Victims of Sexual Assault*, (enacted 31 Dec 2011)
- **U.S. Air Force SVC Program**, Jan 2013
- **LRM v. Kastenberg**, Established right to be heard “through counsel,” decided by the Court of Appeals for the Armed Forces, 18 Jul 2013
- **SECDEF Memo**, Directed Services to Establish Special Victim’s Advocacy Programs, 14 Aug 2013
- **Establishment of Marine Corps VLCO**, MARADMIN 583/13, 31 Oct 2013

VLCO

- VLC replaced Legal Assistance Attorneys regarding advice and counseling victims of sexual assault and other crimes.
- VLCO services supplement, not replace, existing victim support (VWAP, SAPR Program, FAP, SARC, victim advocate).
- VLCO Chain-of-Command functionally independent of CAs, TCs, and DCs, and will report to SJA to CMC (similar to the Defense Services Organization (DSO)).
- VLCO are trained and qualified judge advocates with military justice experience who have completed a certified VLC course.

Mission Statement

The Marine Corps Victims' Legal Counsel Organization is fully committed to provide legal advice and, when detailed, representation to victims of sexual assault and other crimes, and to protect victims' rights at all stages of the military justice process.

Statistics (Current Cases)

- **Total Number of Current Cases:** 54
 - Female 48
 - Male 5
 - Minors 1
- **Sexual Assault** 47 (87%)
 - x Female – 45
 - x Male – 1
 - x Minor - 1
- **Other Crimes** 7 (13%)
 - x Domestic Violence – 7
- **Locations**
 - Quantico, VA
 - Norfolk, VA
 - San Diego, CA
 - New Orleans, LA
 - Fort Leonardwood, MI
 - Parris Island, SC

Who is eligible?

BLUF: It depends, let VLCO make the determination.

- Members of the armed forces who are on active duty;
- Reservists serving on active duty;
- Reservists on inactive-duty training, or when circumstances of the alleged sex-related offense have a nexus to the military service of the victim.
- Members and former members entitled to retired or retainer pay;
- Military dependents of members and former members;
- Others provide by statute and regulation

10 U.S.C. §1565b

- A member of the armed forces or dependent who is the victim of sexual assault shall be informed of the availability of assistance from a VLC "as soon as the member or dependent seeks assistance from a Sexual Assault Response Coordinator, a Sexual Assault Victim Advocate, a military criminal investigator, a victim/witness liaison, or a trial counsel."
- Assistance is available regardless of whether the victim elected Restricted or Unrestricted Report.

Victim Rights

BLUF: Right to be heard, to be present, and consulted regarding disposition of case.

Victim rights specifically provided for in the Manual for Courts-Martial:

- Right to attend and be heard regarding admissibility of sexual behavior or predisposition evidence in sexual assault cases (M.R.E. 412)
- Right to be present at military justice proceedings (M.R.E. 615)
- Right to provide victim's view to convening authority regarding initial disposition of an offense (R.C.M. 306)
- Right not to be compelled to make statements or produce evidence when not material and tends to degrade the person (M.R.E. 303)
- Right to receive a copy of the Record of Trial when victim testified in case involving sexual assault (Article 54, UCMJ)
- Right to be heard through counsel in court-martial proceedings (LRM v Kastenberg, decided 18 July 2013)

Scope of Services

Legal Advice & Counseling

- Privileged, confidential communication with VLC.
 - VLC can provide information and guidance regarding any crime committed in violation of the UCMJ.
 - VLC will refer victims to Defense and/or Legal Assistance when appropriate.
- Representation (Detailing)
- Only for offenses subject to trial by court-martial.
 - All victims of sexual assault when requested.
 - All cases with issues arising under M.R.E. 412, 513, 514, when requested.
 - Representation ends at convening authority action in the case, although additional assistance may be approved by OIC VLCO.

VLC Advice & Counseling

- Provide overview of the military justice system, including investigation of crimes, referral and referral of charges, Article 32 hearing, trial convening authority role, and post-trial role.
- Explain roles and responsibilities of the trial counsel, defense counsel, and investigators (PMO, CID, NCIS, etc).
- Explain civilian restraining orders and military protective orders.
- Explain the difference between Restricted and Unrestricted reporting of sexual assault.
- Advise victim of right to be present at military justice proceedings in accordance with Military Rules of Evidence (M.R.E.) 615 and Rules for Court-Martial (R.C.M.) 806.

VLC Advice & Counseling (Cont'd)

- Explain Government's authority to request and compel production of evidence from the victim including social media, email, text messages, journals, and other evidence.
- Explain M.R.E. 412 on sexual behavior evidence; M.R.E. 513 regarding psychotherapist-patient privilege; and M.R.E. 514 on victim advocate-victim privilege.
- Explain potential consequences of collateral misconduct and options including exercising Article 31b rights, obtaining testimonial or transactional immunity, and right to defense counsel.

VLC Representation

- VLC detailed to a case represent the victim's interests throughout the military justice process until the convening authority takes action.
- Advocate victim's position regarding pretrial confinement of accused.
 - Accompany victim to all interviews related to the crime against them, including with trial counsel, defense counsel, and law enforcement officers.
 - Accompany victim to Article 32 preliminary hearing.
 - Protect the victim's rights under M.R.E. 412, 513, or 514, by filing appropriate motions or amicus curiae pleadings with the court.
 - Attend pretrial, trial, and post-trial proceedings as necessary to protect the interests of the victim.
 - Guide the victim through the post-trial process, including assisting the victim prepare matters for consideration by the convening authority in accordance with R.C.M. 1105.

VLCO Impact

- Positive victim responses to legal services**
- Confidence to report crimes
 - Increased satisfaction with military justice process
- Success protecting victims' privacy rights**
- Mental health records
 - Sexual history/sexual predisposition
- Legal services provided are based on individual client goals**
- Administrative separation
 - Expedited transfer
 - Transitional compensation
 - Declination to participate in court-martial



QUESTIONS?

National Association of Crime Victim Compensation Boards Crime Victim Compensation: Resources for Recovery

Crime victim compensation programs pay primarily for medical care, mental health counseling, lost wages and support, and

These are the major expense categories covered by the programs, but there are a host of miscellaneous expenses that are not covered, except for crime scene cleanup, and limited amounts in just a few states.

Each state sets limits on the amount of compensation available.

Maximums typically are about \$25,000, though some states may be limits on some types of benefits, such as mental health counseling or funeral costs.

To qualify for compensation, victims must meet certain requirements.

- 1. While every state operates under its own law, the requirements for compensation vary from state to state.
- 2. Cooperate with law enforcement
- 3. Report the crime promptly
- 4. Be a timely complainant
- 5. Be a direct victim of the crime or an activity or misconduct that caused the crime.

Like the Title are: Medicaid, and other federal programs.

Victims-witness and law enforcement personnel need to tell victims about this vital resource.

Without information about compensation programs, that is available to them. The compensation programs themselves operate with small staffs and depend heavily on the help of others who work with victims.

Please tell victims about crime victim compensation and help them apply for benefits. This information is accessible in the

Program Directory at www.nacvcb.org.

The National Association of Crime Victim Compensation Boards

P.O. Box 16080, Alexandria, VA 22302

For more information, contact:
Don.odd@nacvcb.org

Financial assistance for crime victims affiliated with the military is available in every state in the country, D.C., Puerto Rico, and the U.S.V.I.

State governments promote the recovery of nearly 200,000 victims and their families every year, paying for medical care, counseling, and other expenses in program under its own state law, determining who and what to pay. The vast majority of the money to

comes from the federal VOCA fund.

Victims of violent or personal crimes, including assault, domestic violence, rape, child abuse, and drunk driving, as well as family members of murder victims, are eligible for victim

If a victim suffers physical injury or emotional trauma as a result of violent or personal crime, she or he may be eligible for compensation. Compensation is available for theft and burglary, generally are not covered, with a few limited exceptions in a handful of states.

Crimes falling under local, state, federal, tribal and military jurisdiction are equally eligible in state compensation programs.

Any violent crime can be covered in the state compensation program, regardless of the criminal jurisdiction, or who is investigating or prosecuting the crime. Apprehension and conviction of the offender are not required. Compensation is available through federal resources (federal state programs, there is no national crime victim compensation program, except for victims of terrorism and international terrorism outside the U.S. However, the military's "transitional compensation" for victims of domestic violence may be available.

Each state covers crimes within its jurisdiction, and some cover crimes in foreign countries.

For example, a Texas victimized in a foreign country also will cover their resident. About half the states also will cover their residents if they are victimized in foreign countries. If someone is victimized in a foreign country, inquiry should be made to the state where the victim resides, whether victim compensation is available.



Family Advocacy Program

26 March 2015

The overall classification of the brief is UNCLASSIFIED // FOUO



Family Advocacy Program

Mission

The Family Advocacy Program (FAP) is a multi-faceted, multi-disciplinary program designed to address child abuse and domestic abuse within the Marine Corps community through prevention, advocacy, intervention and treatment

The program is staffed with clinicians, victim advocates, home visitors and prevention specialists who work as part of a coordinated response to meet the needs of service members and their families on the installation

“Keeping Faith”



Family Advocacy Program

USMC DOMESTIC VIOLENCE AND CHILD MALTREATMENT REPORTED INCIDENTS MEETING CRITERIA

Data Source: Marine Corps Metrics as of 24 March 2015

	FY 11	FY 12	FY 13	FY14	FY15*
Total Domestic Violence	1227	1193	983	1041	192
Total Child Maltreatment	820	774	709	838	152

*FY15 data is reported monthly
 * Live data - subject to change
 **Data extracted from the Metrics (live data), as of 24 March 2015.

“Keeping Faith”

Prevention and Education Program



- Designed to contribute to a reduction in child abuse and domestic violence by:
 - Enhancing family and individual functioning
 - Easing stressors that trigger abusive behavior
 - Increasing awareness of domestic/child abuse
 - Increasing awareness of high risk situations
 - Delivering targeted educational programs

“Keeping Faith”



Prevention and Education Program

- Responsibilities
 - Commander Education
 - Unit Education
 - Community Education
 - Professional and Paraprofessional Education
- Program Curriculums
 - Married and Loving It
 - Century Anger Management
 - Coping with Work and Family Stress
 - Triple P- Positive Parenting Program

“Keeping Faith”



Victim Advocacy Program

Responsibilities

- Serve in an on-call duty status 24/7/365
- Provide initial response to victims of domestic abuse and/or sexual assault (on-site or over the phone)
- Respond to calls from military and civilian entities (i.e. PMO, NCIS, the Naval Hospital/Clinic)
- Inform victim(s) of the voluntary nature of VA services
- Inform victim(s) of their reporting options

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Victim Advocacy Program

- Assess for imminent danger of life or harm
- Help victim(s) develop a safety plan
- Ensure the victim is aware of all legal action available to promote their safety
- Act as a liaison between the victim and command representatives
- Assist the victim with resources and referrals

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Clinical Program

Responsibilities

- Screen for potential FAP cases that meet the DoD definition(s) of intimate partner or child abuse/neglect
- Assess incident and family dynamics; risk assessment
- Assist the Incident Determination Committee with incident status determination
- General screening for substance use and psychological health
- Clinical case staff meeting
- Treatment interventions
- Clinical case management

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Victim Advocacy Program

24/7 Helpline

- Victim advocates respond to calls 24/7, 365 days
- Anonymous
- Each installation has their own helpline and the number is publicized

Transitional Compensation for Abused Family Members (TCAFM)

- TCAFM is a congressionally-mandated program that provides temporary financial assistance to eligible family members after the Marine offender is separated from the Marine Corps for a dependent-abuse offense
- Victim Advocates (VAs) coordinate completion of the TCAFM application with the client
- VAs are responsible for providing education to commands, eligibility criterion and the importance of including domestic violence in separation documentation, when appropriate

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Clinical Program

- Evidence based assessments
 - Spousal Assault Risk Assessment; Child Abuse Potential Inventory; Semi-structured Clinical Interview for Children and Adolescents
- Evidence based screenings
 - Columbia Suicide Rating Scale; Generalized Anxiety Disorder Scale; PTSD Checklist; Alcohol Use Disorder Identification Test; Patient Health Questionnaire
- Evidence-Based Treatment
 - Trauma-Focused Cognitive Behavioral Therapy (TF-CBT)
 - Cognitive Processing Therapy (CPT)
 - Parent-Child Interaction Therapy (PCIT)
 - Triple P (Standard Teens and Group Teens)
 - Skills, Techniques, Options, Plans (STOP) Curriculum

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New Parent Support Program

- Promotes personal and family readiness and reduces the risk of child maltreatment by providing parenting education and support to expectant parents as well as to parents with children up to the age of five
 - Home visitation: Twice per month
 - Classes/groups: Baby Boot Camp, breastfeeding support group, play mornings, parenting classes
 - Referrals: Self referrals, commands, medical providers, community agencies, Family Advocacy Program
 - Prevention based program
 - Serves families who have allegations of child maltreatment or who have 'met criteria' cases of child maltreatment

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Questions?

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New Initiatives

- Needs Assessment
- Domestic Abuse Victim Advocate Functionality Assessment and Staffing Model
- Parent Child Interaction Therapy Research
- Domestic Violence Focused Couples Therapy
- Clinical Case Staff Meeting Quality Assurance
- Within My Reach
- Period of Purple Crying App
- Infant Massage
- MCO 1754.11 revision

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Legal Assistance for Victims of Crime

LEGAL ASSISTANCE

PRESENTED BY
LEGAL SERVICES SUPPORT SECTION
NATIONAL CAPITAL REGION



Legal Assistance Personnel

- Licensed by State Bar
 - Undergraduate Degree + Law Degree
 - Added Bonus = Virginia Attorney
- Continuing Legal Education Requirements
 - Naval Justice School
 - Annual CLE Requirements

Current T/O :

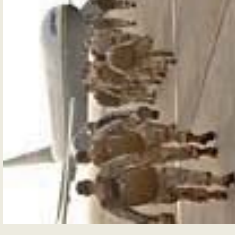
- Director – Civilian-GS
- Senior Judge Advocate (0-3/4)
- 2-3 Judge Advocates (0-2/3)
- Reserve Judge Advocate (weekends)
- Paralegal – Civilian-GS
- SNCIO and 2-3 Military Legal Clerks

Attorney-Client Privilege Applies



Demographics -- Clients

- Active Duty Personnel
 - Priority to Deploying Personnel
- Dependents of Active Duty Personnel
 - ✦ AD + Dependents = 80%
- Retirees and their Dependents
 - ✦ Retirees = 15-18%
- Reservists on Active Duty 30+ days
 - Must present orders
- GS Workers Deploying w/ Armed Forces
 - Must present orders
- Surviving Family Members

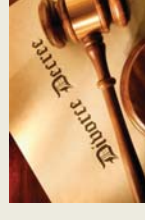


LA for Victim of Crime

- What used to be the focus of LA for Victims
 - VWAP
 - Reporting (restricted, etc.)
 - Military Justice System
 - Services available for counseling
 - Restraining orders
 - Transitional Compensation

Services Provided

- Estate Planning
- Family Law
 - Step-parent Adoptions and Foreign re-adoptions
 - Name Changes
 - Guardianships
 - Separation and Divorce
- Consumer Law
 - Landlord-Tenant
 - Contracts
 - Debt Collection
 - Credit Report Disputes
- Servicemembers' Protection Laws
 - Servicemembers' Civil Relief Act ("Soldier's and Sailor's Relief Act")
 - Military Spouse's Residency Protection Act
 - Uniformed Services Employment and Reemployment Rights Act
- Powers of Attorney/Notary Services
- Income Tax Preparation and Filing
- Other Civil law Matters



Estate Planning

- Last Will and Testament
 - Disinherit current spouse to fullest extent of the law?
- Living Will/Advanced Medical Directive
- Health Care Power of Attorney
- Springing Durable Power of Attorney

Family Law

- Separation and Divorce
 - Fault v. No Fault
 - Referrals
- Custody
- Name Changes
- Guardianship
- Adoption

Other

- Chapter 15 – Non Support Requests

Contact Information and Appointments

- Appointments
 - Made each Monday for that Week
 - Monday-Thursday – (0800-1045) – 45 minutes in duration
 - Will Executions – Wed 1300 and Fri 0900
- Office Hours
 - Monday-Thursday – 0730-1130 and 1300-1630
 - Friday – 0730-1130
- Notary and Powers of Attorney
 - Walk-In Service
- Phone Number
 - Front Office (703) 784-3126/3127
 - Information Line (703) 784-3122
- Website
 - MCB Quantico Website at “Legal”



Location



- 3095 Roan Street
- Behind the Pool
- Next to the Band
- Across from WFL
- MCAF = Too Far



Sexual Assault Prevention & Response Program

An Overview of the Marine Corps SAPR Program

Preventing
Sexual Assault
is Everyone's Duty...



SAPR

Objectives

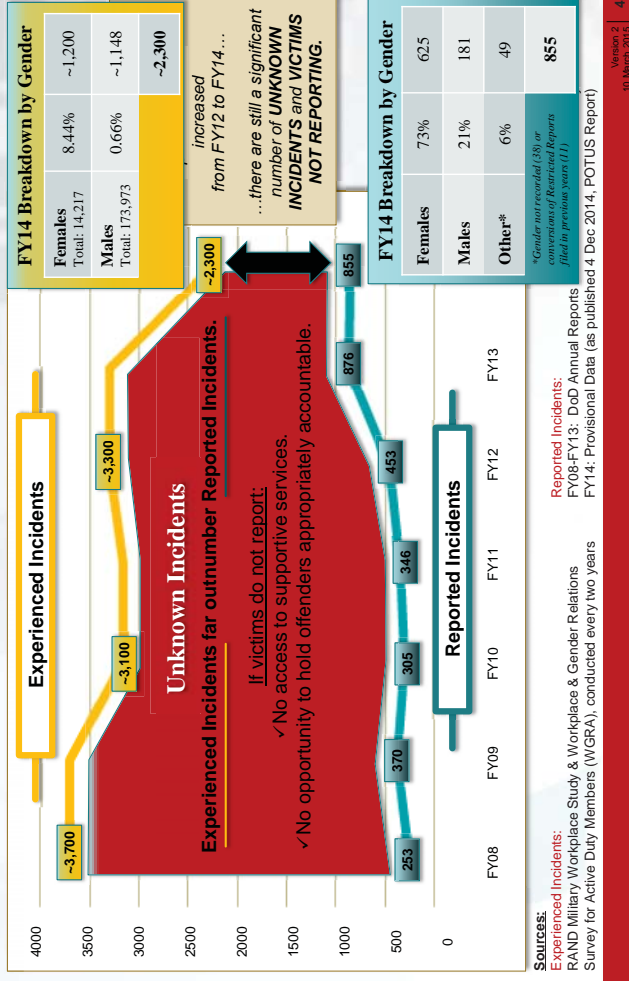
- Provide an overview of sexual assault and its impact on victims
- Provide an overview of the USMC Sexual Assault Prevention and Response (SAPR) Program
- Discuss the benefits of partnering with local SAPR Programs



Understanding the Issue

An Overview of Sexual Assault

Sexual Assault in the Marine Corps



Sexual Assault Defined

- Sexual assault is defined as *intentional sexual contact*, characterized by the use of
 - force
 - threats
 - intimidation
 - abuse of authority
 - or when the victim does not or cannot consent

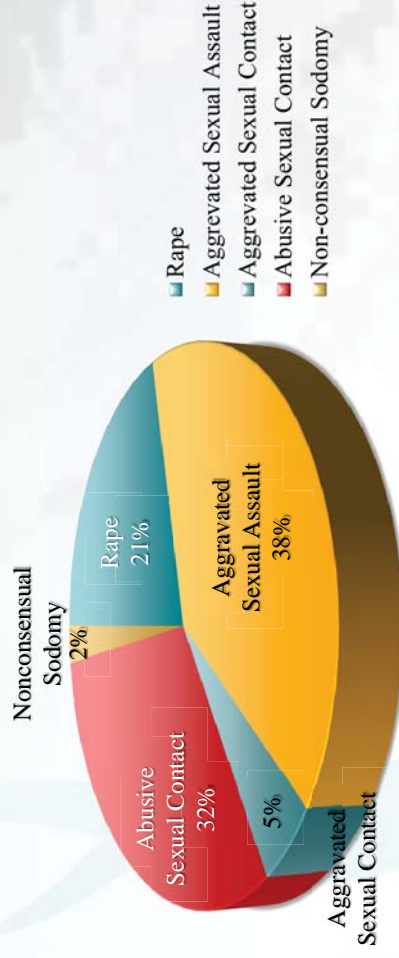
DoDD 6495.01

Types of Sexual Assault

- Rape
 - Sexual intercourse without a person's consent
- Forcible sodomy
 - Oral or anal sex without a person's consent
- Unwanted Sexual Contact
 - Groping, grabbing, fondling, or touching of a sexual nature without consent
- Attempts to commit any of the above acts

Prevalence of Sexual Assault in the USMC

In FY2013, there were 808 reports of sexual assault
 501 of those reports were *Unrestricted*



Prevalence of Sexual Assault in the USMC

Of those reports for which data was available:

- Over 50% of victims were age 18-24
- Over 85% of victims held the rank of E-1 to E-4
- Over 35% of assaults occurred between Friday & Sunday
- Over 58% of all incidents were Service Member on Service Member

Department of Defense Annual Report on Sexual Assault in the Military FY 2013

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Impact of Sexual Assault on the Victim

Physical Effects

- Physical trauma
- Skeletal muscle tension
- Eating pattern disturbance
- STIs and/or pregnancy

Emotional Effects

- Individual reactions vary widely*
- Flashbacks
- Anxiety
- Powerlessness
- Disorganization
- Self-blame
- Depression
- Withdrawal

Victim Reporting Options

Unrestricted Reporting

Initiates an official law enforcement investigation & the support of the chain of command

Restricted Reporting

Allows the victim to report *confidentially* & receive help without an investigation or command involvement

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Unrestricted Reporting

For an Unrestricted Report, the victim can contact:

- Uniformed Victim Advocate (UVA)
- Civilian Victim Advocate
- Sexual Assault Response Coordinator (SARC)
- Command
- Law Enforcement

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Restricted Reporting

- Supports victims who need more time or simply don't feel comfortable coming forward
- A law enforcement investigation is not initiated
- Victim's Commanding Officer is notified within 24 hours that an incident has occurred, however, *no identifying information will be provided*

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Restricted Reporting

- Victim can **only** report to:
 - Uniformed/Civilian Victim Advocate
 - SARC
 - Healthcare Personnel

In California, medical providers are required to report sexual assault

- Option can also be preserved if you speak to a:
 - Chaplain
 - Victim's Legal Counsel

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Restricted Reporting

Victims can choose to make a Restricted Report
Unrestricted at any time.

However, once an Unrestricted Report has been made, the Restricted option is no longer available.

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A Source of Support

The USMC SAPR Program

The USMC SAPR Program

The Sexual Assault Prevention and Response (SAPR) Program is dedicated to eliminating sexual assault within the Marine Corps and providing continuity of care for victims of sexual assault through effective education, policy, and program support.

The SAPR Program is operational in both the garrison and deployed environments

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Those Eligible for SAPR Services

- All Active Duty Service Members
- Reservists
 - While on AD and inactive duty training
- Adult Dependents
 - 18+ y/o Eligible for treatment in the military healthcare system
- DoD Civilians and Their Dependents
 - When stationed or working OCONUS
- DoD Contractors
 - When stationed or working OCONUS

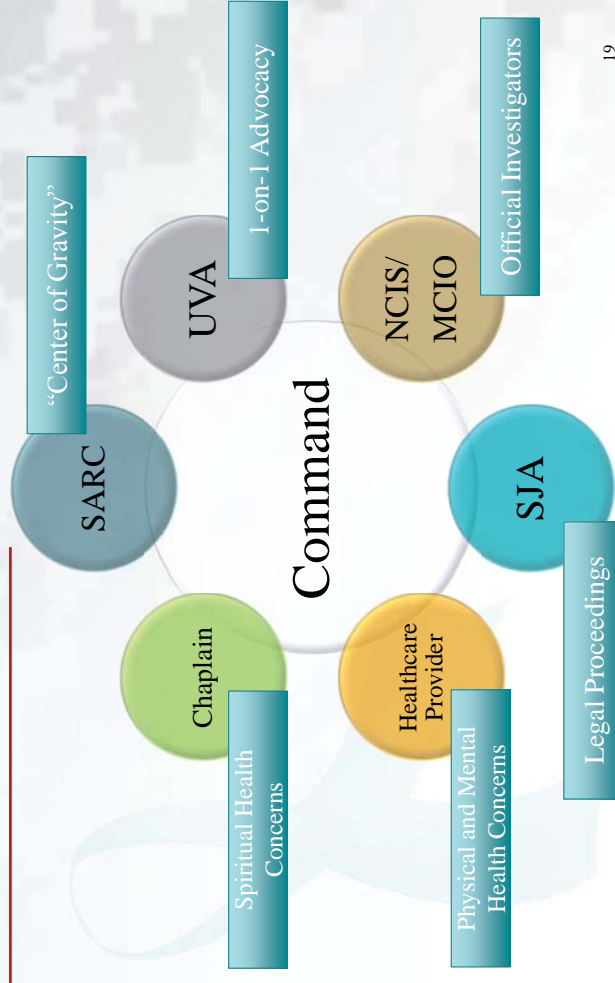
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Services Provided by the SAPR Program

- **24/7 sexual assault crisis intervention**
- Advocacy and accompaniment during medical, law enforcement, and judicial procedures
- Systemic advocacy to ensure all victims receive a consistent response to their report
- Support and services at next duty station (if the victim requests) through the SAPR network

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Key Roles in the SAPR Program



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Key Roles in the SAPR Program

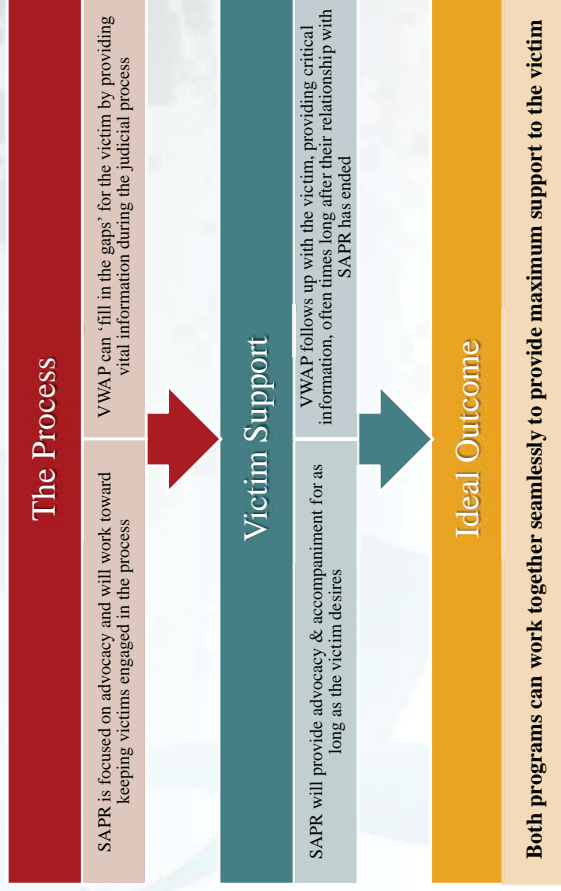


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A Valuable Partnership

*Working with your local
SAPR Program*

A Valuable Resource to One Another



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Connecting With The SAPR Program

- Both programs can rely on one another for accurate subject matter expertise
- A partnership allows both programs to work more efficiently toward protecting victims' rights
- A positive working relationship makes it easier to identify and resolve concerns for a victim

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Raise Awareness Together

- Partner with the Installation or Command SARC on events that bring awareness to victims' rights issues
 - April is Sexual Assault Awareness & Prevention Month (SAAPM)
 - National Crime Victims' Rights Week is
 - April 19-25 2015
- Consider an awareness campaign that continues throughout the year

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Conclusion

- Sexual assault is a serious crime impacting the Marine Corps
- Both the VWAP and SAPR Programs play a vital role in victim assistance
- Working together can greatly benefit victims of sexual assault

Transitional Compensation for Abused Family Members (TCAFM)

Najah Barton

Victim Advocate Program Manager

HQMC Family Advocacy Program

May 2015



Overview



- MCO 1754.11 VA Responsibilities
- Program overview
- Eligibility criteria
- Routing processes
- Program benefits
- Application and applicable documents



Overview



Purpose

- Federal Law per 10 USC 1059
- Mandated program per DoDI 1342.24, 23 May 1995
- DoD Financial Management Regulation Vol 7B Chapter 60
- Transitional Compensation for Abused Dependents memorandum of 2 Apr 15

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3

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4



Dependent Abuse Offenses

- Any domestic-abuse offense acted out by a service member upon eligible dependent(s)
- Involves abuse of the spouse or dependent child of the service member (SM)
- Must be a criminal offense as specified under the Uniformed Code of Military Justice (UCMJ), Federal criminal law, criminal laws of the States and other jurisdictions of the U.S., and/or laws of other nations

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Dependent Abuse Offenses

- Some examples of dependent-abuse offenses include:
 - Sexual assault, rape, sodomy
 - Assault, battery
 - Child abuse (to include child neglect)
 - Murder and manslaughter
 - Stalking

** This list is not all inclusive. Other stipulations may apply.*

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Victim Advocate Responsibilities



Victim-Witness Assistance Program Representatives



- Educate commands aboard their respective installation and other relevant personnel:
 - **On the program**
 - **On eligibility criterion**
 - **On importance of including domestic abuse in separation documentation, when appropriate**
- Educate eligible victims or legal guardians/ representatives
- Assist in the application process
- Liaison between HQMC, victim, law enforcement, Staff Judge Advocate (SJA), etc.

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Eligibility Criteria



- Dependents must have been married to service member at time of the offense
 - Can be living **apart or together** at the time of the offense
 - Children **primary residence must have been in the familial home**
- Marine served minimum of **30** days on active duty
- Marine separated from service for a dependent -abuse offense via:
 - Result of a court-martial sentence
 - Forfeiture of all pay and allowances via court-martial, or
 - Administrative separation (Enlisted), or
 - Board of Inquiry (Officers)

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- Educate eligible victims or legal guardians/representatives on the program
- Collaborate with the local FAP office and VLCO
- Coordinate “warm handoff” to FAP VA or VLC in the event that the individual qualifies for the program

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Eligibility Criteria - Children



- Under 18 years of age
- 18 years or older, but incapable of self-support because of mental or physical incapacity (will require proof)
- Between 18 and 23 years, but enrolled full-time in an institution of higher learning and dependent on service member for greater than ½ of support (will require proof), or
- Still a dependent at the time of the separation or court martial
- Children in utero at the time of the offense are eligible upon being born alive to the current or former spouse of the member.
 - Proof of birth and paternity are required

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Eligibility Criteria - Children

- Proration may occur if they are not dependent for duration of payment (i.e. child turning 18 years of age that graduates high school while TCAFM is being paid)
- Stepchildren are eligible assuming they are dependents of the member that committed the offense at the time of the separation
- Children not residing with the parent can receive payment through a payee (or legal guardian)
 - Not if child is in foster care- as state has custody
 - If child is returned to spouse, spouse can receive payment

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Not Eligible

- Intimate Partner (even if residing with service member)
- Dependents when SM was not separated
 - Service member commits suicide after offense
 - Service member NJP'd but not separated
 - Service member EASes before separation process is complete
- Child not residing with the service member or spouse at the time of the dependent-abuse offense
 - Service member commits an offense against his/her new spouse while the biological child from a previous marriage is visiting
- Current or former spouse of a retiree in receipt of benefits under 10 USC 1408 (h)

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Eligibility Criteria - Spouse

- Must have been legally married to the service member at the time of offense
- Can be divorced as of the date that the member is separated
- If SM is separated for an offense relating to child abuse, spouse must **NOT** have participated in the abuse
- Spouse cannot receive retirement benefits and TCAFM
 - When eligible for both, the spouse has to make an election to receive benefits under 10 USC 1059 **or** 10 USC 1408.

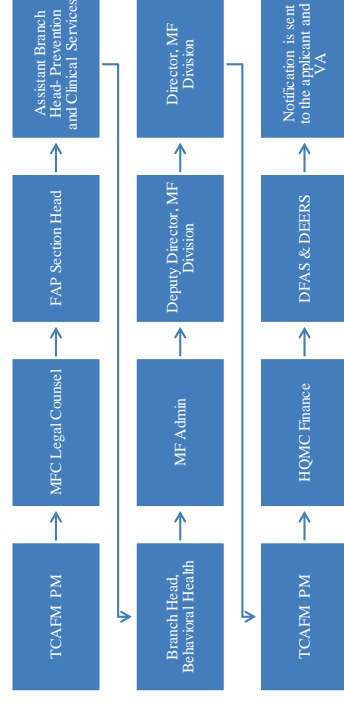
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Non-Exceptional Eligibility Routing

All non-exceptional eligibility determinations are made internally at HQMC by Director, Marine and Family Programs Division. The following depicts the routing process:



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Exceptional Eligibility



Exceptional Eligibility



Authorized under OSD DTM 14 April 2008

- SecNav’s office authorized to review and approve cases where dependent-abuse offense was not documented as reason for separation
- Evidence of dependent-abuse offense must accompany the application
- Requires that SM be off of active duty at the time of the request for a waiver

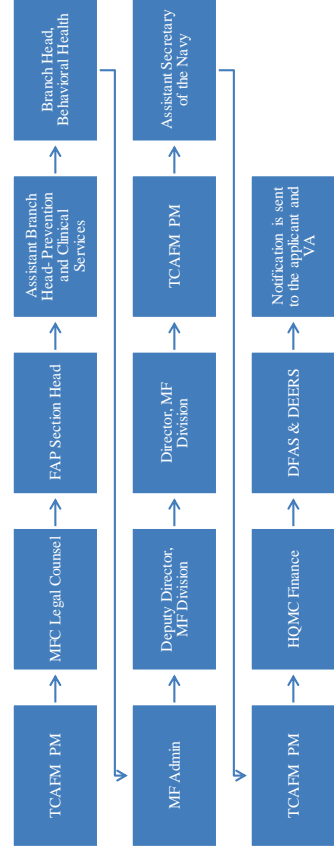
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Exceptional Eligibility Routing



The following depicts the routing process when the applicant is **approved** for receipt of benefits under the exceptional eligibility provision:



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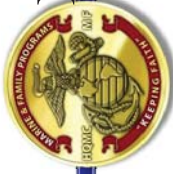
Examples of Documentation

- IDC Letters showing met criteria for physical abuse
- Non-judicial punishment documentation (i.e. unit punishment books, page 11’s, page 13’s, show-cause endorsements for officer cases)
- Separation in Lieu of Trial (SILT) package (charge sheets, request letter, endorsements)
- Law enforcement reports including military blotters
- Court documents (ex parte hearing, protective orders)
- FAP assessments

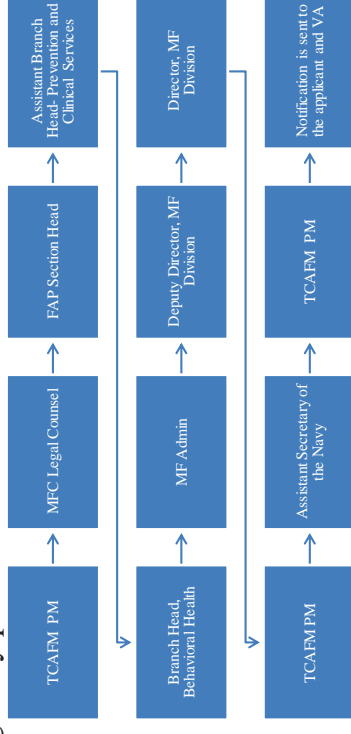
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Exceptional Eligibility Routing



The following depicts the routing process when the applicant is **disapproved** for receipt of benefits under the exceptional eligibility provision:



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Benefits



- Benefits begin:
 - On the date the court-martial **sentence is adjudged** if the sentence includes a dismissal, dishonorable discharge, bad conduct discharge or forfeiture of all pay and allowances
 - OR
 - On the date the Marine's command informs the Marine that an **administrative separation has been initiated** (Notification letter)
 - OR
 - On the date the Marine's **command accepts** a Separation in Lieu of Trial request (entire SILT is required to process package)
 - OR
 - Officer cases: On the date the Marine's **command notifies** Marine of the intent to hold a Board of Inquiry

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Benefits



- Monthly monetary payments
- Military ID card
- Medical (**up to 1 year post-separation of the member**)
- Dental (**space available status**), and
- Commissary and Exchange

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Benefits - Duration



- 36 months to all payees as of 2 Apr 15
 - In the event that 36-months is not warranted, the request is routed to SecNav for final determination
- **No extensions** to the program benefits

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Benefits



- Joint Federal Travel Regulations (JFTR) provides for relocation expenses to be paid by reason of personal safety via MMIB
- Medical expenses related to the abuse can be approved by the Secretary of the Navy (SecNav) on case-by-case basis for coverage after expiration of TCAFM (Designee Program), to include mental health coverage

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Payment

- Based on the rate in effect for Dependency and Indemnity Compensation
- Monies are not reported as income
- Monies are not taxed
- 1st payment will take up to 6 weeks from approval date to receive

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Application

- Completion of application packet by victim with assistance from the victim advocate
 - DD Form 2698- Application for Transitional Compensation
 - Supporting documents
 - IDC determination letters
 - Administration separation notification documents
 - Results of trial
 - Pre-trial agreement
 - Direct Deposit Form
 - Cover Sheet

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Dependency and Indemnity Compensation Rates

	2014	2015
CHILDREN ONLY RATES		
CHILD ONLY	\$520.70	\$29.55
TWO CHILDREN - SEPARATE PAYMENT	\$374.94	\$80.90
TWO CHILDREN - ONE PAYMENT	\$749.07	\$41.80
THREE CHILDREN - SEPARATE PAYMENTS	\$235.92	\$94.85
THREE CHILDREN - ONE PAYMENT	\$230.90	\$46.74
FOUR CHILDREN - SEPARATE PAYMENTS	\$11.63.19	1,182.96
FOUR CHILDREN - ONE PAYMENT	\$269.79	274.37
FIVE CHILDREN - SEPARATE PAYMENTS	\$1,348.94	1,371.87
FIVE CHILDREN - ONE PAYMENT	\$255.78	260.12
SIX CHILDREN - SEPARATE PAYMENTS	\$1,534.68	1,560.77
SIX CHILDREN - ONE PAYMENT	\$245.77	249.95
SEVEN CHILDREN - SEPARATE PAYMENTS	\$1,720.43	1,749.68
SEVEN CHILDREN - ONE PAYMENT	\$238.27	242.32
EIGHT CHILDREN - SEPARATE PAYMENTS	\$1,906.17	1,938.57
EIGHT CHILDREN - ONE PAYMENT	\$232.44	236.38
NINE CHILDREN - SEPARATE PAYMENTS	\$2,091.92	2,127.48
NINE CHILDREN - ONE PAYMENTS		
SPOUSE, SPOUSE AND CHILD RATES		
Spouse only rate	\$1,233.23	\$1,254.19
Spouse One child	\$1,538.75	\$1,564.90
Spouse Two Children	\$1,844.27	\$1,875.61
Spouse Three Children	\$2,149.79	\$2,186.32
Spouse Four Children	\$2,455.31	\$2,497.03
Spouse Five Children	\$2,760.83	\$2,807.74
Spouse Six Children	\$3,066.35	\$3,118.45
Spouse Seven Children	\$3,371.87	\$3,429.16
Spouse Eight Children	\$3,677.39	\$3,739.87
Spouse Nine Children	\$3,982.91	\$4,050.58

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Forfeiture Provisions

- Spouse co-habits with former member upon SM separation
- Dependent spouse remarries while receiving payments
- Loses custody of children (forfeits child amount)
- Noncompliance with annual re-certification requirements with Defense Finance and Accounting Services (DFAS) and Defense Enrollment Eligibility Reporting System (DEERS)

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Example #1

Staff Sergeant Shoebuckle and her spouse are found to have physically abuse their 3 year-old child. As a result, the child is placed into the custody of a legal guardian (maternal grandmother). SM is separated from active service for abuse against the child...

Is spouse eligible?
Is child eligible?

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Case Examples: Who is eligible?



Example #2

Lance Corporal Johnson and his spouse have five children (they are all dependents in DEERS). LCpl Johnson is stationed in CA. His spouse and children reside in TN. SM abuses his spouse in TN while on leave, with 3 out of 5 children present in the home during the incident. He is separated via administrative separation for the incident...

Is spouse eligible?
Is child eligible?

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Example #3

Master Sergeant Leathers is court-martialed for a domestic-abuse related offense against her spouse. At the time of the incident, the dependent son is 17 years, 11 months old and was in the home during the incident. SM is subsequently convicted and separated

Is spouse eligible?
Is child eligible?

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Example #4



Sergeant Greenleaf is arrested for home invasion, sexual assault and murder after breaking into his girlfriend's apartment one evening. Their 6-month old child laid asleep in his crib next to the bed, as SM committed the above acts. Command separated him via administrative separation. He is later convicted and sentenced to life in prison in the civilian judicial system

Is child eligible?

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Additional Talking Points (Interchangeable Information)

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How to Fill Out the DD 2698 for Adult Victim **or** Eligible Parent with Child Victim

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Example Application for Adult

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APPLICATION FOR TRANSITIONAL COMPENSATION
All information except Item 12 is to be entered by Service representative from Service records.

SECTION I - PAYEE INFORMATION
(If more than one eligible dependent, use the Remarks section on back to enter applicable information for each payee.)

1. PAYEE NAME (Last, First, Middle Initial) **Doe, Jane X.** 2. SOCIAL SECURITY NUMBER **123 45 7849** 3. PAYEE BIRTHDATE (MM/YY) **01/01/70** 4. SEX (X one) MALE FEMALE

5. ADDRESS **100 Main Street** 6. CITY **Quantico** 7. STATE **VA** 8. ZIP CODE **22134**

9. INCAPACITY PERMANENT TEMPORARY
10. LEGAL REPRESENTATIVE (Complete only if legal representative is not the payee.)
a. NAME (Last, First, Middle Initial) **All** b. STREET ADDRESS (include apartment/box no.) **All** c. CITY **Quantico** d. STATE **VA** e. ZIP CODE **22134**

11. IF PAYEE IS A CHILD: (X Yes for each item.) (NOTE: Age of majority for a child is 18 in all states except the following: Alaska, Arkansas and Wyoming; age of majority is 19: Mississippi, West Virginia and Puerto Rico; age of majority is 21.)
a. WAS INCAPACITY INCURRED BEFORE AGE 18? YES NO
b. IS CHILD UNDER THE AGE OF MAJORITY (See NOTE of Yes, complete Item 10.) YES NO
c. IS CHILD A FULL-TIME STUDENT? YES NO

12. PAYEE CERTIFICATION (Please read sign and date to verify that the statements below are correct. Item DD-640 apply only to spouse or former spouse.)
I am not cohabiting with the former member. If status changes, I will notify DFAS within 30 days.
I have custody of the dependent child(ren) listed in Item 7.
I am married to the member in Item 14 at the time of the dependent child(ren)'s birth and I am a U.S. citizen.
I understand that I may not receive payments under both Section 1058 and Section 1408B of Title 10, U.S.C., and that, if eligible for benefits under both sections, I will receive the maximum amount payable under either section.
I acknowledge that my signature on this form constitutes my agreement to the collection of payments if the collector deems it payable under this law.

SIGNATURE (Applicant acknowledges the acceptance of payments if the collector deems it payable) **Jane X. Doe** b. DATE SIGNED (YYYYMMDD) **20150111**

Example Application for Adult



Filling out DD Form 2698 for ADULT



Section I – Payee Information

Block 1: Payee name. The Victim's name goes here.

- Block 2: SSN for payee
- Block 3: Date of birth of payee
- Block 4: Sex of payee
- Block 5a-d: Address of payee
- Block 6: Relationship to the sponsor
- Block 7: List names of children in payee's custody
 - **These children should be residing in the home when the abuse occurred**
- Block 8a-c: Mark if incapacitation applies (may lead you to block 10)
- Block 9: Mark length of incapacitation (if applicable at all)
- Block 10:
 - The payee is already the legal representative (unless the victim is incapacitated) so you don't have to put anything in block 10.
- Block 11: **THIS DOES NOT APPLY FOR ADULTS. LEAVE BLANK**
- Block 12: Please ensure recipient understands these eligibility requirements and 12a is signed and 12b is dated by the applicant.

DATE OF SIGNATURE MUST BE AFTER DATE OF NOTIFICATION OF SEPARATION or DATE OF COURT MARITAL SENTENCE

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SECTION II - MEMBER IDENTIFICATION		14. MEMBER NAME (Last, First, Middle Initial)		15. PAY GRADE (Prior to conviction or separation)	
13. BRANCH OF SERVICE (X one)	DoE, John Y.			E-5	
AIR FORCE					
ARMY					
NAVY					
MARINE CORPS					
16. SOCIAL SECURITY NUMBER	19820101			18. SEX (X one)	
987-65-4321				X MALE <input type="checkbox"/> FEMALE	
19. OBLIGATED SERVICE DATES (YYYYMMDD)		17. DATE OF BIRTH (YYYYMMDD)			
a. ACTIVE DUTY SERVICE ENTRY DATE					
LEAVE BLANK					
20. DATE OF APPROVAL OF THE COURT-MARITAL SENTENCE/ DATE OF ADMINISTRATIVE SEPARATION (verify date with approving official. If administrative separation, use date of initiation of separation.)		18. EXPIRATION OF ACTIVE OBLIGATION (Official only) (If none, so state)		19. ESTABLISHED DATE OF SEPARATION AT TIME OF CONVICTION/ADMINISTRATIVE SEPARATION	
LEAVE BLANK		LEAVE BLANK		LEAVE BLANK	
21. PAYMENT DATES (Verify dates in Item 20. Length of payment is 48 months except as follows. Subtract data in Item 19a, or 19c, from the date in Item 20. If less than 36 months, length of payment is that period or 12 months, whichever is greater.)		a. START		b. STOP	
LEAVE BLANK		LEAVE BLANK		LEAVE BLANK	
22. APPROVING OFFICIAL CERTIFICATION. I certify that the offense resulting in court-martial conviction or involved in administrative separation is a dependent-abuse offense in accordance with DoD regulations. If married, the spouse was not a participant in the abuse offense.		c. TITLE		d. TELEPHONE (include area code)	
LEAVE BLANK		LEAVE BLANK		LEAVE BLANK	
23. SIGNATURE		b. DATE SIGNED (YYYYMMDD)		e. STATE	
LEAVE BLANK		LEAVE BLANK		LEAVE BLANK	
24. STREET ADDRESS (include apartment or suite number)		f. CITY		h. ZIP CODE	
LEAVE BLANK		LEAVE BLANK		LEAVE BLANK	

DD FORM 2698, JAN 95 (EG)

Designed using Perform Pro, WISCONSIN, Jan 95

Reset

“Keeping Faith”

Filling out DD Form 2698 for ADULT



How to Fill Out the DD 2698 for Child Victim w/o Eligible Parent

Section II – Member Identification

- Block 13: Mark the **offender's** branch of service
- Block 14: Annotate the **offender's** name
- Block 15: List the pay grade of the offender prior to adjudication (pay grade at the time of the incident)
 - Pay grades: E-1 to E-9, O-1 to O-10, W-1 to W-5
- Block 16: Note the offender's SSN
- Block 17: Note the offender's date of birth
- Block 18: Note the offender's sex
- Blocks 19-22 BLANK**
- Block 23 All Children listed with full permanent SSN and date of birth.

Section III – Remarks

- LEAVE BLANK unless there are additional remarks that need to be annotated (**i.e. step child listed under two member's DEERS dependency records**)
- Section IV – Appropriation Data
- LEAVE BLANK – FOR HQMC

“Keeping Faith”



Example Application for Child

APPLICATION FOR TRANSITIONAL COMPENSATION

All information except items 12 is to be entered by Service representatives from Service records. Use the Remarks sections on back to enter applicable information for each payee(s). (If more than one eligible dependent, use the Remarks sections on back to enter applicable information for each payee.)

SECTION I - PAYEE INFORMATION

1. PAYEE NAME (Last, First, Middle Initial) Doc, Sarah J. 2. SOCIAL SECURITY NUMBER 123 45 7849 3. PAYEE TYPE (1=Child, 2=Spouse, 3=Parent, 4=Other) 1 4. SEX (X one) FEMALE

5. ADDRESS 123 45 7849 6. STATE NC 7. ZIP CODE 20000111 8. ZIP CODE 12468

9. CITY Greensboro 10. INCAPACITATED (X one) PERMANENT 11. IS INCAPACITATED (X one) (If applicable) YES NO (X one) (If Yes for each item) a. IS PAYEE INCAPACITATED (If Yes, complete items 8.d. and c., and item 9.) b. IS PAYEE INCAPACITATED BY COURT ORDER (If Yes, complete item 10.) c. IS PAYEE INCAPACITATED BY COURT ORDER (If Yes, complete item 10.)

12. LEGAL REPRESENTATIVE (Complete only if legal representative is not the payee.) a. NAME (Last, First, Middle Initial) Doc, Janet F. b. STREET ADDRESS (include apartment/unit no.) 130 Shoe buckle Ln. Greensboro c. CITY Greensboro d. STATE NC e. ZIP CODE 20150111

13. PAYEE CERTIFICATION (Please mark sign and date to certify that the statements below are correct. Items 12(a-d) apply only to spouse or former spouse.)

14. I am not cohabitating with the former member. If status changes, I will notify DFAS within 30 days. YES NO

15. I have custody of the dependent children listed in item 7. YES NO

16. I am named to the member in item 14 at the time of the dependent child's birth. YES NO

17. I understand that I may not receive payments under both Section 1059 and Section 1058 of Title 10, U.S.C., and that, if eligible for payments under both sections, I will receive payments under Section 1059. YES NO

18. SIGNATURE (Applicant acknowledges the accuracy of payment of the officer's rights according to applicable law.) [Signature] b. DATE SIGNED (YYYYMMDD) 20150111

"Keeping Faith"



Filling out DD Form 2698 for CHILD

Section I – Payee Information

- Block 1: Payee name. The Victim's name goes here.
- Block 2: SSN for payee
- Block 3: Date of birth of payee
- Block 4: Sex of payee
- Block 5a-d: Address of payee
- Block 6: Relationship to the sponsor
- Block 7: LEAVE BLANK (child payee)
- Blocks 8: Mark all that apply
- Block 9: Mark length of incapacitation (if applicable at all)
- Block 10: Complete legal guardian/representative information
- Block 11: Each question MUST be answered based upon the child payee's circumstance(s).
- Block 12: Please ensure the legal guardian/representative understands the eligibility requirements prior to signing the document. The person who signs Block 12 can only be the legal representative/guardian annotated in Block 10.

DATE OF SIGNATURE MUST BE AFTER DATE OF NOTIFICATION OF SEPARATION or DATE OF COURT MARTIAL SENTENCE

"Keeping Faith"



Example Application for Child

SECTION II - MEMBER IDENTIFICATION

13. BRANCH OF SERVICE (X one) AIR FORCE MARINE CORPS ARMY NAVY

14. MEMBER NAME (Last, First, Middle Initial) Doe, John Y.

15. PAY GRADE (Prior to conviction or separation) E-5

16. SOCIAL SECURITY NUMBER 987-65-4321 17. DATE OF BIRTH (YYYYMMDD) 19820101 18. SEX (X one) MALE FEMALE

19. OBLIGATED SERVICE DATES (YYYYMMDD) a. ACTIVE DUTY SERVICE ENTRY DATE LEAVE BLANK b. EXPIRATION DATE OF ACTIVE OBLIGATION LEAVE BLANK c. ESTABLISHED DATE OF SEPARATION AT TIME OF CONVICTION/ADMINISTRATIVE SEPARATION (Officer only) (If none, so state) LEAVE BLANK

20. DATE OF APPROVAL OF THE COURT-MARTIAL SENTENCE/ ADMINISTRATIVE SEPARATION (YYYYMMDD) (If court-martial, verify date with approving official. If administrative separation, use date of initiation of separation.) LEAVE BLANK 21. PAYMENT DATES (YYYYMMDD) (Start date is date in item 20. Length of payment is 36 months except as follows: Subtract date in item 19.b. or 19.c. from the date in item 20. If more than 36 months, length of payment is that period or 12 months, whichever is greater.) a. START LEAVE BLANK b. STOP LEAVE BLANK

22. APPROVING OFFICIAL CERTIFICATION I certify that the offense resulting in court-martial conviction or involved in administrative separation is a dependent-abuse offense in accordance with DoD regulations. If married, the spouse was not a participant in the abuse offense.

23. SIGNATURE LEAVE BLANK 24. DATE SIGNED (YYYYMMDD) LEAVE BLANK 25. TITLE LEAVE BLANK 26. TELEPHONE (include area code) LEAVE BLANK 27. STREET ADDRESS (include apartment or suite number) LEAVE BLANK 28. CITY LEAVE BLANK 29. STATE LEAVE BLANK 30. ZIP CODE LEAVE BLANK

DD FORM 2698, JAN 95 (EG)

Designed using Perform Pro, WHISDCOR, Jan 95

Reset

"Keeping Faith"



Filling out DD Form 2698 for CHILD

Section II – Member Identification

- Block 13: Mark the offender's branch of service
 - Block 14: Annotate the offender's name
 - Block 15: List the pay grade of the offender prior to adjudication (pay grade at the time of the incident)
 - Pay grades: E-1 to E-9, O-1 to O-10, W-1 to W-5
 - Block 16: Note the offender's SSN
 - Block 17: Note the offender's date of birth
 - Block 18: Note the offender's sex
 - Blocks 19-22 BLANK
 - Block 23 All Children listed with full permanent SSN and date of birth.
- Section III – Remarks**
- LEAVE BLANK unless there are additional remarks that need to be annotated (i.e. step child listed under two member's DEERS dependency records)
 - Section IV – Appropriation Data
 - LEAVE BLANK – FOR HQMC

"Keeping Faith"



Important Notes

- DFAS, DEERS, HQMC MFCP-2 are not connected
- HQMC must await responses from DFAS and DEERS
- Beneficiary/payee maintains responsibility for follow up with DFAS/DEERS
 - VA can assist
 - HQMC can assist
- If you have to fax an application, please call first. I am not collocated with the fax machine.

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HQMC Point of Contact

POC: Najah Barton
Victim Advocacy Program Manager
HQMC Family Advocacy Program
Commercial: (703) 784-1290
Fax: (703) 432-9269
Email: najah.barton@usmc.mil

“Keeping Faith”

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G. Sample Unit Flyer and Training Material

Witness

A person who has information or evidence about a crime, and provides that knowledge to a DoD Component representative regarding an offense within the investigation jurisdiction of a DoD component. When the actual "witness" is a minor, the term "witness" includes an adult family member or legal guardian of the minor witness. The term witness does not include a defense witness or any individual involved in the crime as a perpetrator or accomplice.

Witness Rights:

1. To be treated with fairness and respect for the witness's dignity and privacy.
2. To be reasonably protected from the accused.
3. To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceedings.
4. To be provided information about the resolution of the case to include ADSEP decisions, any punishment awarded to the offender, sentencing, imprisonment and release of the offender, if confined.
5. To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing).



Resources

Unit Victim Witness Assistance Coordinator:

Unit Victim Advocate:

Installation Victim Witness Liaison Officer:
(703) 784-3690

Quantico 24/7 Sexual Assault Hotline:
(703) 432-9999

Marine and Family Services:
(703) 614-7204

Victim Legal Counsel Organization:
(703) 784-4514/3877

Chaplain:
(703) 784-2131

Legal Services Support Section
(703) 784-3126

Should you have any questions about the Victim Witness Assistance Program please contact the VWLO, victim witness assistance coordinator (VWAC) at your unit or visit the MCB Quantico VWAP website at:

<http://www.hqmc.marines.mil/sja/Branches/VictimWitnessAssistanceProgram/MCBQuanticoVWAP.aspx>



Victim Witness Assistance Program

"Compassion, Dignity, Respect"



Victim Witness Assistance Program (VWAP)



Victim

A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the Uniform Code of Military Justice (UCMJ), or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by a Department of Defense (DoD) Component. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice.

Victim Rights:

1. To be treated with fairness and respect for the victim's dignity and privacy.
2. To be reasonably protected from the accused.
3. To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceedings.
4. To be present at all public court-martial, NJP, and ADSEP proceedings, unless the court or legal advisor, after receiving clear and convincing evidence, determines that testimony by the victim would be materially affected if the victim heard other testimony at the proceeding. This right does not obligate the government to pay for expenses incurred by the victim to be present.
5. To be reasonably heard at any public proceeding involving release, plea, sentencing, or parole of the accused. This right does not obligate the government to pay for expenses incurred by the victim to be present.
6. To confer with the attorney for the government in the case.
7. To receive information about the conviction, sentence, confinement, and release of the accused.
8. To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing)

Marine Corps Mission (MCO 5800.14) is that:

"The Marine Corps executes a professional Victim and Witness Assistance Program in order to reduce the trauma, frustration and inconvenience experienced by victims and witnesses of crime; inform victims of their statutory rights; and, assist victim and witness understanding of the military justice process."

Victims and witnesses often face adverse effects from crime. In the Marine Corps, victims and witnesses shall not face the effects of crime alone. The VWAP ensures victims and witnesses are provided with meaningful assistance once a crime is reported. The VWAP is specifically designed to lessen the effects of crime on victims and witnesses and to help them understand and participate in the military justice process. The military justice system operates to ensure good order and discipline is maintained in the Marine Corps. Without the cooperation of victims and witnesses, the military justice system would cease to function.

The Marine Corps will do all that is possible, within the limits of available resources and the law, to assist victims and witnesses of crime without infringing on the constitutional rights of an accused. Particular attention shall be paid to victims of violent crimes including, but not limited to, child abuse, domestic violence, and sexual assault. If you are a victim or a witness of a crime and have not been given the brochure *INITIAL INFORMATION FOR VICTIMS AND WITNESS OF CRIME* (DD Form 2701) call the Installation Victim Witness Liaison Officer or your unit Victim Witness Assistant Coordinator (VWAC) - you have rights!

The specialized concerns and issues surrounding sexual assaults require all personnel involved in these cases to give additional consideration to the sensitive treatment of such victims. The Marine Corps Sexual Assault Prevention and Response Office (SAPRO) oversees all programs and services provided to sexual assault victims. To report restricted or unrestricted

Important DoD Information Forms

Victim and witness assistance programs throughout DoD use standard forms to advise victims and witnesses of their rights during all stages of a case. Each military service is also required to provide DoD an annual report indicating the numbers of victims and witnesses who have received assistance and services. The following lists the DoD forms number, the title of the form, when they are used, and their purpose.

DD Form 2701

Initial Information for Victims and Witnesses of Crime

Initial Contact:

Provides notice to victims and witnesses on rights and information on the military justice system and points of contact

DD Forms 2702/2703

Court Martial Information for Victims and Witnesses of Crime

and

Post-Trial Information for Victims and Witnesses of Crime

Prosecution:

Provides notice to victims and witnesses on rights during court-martial proceedings and process and during the command's decision-making process

DD Forms 2704/2705

Victim/Witness Certification and Election Concerning Inmate Status

and

Victim/Witness Notification of Inmate Status

Confinement:

Provides information to victims and witnesses on the offender's sentence, confinement status, clemency and parole hearings and release from confinement

DD Form 2706

Annual Report:

Provides statistical information to DoD on assistance rendered to victims and witnesses

Command Victim Witness Assistance Coordinator (VWAC)

I M Marine
Unit VWAC

Victim Witness Assistance Coordinator: Role

- The VWAC - the tactical link – between the victim and the command
- Ensure victims and witnesses are treated with dignity and respect.

Victim Witness Assistance Coordinator: What I Can Help With

- Assist victims and witnesses in obtaining
 - Compensation - \$\$
 - Counseling
 - Information on Courts-Martial
 - Resources

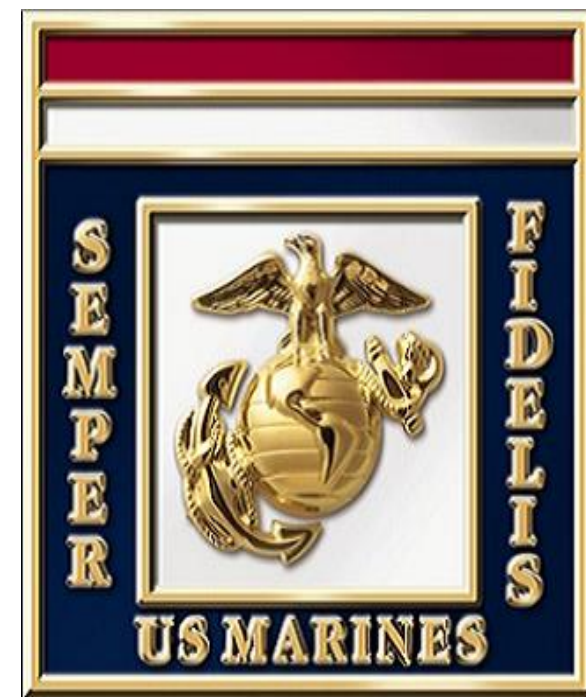
Victim Witness Assistance Coordinator: Contact Information

- Name
- Phone Number
- E-mail Address
- MCB Quantico Website:
<http://www.hqmc.marines.mil/sja/Branches/VictimWitnessAssistanceProgram/MCBQuanticoVWAP.aspx>

Questions?



Victim-Witness Assistance Program (VWAP)



Marine Corps Mission (MCO 5800.14) is that:

"The Marine Corps executes a professional Victim and Witness Assistance Program in order to reduce the trauma, frustration and inconvenience experienced by victims and witnesses of crime; inform victims of their statutory rights; and, assist victim and witness understanding of the military justice process."

Victims and witnesses often face adverse effects from crime. In the Marine Corps, victims and witnesses shall not face the effects of crime alone. The VWAP ensures victims and witnesses are provided with meaningful assistance once a crime is reported. The VWAP is specifically designed to lessen the effects of crime on victims and witnesses and to help them understand and participate in the military justice process. The military justice system operates to ensure good order and discipline is maintained in the Marine Corps. Without the cooperation of victims and witnesses, the military justice system would cease to function.

The Marine Corps will do all that is possible, within the limits of available resources and the law, to assist victims and witnesses of crime without infringing on the constitutional rights of an accused. Particular attention shall be paid to victims of violent crimes including, but not limited to, child abuse, domestic violence, and sexual assault. If you are a victim or a witness of a crime and have not been given the brochure *INITIAL INFORMATION FOR VICTIMS AND WITNESS OF CRIME* (DD Form 2701) call the Installation Victim Witness Liaison Officer or your unit Victim Witness Assistant Coordinator (VWAC) - you have rights!

The specialized concerns and issues surrounding sexual assaults require all personnel involved in these cases to give additional consideration to the sensitive treatment of such victims. The Marine Corps Sexual Assault Prevention and Response Office (SAPRO) oversees all programs and services provided to sexual assault victims. To report restricted or unrestricted sexual assault, contact your UVA or SAPR.

Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the Uniform Code of Military Justice (UCMJ), or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by a Department of Defense (DoD) Component. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice.

Victim Rights:

- (1) To be treated with fairness and respect for the victim's dignity and privacy.
- (2) To be reasonably protected from the accused.
- (3) To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceedings.
- (4) To be present at all public court-martial, NJP, and ADSEP proceedings, unless the court or legal advisor, after receiving clear and convincing evidence, determines that testimony by the victim would be materially affected if the victim heard other testimony at the proceeding. This right does not obligate the government to pay for expenses incurred by the victim to be present.
- (5) To be reasonably heard at any public proceeding involving release, plea, sentencing, or parole of the accused. This right does not obligate the government to pay for expenses incurred by the victim to be present.
- (6) To confer with the attorney for the government in the case.
- (7) To receive information about the conviction, sentence, confinement, and release of the accused.
- (8) To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing).
- (9) To proceeding free from unreasonable delay.
- (10) To receive available restitution.

Should you have any questions about the Victim Witness Assistance Program please contact the VWLO, victim witness assistance coordinator (VWAC) at your unit or visit the MCB Quantico VWAP website at:

<http://www.hqmc.marines.mil/sja/Branches/VictimWitnessAssistanceProgram/MCBQuanticoVWAP.aspx>



Witness. A person who has information or evidence about a crime, and provides that knowledge to a DoD Component representative regarding an offense within the investigation jurisdiction of a DoD component. When the actual "witness" is a minor, the term "witness" includes an adult family member or legal guardian of the minor witness. The term witness does not include a defense witness or any individual involved in the crime as a perpetrator or accomplice.

Witness Rights:

- (1) To be treated with fairness and respect for the witness's dignity and privacy.
- (2) To be reasonably protected from the accused.
- (3) To be notified of any decision to dispose of an allege offense at court-martial, NJP or ADSEP proceedings.
- (4) To be provided information about the resolution of the case to include ADSEP decisions, any punishment awarded to the offender, sentencing, imprisonment and release of the offender, if confined.
- (5) To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing).

Points of Contacts:

Unit: _____

Insert unit logo

VWAC: _____ () - _____

UVA: _____ () - _____

UVA: _____ () - _____

Installation Victim Witness Liaison Officer: (703) 784-3690

Quantico 24/7 Sexual Assault Hotline: (703) 432-9999

Marine and Family Services: (703) 614-7204

Victim Legal Counsel Organization: (703) 784-4514/3877

H. Resources Regarding Expedited Transfer Requests

(Letterhead)

SSIC
CODE
DATE

From: Commanding Officer
To: Servicemember

Subj: REQUEST FOR EXPEDITED TRANSFER (APPROVED/DISAPPROVED)

Ref: (a) DTM 11-063: Expedited Transfer of Military
Servicemembers Who File Unrestricted Reports
(b) LOI on Submitting and Processing Transfer of
Military Servicemembers who File Unrestricted
Reports of Sexual Assault
(c) your ltr received _____ (72 hours to respond)

Encl: (1) Appeal Letter (include if disapproved)

1. Your request for expedited transfer, reference (c), is approved/ disapproved.

2. I considered the following in making my determination:

- a. Your reason(s) for the request
- b. Transfer of the alleged offender instead
- c. Nature and circumstances of the offense
- d. Whether a temporary transfer would meet your needs and the operation needs of the unit
- e. Your training status
- f. Availability of position within other units on the installation
- g. Status of the investigation and potential impact on the investigation future disposition of the offense
- h. Location of the alleged offender
- i. Alleged offender's status (servicemember or civilian),
and

j. The following circumstances or facts: (length of time between the sexual assault and request to transfer or other relevant factors considered).

3. My decision to approve/disapprove your request was based on my determination that (summarize reasons and justifications for approval or disapproval). Per reference (b), I consulted with the SJA prior to making my decision.

4. (If disapproved) You may request review of my decision, by (first general or flag officer in the chain of command). The decision to approve or disapprove will be made within 72 hours of your submission of the request for review.

4. (If approved) My approval and your subsequent transfer may impact your career and the investigation and disposition of this case. You may have to return for prosecution of the case if the determination is made that prosecution is warranted. (CO shall counsel the Marine regarding foreseeable impacts)

CO SIGNS

(Letterhead)

SSIC
CODE
DATE

From: Servicemember
To: (first general or flag officer in the chain of command)
Subj: REVIEW OF DISAPPROVED REQUEST FOR EXPEDITED TRANSFER
Ref: (a) DTM 11-063: Expedited Transfer of Military
Servicemembers Who File Unrestricted Reports
(b) LOI on Submitting and Processing Transfer of
Military Servicemembers who File Unrestricted
Reports of Sexual Assault
(c) disapproval ltr dtd _____

1. Per the references, I am requesting review of the CO's disapproval of my request for expedited transfer.

2. Point of contact is SARC/UVA at 123-456-7890 or emailaddress@usmc.mil.

MARINE SIGNS

I. Resources Regarding Transitional Compensation for Abused Family Members

TRANSITIONAL COMPENSATION FOR ABUSED FAMILY MEMBERS (TCAFM)

1. Purpose. Transitional Compensation for Abused Family Members (TCAFM) Program is a Congressionally-authorized program (Title 10 USC 1059) providing 12 to 36 months of monetary benefits, medical and dental care, and commissary and MCCS privileges to family members of service members separated from active duty due to domestic abuse. Monetary benefits are designed to assist family members in establishing a life apart from abusive service members.

2. Eligibility

(1) TCAFM applies in cases of service members on active duty for more than 30 days and who are:

(a) Convicted of a family member abuse offense resulting in separation from active duty pursuant to a court martial sentence

(b) Administratively separated from active duty if the basis for separation includes a family member abuse offense

(2) Family member abuse involves criminal offenses by service members against their spouse or dependent child(ren), as defined by the UCMJ or other criminal codes applicable to the jurisdiction where the abuse was committed.

3. Payments

a. Payments are made monthly to the spouse of the service member based on the rate in effect for dependency and indemnity.

b. If the spouse is ineligible to receive payments because of remarriage, cohabitation, or active participation in the maltreatment of the family member, payment is made to each dependent child of the service member not residing in the household of the service member or of the ineligible spouse. Refer to paragraph 4 for guidance on forfeiture provisions.

c. Commencement and Duration of Payments

(1) In the case of a service member convicted by court-martial of a family member-abuse offense, payment to the abused family member(s) commences as of the results of trial if the sentence includes dismissal, dishonorable discharge, or bad conduct discharge (BCD).

(2) In the case of enlisted service members who are administratively separated from active duty for a family member-abuse offense, payment to the abused family member(s) commences as of the date on which the letter of notification of separation is served to the service member. For officers, the date of the Board of Inquiry (BOI) determines when payment commences.

d. Payment Cessation

(1) When the Secretary of the Navy notifies a recipient, in writing, that payments will stop, the final payment occurs on the first day of the month following that notification.

(2) Payment ceases for the following reasons:

(a) The service member is sentenced by court-martial and receives a punishment including forfeiture of pay and allowances, dismissal, dishonorable discharge, or BCD as a result of a conviction by court-martial for a family member abuse offense, and such punishment is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment.

(b) Administrative separation of a service member from active duty that includes a family member-abuse offense, is disapproved by competent authority under applicable regulations.

4. Forfeiture Provisions

a. Remarriage. If a spouse receiving payments remarries, payments terminate as of the date of remarriage. Payments are not renewed if the remarriage is terminated. A dependent child not living in the same household as the remarried spouse or former service member continues to receive payments.

b. Cohabitation. If the former service member resides in the same household as the spouse, former spouse, or dependent child to whom compensation is otherwise payable (in other words, an abused dependent), payment terminates as of the date the former service member begins residing in such household. Once terminated for this reason, payment does not resume, regardless of subsequent living arrangements with the former service member. Recoupment of compensation paid for a period after the former service member's separation, but before the former service member resides in the household, is not required.

c. Active Participant. The spouse, and dependent child(ren) living with the spouse, are not paid if the victim is a dependent child, and the spouse is found by competent authority designated by the Secretary of the Navy to be an active participant in the conduct constituting the criminal offense, or to have actively aided or abetted the member in such conduct.

d. Annual Certification. The spouse annually certifies to the Defense Finance and Accounting Service (DFAS)-Denver that she/he is not remarried and is not cohabiting with the former service member offender by completing a Certificate of Eligibility (COE). Dependent children certify annually they are not living in the same household with the former service member offender or ineligible spouse via the COE process. DFAS-Denver mails a blank COE to the last known address of recipients. In the event of remarriage or cohabitation, the spouse, or former spouse, must notify DFAS-Denver within 30 days.

5. Commissary and MCCS Privileges

a. Recipients are entitled to use Commissary and MCCS privileges for the duration of payments.

b. If a recipient eligible or entitled to use the Commissary and Exchange per paragraph 5a, above, is also eligible or entitled under another provision of law, eligibility and entitlement is determined under the other provision of law and not under paragraph 5a.

6. Health Care Benefits. Recipients of Transitional Compensation receive medical or dental care in facilities of the Uniformed Services or through Tricare.

7. Responsibilities and Application Procedures

a. CMC (MRRO) coordinates policy development, reviews applicant eligibility, and forwards the completed DD Form 2698 and Direct Deposit form to DFAS. CMC (MRRO) also follows up and monitors recipients continuation of eligibility or lack thereof.

b. CMC (MRRO) enters eligible applicants into the DEERS database. Recipients are required to surrender any previously issued ID card(s) and must request a new ID card based on their TCAFM eligibility. ID card(s) expire the day TCAFM entitlements terminate.

c. MR staff ensures widest dissemination of information about Transitional Compensation to PAOs, SJAs, NCIS, installation PMO, Legal

Service Officers, MTFs, Chaplain offices, tenant Commands, and appropriate civilian agencies.

d. COs or Legal Officers of Marines whose family members are eligible for Transitional Compensation provide the family member (or guardian as appropriate) with a DD Form 2698, Application for Transitional Compensation. COs, or designees, provide the approving official certification, if applicable, by signing BLOCK 22 of DD Form 2698. The certifier is additionally responsible for:

(1) Completing Section I – Payee Information and block 23 in the presence of the applicant and witnessing the applicant's signature. If the applicant is not physically present, the Command mails the application requesting signature and date verification and return for approving authority signature. FAP, PAO, SJA, and NCIS, PMO, Legal Services Officers, MTF, Tenant Command and Chaplain Office Staff may provide information and applications to victims to facilitate the request for benefits. If the applicant is not physically available or the command is unwilling to provide information or an application, the victim may also self submit an application via fax or mail.

(2) Completing Section II - Member Identification

(3) Faxing to the CMC (MRRO) point of contact in paragraph 8a a copy of the completed DD Form 2698 and results of trial, in the case of administrative separation, a copy of the letter of notification

(4) Mailing DD Form 2698 and the applicable letter of certification within five days to: Commandant of the Marine Corps, HQMC, Manpower and Reserve Affairs (M&RA), Personal and Family Readiness Division (MRRO), Attn: Transitional Compensation Program Manager, 3280 Russell Road, Quantico, VA 22134-5103.

8. Points of Contact

a. Policy Development. Commandant of the Marine Corps, HQMC, Manpower and Reserve Affairs (M&RA), Personal and Family Readiness Division (MRRO), Attn: Transitional Compensation Program Manager, 3280 Russell Road, Quantico, VA 22134-5103. DSN 278-9546, commercial (703) 784-9546, or fax (703) 784-9825.

b. ID Cards/DEERS. CMC (MRP) at DSN 278-9529 or commercial (703) 784-9529.

J. References

Table of Contents

1. MCO P5800.14 Victim Witness Assistance Program
2. SECNAVINST 5800.11B Victim Witness Assistance Program
3. DOD DIR 1030.01 Victim and Witness Assistance
4. DOD DIR 1030.2 Victim Witness Assistance Procedures
5. DOD INST 1342.24 Transitional Compensation for Abused Dependents
6. DOD INST 6400.07 Standards for Victim Assistance Services in Military Communities
7. 42 USC § 10601 et seq. Crime Victims Fund



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON, DC 20350-3000

MCO 5800.14
CMC (JA)
15 Mar 2013

MARINE CORPS ORDER 5800.14

From: Commandant of the Marine Corps
To: Distribution List

Subj: VICTIM-WITNESS ASSISTANCE PROGRAM

Ref: (a) DoD Directive 1030.01 "Victim and Witness Assistance," of April 13, 2004
(b) DoD Instruction 1030.2 "Victim and Witness Assistance Procedures," of June 4, 2004
(c) SECNAVINST 5800.11B
(d) MCO 1754.11
(e) SECNAVINST 1752.4A
(f) MCO 1752.5A
(g) SECNAV M-5210.1
(h) MCO 1640.3F
(i) MCO 5580.2B
(j) SECNAVINST 1640.9C

Encl: (1) Definitions
(2) Victim and Witness Rights
(3) Roles and Responsibilities
(4) VWAP Reporting

Report Required: Annual Report on Victim and Witness Assistance
(Report Control Symbol DD-5800-10 (External
Report Control Symbol DD-P&R(A) 1952),
Enclosure (4), par. 1

1. Situation

a. The military justice system operates to ensure good order and discipline is maintained within the Marine Corps. Without the cooperation of victims and witnesses, the military justice system would cease to function. Between 1982 and 2004, the U.S. Congress enacted a series of laws designed to provide information to crime victims and witnesses regarding their rights and position in the criminal justice system. References (a) and (b) made these laws applicable to the Marine Corps. References (a) and (b) also impose certain duties upon those engaged in law enforcement, the military justice process, and

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victim support activities to ensure that crime victims' and witnesses' rights are protected and that they are provided specific services.

b. Victims and witnesses often face adverse effects from crime. In the Marine Corps, victims and witnesses shall not face the effects of crime alone. In accordance with references (a) through (c) the Marine Corps' Victim Witness Assistance Program (VWAP) ensures victims and witnesses are provided with meaningful assistance once a crime is reported. The VWAP is specifically designed to lessen the effects of crime on victims and witnesses and to help them understand and participate in the military justice process. The VWAP uses a multi-disciplinary approach to assist victims and witnesses. This approach combines the services of law enforcement, family advocacy, medical, legal, and corrections personnel. The VWAP reflects the Marine Corps' on-going commitment to ensuring that victims and witnesses are treated with respect and dignity, informed of their rights, and provided with necessary information and services to assist in their recovery.

2. Cancellation. Chapter 6, MCO P5800.16A.

3. Mission. The Marine Corps executes a professional Victim and Witness Assistance Program in order to reduce the trauma, frustration and inconvenience experienced by victims and witnesses of crime; inform victims of their statutory rights; and, assist victim and witness understanding of the military justice process.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent

(a) Marines, Sailors, and civilians serving with the Marine Corps treat all victims and witnesses of crime with dignity and respect.

(b) Commanders shall make every appropriate effort to protect victims of violence or abuse from further harm.

(c) The Marine Corps assists victims and witnesses of crime without infringing on the constitutional rights of an accused.

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(2) Concept of Operations

(a) The Marine Corps will employ a multi-disciplinary response to assist victims of and witnesses to crime. The response will focus on reducing the trauma, frustration and inconvenience experienced by victims and witnesses during the military justice and administrative process by education and assistance. Various individuals and organizations have roles and responsibilities under the VWAP to inform victims and witnesses of their rights and also assist victims and witnesses during the military justice and administrative process.

(b) Responsible authorities, as defined in enclosure (1), will, in accordance with applicable law, mitigate the physical, psychological, and financial hardships suffered by crime victims and witnesses, and make all reasonable efforts to foster their cooperation in the military justice process.

(c) Proper execution of the VWAP will lead to increased cooperation by victims and witnesses during the military justice and administrative process.

b. Subordinate Element Missions

(1) Comply with the intent of the references and the content of this order.

(2) Convening authorities shall consider victim statements on the impact of the crime when considering pretrial agreements, clemency, or sentence reduction.

c. Coordinating Instructions

(1) The VWAP is not limited to criminal offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are disposed of at nonjudicial punishment (NJP), administrative separation (ADSEP) proceedings, or via other administrative means.

(2) Particular attention shall be paid to victims of violent crimes including, but not limited to, child abuse, domestic violence, rape, and sexual assault. Consult reference (d) for special considerations to victims of domestic violence. The specialized concerns and issues surrounding sexual assaults require all personnel involved in these cases to give additional consideration to the sensitive treatment of such victims.

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References (e) and (f) should be reviewed when dealing with victims of, or witnesses to, an alleged sexual assault. The Marine Corps Sexual Assault Prevention and Response Office (SAPRO) supervises and has cognizance over all programs and services provided to adult sexual assault victims as defined in reference (f).

(3) This instruction is not intended to create, and does not create, any entitlement, cause of action, or defense in favor of any person arising out of the failure to provide a victim or witness the assistance outlined in this instruction. No limitations are placed on the lawful prerogatives of the Marine Corps or its officials.

5. Administration and Logistics

a. A website with VWAP references, training materials, and links to victim-related resources is located at (<http://www.hqmc.marines.mil/sja/Branches/VWAP.aspx>). Additional information is contained on the DoD VWAP Council web page, <http://www.defenselink.mil/vwac/>, and the Department of Justice, Office for Victims of Crime web page, <http://www.ojp.usdoj.gov/ovc/>.

b. Records created as a result of this Order shall be managed according to the National Archives and Records Administration approved dispositions per reference (g) to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium.

6. Command and Signal

a. Command. This Order is applicable to the Marine Corps Total Force.

b. Signal. This Order is effective the date signed.



V. A. ARY
Staff Judge Advocate to the
Commandant of the Marine Corps

DISTRIBUTION: PCN 10209190600

Copy to: 7000260 (2)
7000144/8145001 (1)

RECORD OF CHANGES

Log completed change action as indicated.

Change Number	Date of Change	Date Entered	Signature of person Incorporated Change

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Marine Corps Victim and Witness Assistance Program
Definitions

1. Central Repository. A designated office that serves as a clearinghouse of information on prisoner status and to collect and report data on the delivery of victim and witness assistance, including notification of prisoner status changes. The central repository for the Marine Corps is CMC (PSL-Corr).
2. Component Responsible Official. Pursuant to reference (c) the CMC is designated as the Component Responsible Official. The Component Responsible Official has the primary responsibility for coordinating, implementing, and managing the VWAP. The CMC has designated responsibility for the oversight of the VWAP to the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC).
3. Local Responsible Official. The person, designated by the CMC, who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services through a multi-disciplinary approach. Installation commanders are the local responsible officials in the Marine Corps.
4. Investigative and Law Enforcement Personnel. Naval Criminal Investigative Service (NCIS), Criminal Investigative Division (CID), military police, installation security, and other individuals with authority to conduct a criminal investigation or inquire into a crime. For the purposes of this chapter, this term does not include individuals appointed to conduct investigations under chapter II of JAGINST 5800.7F.
5. Service Providers. Those personnel responsible for providing support services including, but not limited to: Marine Corps Family Programs (MF) and Family Advocacy personnel (such as counselors and victim advocates); chaplains; legal assistance attorneys; and health care professionals.
6. Transitional Compensation for Abused Family Members. A federal program designed to help ease the transition from military to civilian life for spouses and/or dependent children of a service member who is separated from active duty as a result of a family abuse offense.
7. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the Uniform Code of Military Justice (UCMJ), or in violation of the law of another

jurisdiction if any portion of the investigation is conducted primarily by a Department of Defense (DoD) Component. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice. Victims shall include, but are not limited to, the following:

- a. Military members and their family members;
- b. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This applies to services not available to DoD civilian employees and contractors and their family members in stateside locations, such as medical care in military medical facilities;
- c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term "victim" includes one of the following (in order of precedence): a spouse; legal guardian; parent; child; sibling; another family member; or another person designated by a court or a component responsible official or designee; and
- d. For a victim that is an institutional entity, an authorized representative of the entity. Federal departments and State and local agencies, as entities, are not eligible for services available to individual victims.

8. Regional Victim and Witness Liaison Officer (RVWLO). The RVWLO is the regional Marine Corps Installation (MCI) Commanding General's primary representative responsible for the VWAP in the MCI region (East, West, and Pacific). In the National Capital Region, the RVWLO is the Commander, Marine Corps Installations Command's (COMMCICOM) primary representative responsible for the VWAP. In the Marine Forces Reserve, the RVWLO is the Commander, Marine Forces Reserve's (COMMARFORRES) primary representative responsible for the VWAP.

9. Victim and Witness Liaison Officer (VWLO). The VWLO is an installation commander's primary representative responsible for the VWAP aboard an installation.

10. Victim and Witness Assistance Coordinator (VWAC). A command's or local service provider's designated representative for victim and witness assistance matters.

11. Victim and Witness Assistance Council. An installation level council designed to ensure that a multi-disciplinary approach is followed by local victim and witness service

providers. This multi-disciplinary approach combines the expertise and services of law enforcement, family advocacy personnel, victim advocates, medical professionals, legal service providers, corrections personnel, etc. The Council does not discuss specific cases, victims, or witnesses, but focuses on victim and witness services and the manner in which those services are being provided locally. The Council provides the VWLO, and ultimately the installation commander, with information regarding the availability, use, and capability of victim and witness services aboard the local installation. The local council should consist of the installation VWLO, tenant unit VWACs and representatives from SAPR, NCIS, CID, Provost Marshall's Office (PMO), the installation SJA Office, legal service providers, chaplain, the brig (if there is a brig on the installation), and Marine and Family Programs.

12. Witness. A person who has information or evidence about a crime, and provides that knowledge to a DoD Component representative regarding an offense within the investigative jurisdiction of a DoD component. When the actual "witness" is a minor, the term "witness" includes an adult family member or legal guardian of the minor witness. The term witness does not include a defense witness or any individual involved in the crime as a perpetrator or accomplice.

Victim and Witness Rights

1. Victim Rights

a. To be treated with fairness and respect for the victim's dignity and privacy.

b. To be reasonably protected from the accused.

c. To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceedings.

d. To be present at all public court-martial, NJP, and ADSEP proceedings, unless the court or legal advisor, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding. This right does not obligate the government to pay for expenses incurred by the victim to be present.

e. To be reasonably heard at any public proceeding involving release, plea, sentencing, or parole of the accused. This right does not obligate the government to pay for expenses incurred by the victim to be present.

f. To confer with the attorney for the government in the case.

g. To receive information about the conviction, sentence, confinement, and release of the accused.

h. To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing).

i. To proceedings free from unreasonable delay.

j. To receive available restitution.

2. Witness Rights

a. To be treated with fairness and respect for the witness's dignity and privacy.

b. To be reasonably protected from the accused.

c. To be notified of any decision to dispose of an alleged offense at court-martial, NJP or ADSEP proceedings.

d. To be provided information about the resolution of the case to include ADSEP decisions, any punishment awarded to the offender, sentencing, imprisonment and release of the offender, if confined.

e. To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, any escape of the accused, and the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing).

3. Treatment of Victims. Throughout and following the adjudication or other disposition of alleged offenses, all victims shall be treated as victims. The treatment of victims is independent of the results obtained by the military or criminal justice system or during the administrative process.

Roles and Responsibilities

1. Headquarters Marine Corps Roles and Responsibilities

a. The SJA to CMC. The SJA to CMC has responsibility for oversight and administration of the VWAP. In this role, the SJA to CMC shall:

- (1) Coordinate and manage the VWAP.
- (2) Ensure victim and witness assistance materials are available for law enforcement and investigative personnel, trial counsel, legal assistance attorneys, RVWLOs, VWLOs, and VWACs.
- (3) Receive and compile the reports required by reference (b) and prepare the annual report (DD Form 2706) for submission to the Assistant Secretary of the Navy (Manpower and Reserve Affairs).
- (4) Provide a representative to the DoD VWAP Council established by reference (b).
- (5) Maintain a current list of all RVWLOs and VWLOs.
- (6) Ensure legal assistance counsel are available to provide information and advice to victims and witnesses of crimes pursuant to law and regulation.
- (7) Serve as the Responsible Official for the VWAP Functional Area Checklist (FAC) and designate a Functional Area Manager (FAM) responsible for providing required FAC updates.

b. Commandant of the Marine Corps Physical Security Division, Law Enforcement Branch, Corrections Section (CMC (PSL Corrections)). In accordance with reference (c), CMC (PSL Corrections) is designated as the Marine Corps central repository for the purpose of tracking notice requirements connected to Marine Corps offenders confined in military correctional facilities. CMC (PSL Corrections) shall:

- (1) Ensure a Victim/Witness Certification and Election Concerning Inmate Status form (DD Form 2704) is received at the cognizant confinement facility for every prisoner, including those confined pursuant to summary courts-martial.
- (2) Establish a victim and witness notification program in each Marine Corps brig and detention facility. Regardless of

a prisoner's military service, Marine Corps briggs and detention facilities will use the Victim/Witness Notification of Inmate Status form (DD Form 2705) to provide notification to victims and witnesses in the event of any change of a prisoner's status.

(3) Ensure that upon receipt of a DD Form 2704 that indicates a victim or witness has requested notification, a prisoner adjunct file is established to track notification of status changes. Any DD Form 2704 indicating a victim or witness does not desire notification will be filed at the brig where the prisoner is confined. The DD forms and adjunct files will be destroyed two years from the date the prisoner is released from confinement, or parole, whichever is later.

(4) Ensure the corrections database accurately reflects all prisoners enrolled in the notification program.

(5) Verify compliance with notification requirements prior to directing any prisoner transfer or transport per reference (h).

(6) When appropriate, direct termination from the notification program of victims or witnesses who are unreachable after reasonable efforts. For prisoners of other military services, forward requests for notification to the appropriate Service central repository.

(7) Inform briggs of any victim or witness requests received by Headquarters Marine Corps indicating a desire to be removed from the notification program.

(8) Provide current and accurate information for the Department of the Navy's Corrections Management and Information System (CORMIS) and comply with any other military service mandated tracking system.

(9) Compile data and submit reports in accordance with this order.

2. Command Roles and Responsibilities

a. COMMCICOM, COMMARFORRES, and Regional MCI Commanding Generals (CGs)

(1) Regional MCI CGs are responsible for ensuring that the VWAP is properly implemented by installation VWLOs in their region. COMMCICOM is responsible for the VWAP in the National

Capital Region. COMMARFORRES is responsible for the VWAP in the Marine Reserve.

(2) COMMCICOM, COMMARFORRES, and regional MCI CGs shall appoint in writing, by name, title, duty address, and telephone number, a RVWLO.

(3) The RVWLO is responsible for ensuring that all installations under the cognizance of their respective commander or commanding general comply with the law and applicable orders and regulations.

(4) The RVWLO shall be an officer or civilian employee of appropriate grade, experience, and maturity.

(5) The RVWLO may also serve as an installation VWLO.

b. Installation Commanders. Installation commanders possessing General Court-Martial Convening Authority (GCMCA) and other installation commanders as practical are designated as the Local Responsible Officials pursuant to references (a) and (c). These Installation commanders are responsible for implementing and maintaining a VWAP on their respective installations and subordinate installations. Local Responsible Officials shall:

(1) Ensure close coordination between local VWACs and VWAP representatives from NCIS, legal service providers, military police, commanding officers, medical facilities, Marine and Family Programs, corrections facilities, and chaplains;

(2) Appoint, in writing, by name, title, duty address, and telephone number, a VWLO. The VWLO shall be an officer or civilian employee on the installation commander's staff and shall not serve as a trial counsel, senior trial counsel, regional trial counsel, Defense Counsel, Senior Defense Counsel, Regional Defense Counsel, Staff Judge Advocate, or legal assistance attorney. VWLO responsibilities are outlined in paragraph 3.b. of this enclosure.

(3) Ensure all VWAP representatives aboard the installation are provided the VWLO's name and phone number.

(4) Establish a local Victim and Witness Assistance Council, chaired by the installation VWLO, to coordinate a comprehensive assistance program and comply with VWAP notification and reporting requirements;

(5) When a Marine Corps confinement facility is located aboard the installation, appoint, in writing, by name, title, duty address, and telephone number; a confinement facility representative to serve as the confinement facility VWAC and representative to the local Victim and Witness Assistance Council.

(6) Construct and maintain, with the assistance of the local Marine and Family Programs office, a directory of military and civilian programs, services, and crime victim compensation funds available to victims and witnesses, and ensure the directory is published on the installation's public website. When appropriate, and after consultation with the cognizant Staff Judge Advocate, enter into Memoranda of Agreement (MOA) with civilian agencies to ensure victims and witnesses are provided required services.

(7) Ensure that victims and witnesses are receiving the information and services as required under the VWAP until an accused enters post-trial confinement.

(8) Ensure processes are in place to maintain data on the number of victims and witnesses who received DD Forms 2701-2703 and elect notification via DD Form 2704.

c. Unit Commanders, Commanding Officers, and Officers-in-Charge. Unit commanders, commanding officers, and officers-in-charge are responsible for understanding and aggressively supporting the VWAP and ensuring compliance with this Order and all applicable regulations supporting the VWAP. All rights, responsibilities, and procedures associated with the VWAP apply to the total force.

(1) Every commander (battalion/squadron-level or equivalent and above) shall appoint, in writing, by name, title, duty address, and telephone number, a VWAC. The VWAC may be an Officer, Staff Non-Commissioned Officer or civilian employee on the commander's staff. The appointment order shall indicate any geographically separate detachment or subunit supported by the VWAC. A copy of this appointment letter will be provided to the installation VWLO and the detachment or subunit. The VWAC should not serve as a Uniformed Victim Advocate.

(2) Commanders shall ensure that VWACs are immediately notified when a member of the unit is a victim or witness as defined in this Order.

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(3) In cases of summary courts-martial where confinement is adjudged and approved, commanders shall coordinate with a trial counsel assigned to the Legal Services Support Team (LSST) supporting their command prior to completing the DD Form 2704.

(4) Commanders shall make every appropriate effort to protect victims of violence or abuse from further harm. When necessary commanders shall request a brief on the threat assessment conducted by either law enforcement or investigative personnel in order to create a reasonable plan to ensure the safety of victims and witnesses. The cognizant VWAC(s) should attend this brief. Commanders shall ensure victims and witnesses are made aware of the resources that may be available to promote their safety, including military protective orders (MPO). In situations where one party to the MPO resides off-base, the commander shall ensure that an MOA between the installation PMO and local police and/or sheriff departments exists in accordance with reference (i).

(5) Commanders shall provide annual VWAP training to unit personnel to ensure that unit personnel know the identity of their VWAC and understand victim and witness rights.

d. Unit Victim Witness Assistance Coordinators (VWAC)

(1) The VWAC shall be an Officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank.

(2) In cases involving victims, witnesses, or accused from different commands, the VWACs for these commands may have overlapping duties and responsibilities. VWACs must ensure close coordination with VWAP personnel as set forth in this order, to include other VWACs, law enforcement, and trial counsel as appropriate.

(3) Ensure that victims and witnesses understand the rights afforded them under the law and this order and are provided with a completed Initial Information for Victims and Witnesses of Crime (DD Form 2701) if one has not already been provided.

(4) Ensure processes are in place to maintain data on the number of victims and witnesses who receive DD Forms 2701.

(5) Ensure that the total number of victims and witnesses provided DD Form 2701 is reported to the installation VWLO per Enclosure (4).

(6) When the Victim or Witness is a Member of the VWAC's Command

(a) Once the command is aware that a member of their command is a victim or a witness, the VWAC shall ensure that the victim or witness is advised of applicable rights and provided DD Form 2701, if one has not already been provided.

(b) Coordinate with the MF to ensure the victim or witness receives, when appropriate, information concerning the availability of resources, including information on compensation programs available to victims of intra-familial abuse offenses when the offender is a service member.

(c) Assist the victim and/or witness in obtaining necessary counseling.

(d) Maintain contact with all VWACs and VWAP personnel involved in the victim's or witness's case.

(e) Assist the victim or witness, as appropriate and necessary, in the exercise of their rights. For cases pending judicial action, the trial counsel will provide notifications, assistance, and explanation of rights (as contained in DD Forms 2702 and 2703).

(7) Where the VWAC's Command is the Convening Authority

(a) Once the command is aware that an accused is a member of the command, the VWAC shall identify the victim and, if applicable, witnesses. For victims and witnesses from another command, the VWAC will notify the appropriate command VWAC. For victims or witnesses from the accused's command, the VWAC will provide the necessary assistance as outlined above.

(b) After charges have been preferred, the VWAC shall ensure that victims and witnesses have been provided the necessary notifications under VWAP. The VWAC must coordinate with PMO, the trial counsel, and VWACs of the victims' or witnesses' command to ensure these notifications are made and understood by the victims and/or witnesses.

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(c) The VWAC shall confirm that the trial counsel detailed to the case has obtained the victim's views, if any, concerning pretrial plea negotiations and has forwarded that information to the convening authority. Additionally, the VWAC shall verify that the trial counsel has notified the victim of the nature of the charges, date of preferral, and the commander's decisions concerning prosecution.

(d) Confirm that the trial counsel has complied with the victim's request to be notified of the following, when applicable:

1. The date charges are referred and the nature of the charges.

2. Acceptance of a pretrial agreement.

3. The court-martial findings concerning guilt.

4. The sentence adjudged.

5. The Convening Authority's Action (CAA) on the findings and sentence of the court-martial.

(e) In the event a case is not referred to court-martial, a VWAC may perform the above notifications and confer with victims; however, the VWAC should consult with trial counsel prior to doing so.

(8) In pretrial confinement cases where the victim or witness has requested notification, the VWAC shall notify the victim or witness of changes in the accused's pretrial confinement status.

(9) The VWAC shall obtain and distribute VWAP materials and provide VWAP training to the members of the command on an annual basis.

(10) Generally the VWAC should not serve as a victim advocate due to potentially conflicting roles, responsibilities, and duties to the victim and command.

(11) Unit VWACs have separate roles and responsibilities from VWACs assigned to support organizations (i.e. Confinement Facilities, LSSTs, PMO, MF).

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(12) In those commands where all members of the command are also members of a respective Headquarters or Headquarters and Service Battalion (e.g., Headquarters; Marine Corps; Marine Corps Forces Pacific; Marine Corps Forces Command) there is no requirement for the higher headquarters to have a separate VWAC.

(13) The unit VWAC shall not serve as a trial counsel, defense counsel, or legal assistance attorney.

3. Victim Witness Liaison Officer Roles and Responsibilities

a. Regional Victim Witness Liaison Officer (RVWLO)

(1) The RVWLO shall be an officer or civilian member of the commander's staff of appropriate experience, temperament, and rank and shall not serve as a trial counsel, defense counsel, staff judge advocate, or legal assistance attorney. There is no requirement that the RVWLO be a Judge Advocate.

(2) Ensure regional compliance with this order.

(3) Maintain a list of VWLOs from each installation under the cognizance of their commanding general and ensure copies of this list are provided to all cognizant VWLOs and CMC (JA-2).

(4) Ensure basic VWAP training is available to all new VWLOs and VWACs.

(5) Collect and maintain data on the number of victims and witnesses, in the region, who receive DD Forms 2701-2703 and who elect notification via DD Form 2704.

(6) Compile and maintain VWAP data and forward it to CMC (JA-2) in accordance with enclosure (4).

(7) Assist various Inspectors General during the preparation and conduct of functional area inspections of units and installations, within the region, pursuant to the Commanding General's Inspection Program (CGIP).

(8) Chair and conduct a semi-annual Regional VWLO meeting to discuss VWAP-related issues.

(9) Liaise with the SJA to CMC.

b. Installation Victim Witness Liaison Officer (VWLO)

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(1) The VWLO shall be an officer or civilian member of the commander's staff of appropriate experience, temperament, and rank and shall not serve as a trial counsel; defense counsel, staff judge advocate, or legal assistance attorney. There is no requirement that the VWLO be a Judge Advocate.

(2) Ensure compliance with this order by installation and tenant commands.

(3) Maintain a list of VWACs, service providers, and SJAs aboard the installation. Ensure copies of this list are provided to all VWACs and service providers.

(4) Ensure that each organization (battalion/squadron level and above) assigned to the installation, including tenant commands, appoints a VWAC in writing, by name, title, duty address, and telephone number.

(5) Chair and conduct a quarterly installation-level Victim Witness Assistance Council meeting.

(6) In conjunction with the installation Marine and Family Programs office and SAPR programs, maintain an installation website that includes, at a minimum, a current directory of installation VWAP personnel, military and civilian programs and services providing counseling, treatment, or other victim support services within the geographic area of the installation, and contact information for these programs.

(7) Obtain and distribute relevant information and provide annual training to all VWACs aboard the installation.

(8) In coordination with command VWACs, PMO, NCIS, trial counsel, legal assistance attorneys, SJAs, SAPR, medical, and MF, ensure victims and witnesses are notified of their rights.

(9) In coordination with PMO and NCIS, ensure victims are provided the names, titles, duties, addresses, and telephone numbers of the appropriate VWAC involved in their case.

(10) Compile and maintain data and forward data to the Installation Commander in accordance with reporting requirements set forth in Enclosure (4), Victim and Witness Assistance Program Reporting, of this order.

(11) Ensure that deploying units receive appropriate VWAP training and information prior to deployment.

(12) Ensure that CMC (JA-2) and the RVWLO are notified when a new VWLO is appointed.

(13) Assist victims in exercising their rights and obtaining support, when appropriate.

4. Legal Community, Law Enforcement and Corrections Roles and Responsibilities

a. Staff Judge Advocate (SJA)

(1) Provide advice and guidance to convening authorities and commanders with regard to VWAP.

(2) Provide a copy of the CAA to the trial counsel in those cases where a victim or a witness has elected to be informed of the CAA.

b. Legal Services Support Team (LSST) Officers-in-Charge (OIC)

(1) Appoint a Legal Services VWAC in writing, by name, title, duty address, and telephone number.

(2) Ensure trial counsel meet their responsibilities under VWAP as delineated in this enclosure.

(3) Ensure all VWAP data is entered into the SJA to CMC's Case Management System (CMS). If there are victims or witnesses in a case, ensure each victim and witnesses is entered into CMS and following data is collected: the number of victims and witnesses who receive DD Form 2702 (Court-Martial Information for Victims and Witnesses of Crime) and DD Form 2703 (Post-Trial Information for Victims and Witnesses of Crime), and the number of victims and witnesses who elected to exercise their rights via DD Form 2704.

(4) Ensure that the total number of victims and witnesses provided DD Forms 2702 and 2703, and the total number of victims and witnesses electing to be notified of prisoner status change in DD Form 2704, are reported to the installation VWLO in accordance with enclosure (4).

(5) Provide a LSST representative to the Victim and Witness Assistance Councils located on installations to which the LSST provides direct support legal services and provide a copy of the appointment letter to the respective VWLOs. This

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representative should make all reasonable efforts to be physically present at distant installations for council meetings, however in those situations where actual presence is too arduous, virtual presence is acceptable.

(6) Provide a separate waiting room for the following: victims, victim witness support personnel, and government witnesses during courts-martial and administrative hearings. The waiting area shall be separate from, and out of the sight and hearing of, the accused or respondent, and defense or respondent witnesses.

c. Installation Investigative and Law Enforcement Personnel

(1) Each law enforcement agency or office shall appoint a Law Enforcement VWAC. The Law Enforcement VWAC shall:

(a) Sit on the Victim and Witness Assistance Council.

(b) Ensure DD Form 2701s are provided to victims and witnesses and contain accurate contact information.

(c) Accurately track the number of victims and witnesses provided with DD Form 2701 and report that data to the installation VWLO.

(d) Conduct annual training of law enforcement personnel on the requirements of the VWAP and applicable orders regarding the treatment of victims and witnesses.

(2) All investigative and law enforcement personnel must understand the VWAP and provide crime victims and witnesses the information described in this order. Law enforcement personnel shall identify victims and witnesses of crime, treat them with fairness, and respect their dignity and privacy.

(3) Threat Assessment. All investigative and law enforcement personnel have a continuing duty to take reasonable measures to protect victims and witnesses from further threat, harm, and intimidation. To that end, investigative and law enforcement personnel shall immediately assess the situation and take action to minimize the threat to the victim or witness. Investigative and law enforcement personnel shall exercise care when discussing available protective measures to avoid creating unrealistic expectations concerning the level of protection measures available.

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(4) The individual in charge of a criminal investigation will ensure that victims and witnesses understand their rights under the law and this chapter and receive a completed DD Form 2701. The form shall include the name and telephone number of the investigator, the VWLO, and the cognizant command VWAC, and, when appropriate, a number to contact a victim advocate. The home address and telephone number of victims and witnesses will not be included in investigative reports unless they are specifically pertinent (e.g., crime scene at the victim's home).

(5) All investigative and law enforcement personnel shall assist victims and witnesses, upon request, in contacting the persons responsible for providing the services and relief described in DD Form 2701. The VWLO is responsible for maintaining a directory of service and relief providers and unit VWACs. Investigative and law enforcement personnel shall familiarize themselves with this directory and supply victims and witnesses with appropriate phone numbers and addresses.

(6) If requested by the victim, the individual in charge of a criminal investigation will keep the victim apprised of the status of the investigation/inquiry, to the extent it will not interfere with the investigation.

(7) If requested by the victim, the individual in charge of a criminal investigation shall promptly notify victims and witnesses when a suspect is apprehended.

(8) Investigative and law enforcement personnel shall safeguard victims' and witnesses' property held as evidence and shall assist in returning it as soon as possible.

(9) Investigative and law enforcement personnel shall ensure accurate record keeping of the total number of victims and witnesses provided with DD Form 2701. Investigative and law enforcement personnel shall report the number of victims and witnesses contacted to the installation VWLO in accordance with Enclosure (4).

(10) Notification to the Command VWAC. To ensure command VWACs are notified of criminal investigations requiring action under this chapter, the following notifications shall be made, as applicable:

(a) If both the accused and victim are military members, the individual in charge of a criminal investigation will provide the identity of the victim to the VWAC of the

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accused's command, the VWAC of the victim's command, and the installation VWLO.

(b) If only the accused is a military member, the individual in charge of a criminal investigation will provide the identity of the victim to the VWAC of the accused's command and the installation VWLO.

(c) If only the victim is a military member, in those instances where a DoD investigative agency is involved in the investigation, the individual in charge of the criminal investigation will provide the identity of the victim to the VWAC of the victim's command, and the installation VWLO. In those instances where the investigative agency is a non-DoD agency, the local law enforcement liaison will liaise with the non-DoD agency in an effort to obtain the identity of the victim and once identified, will provide that information to the VWAC of the victim's command, and the installation VWLO.

d. Trial Counsel

(1) Trial Counsel shall not serve as RVWLO, VWLO, or unit VWAC.

(2) Trial Counsel shall identify victims and witnesses in a case prior to preferring charges and ensure each individual receives a DD Form 2701. In most cases Trial Counsel should contact victims and witnesses prior to the preferral of charges. Victims and witnesses identified after preferral of charges shall be treated the same as those identified prior to preferral, to include issuance of DD Form 2701.

(3) After preferral of charges, provide all victims and witnesses in a case with DD Form 2702 (Court-Martial Information for Victims and Witnesses of Crime), and determine their elections as to those rights. Ensure that victims and witnesses are notified of their rights, as set forth in Enclosure (2), and provided information concerning the criminal justice process, including information regarding what to expect from the military justice system, the stages in the criminal justice process, and their respective role(s) in that process. Contact the applicable VWACs to ensure that proper support and resources are provided:

(4) Victim Notification of Case Status. When a victim has requested notification, trial counsel shall ensure, at their earliest possible opportunity, reasonable, accurate, and timely

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notification to the victim of the following events and procedural milestones:

(a) The pretrial confinement status of the accused, including the release or escape of the accused.

(b) The scheduling of any initial appearance of the accused before an officer or magistrate at a pretrial confinement hearing or at an Article 32, UCMJ, pretrial investigation.

(c) The date charges were referred and the nature of the charges.

(d) The acceptance of any pretrial plea agreement.

(e) Notification of the opportunity to present a statement of the crime's impact to the court at sentencing or to the summary court-martial officer or NJP authority, in compliance with applicable law.

(f) The scheduling of each court proceeding.

(g) The findings of the court-martial.

(h) The sentence adjudged.

(i) The CAA concerning the court-martial findings and sentence; to include an explanation of any clemency granted.

(j) The disposition of a case, if other than at court-martial.

(5) Witness Notification of Case Status. When a witness has requested notification, trial counsel shall ensure, as early as possible, that the witness is advised of:

(a) The acceptance of any pretrial plea agreement.

(b) The findings of the court-martial.

(c) The sentence adjudged.

(d) The CAA concerning the court-martial findings and sentence.

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(e) The disposition of a case, if other than at court-martial.

(6) Victim's Right to Confer and Express Views Concerning Pretrial Plea Negotiations. Convening Authorities should consider victims' views, when offered, prior to acting on a pretrial agreement. Trial counsel shall ensure victims are aware of their ability to provide input to the convening authority. In cases in which a victim elects to provide such, trial counsel shall ensure the victim's views concerning prosecution and plea negotiations are obtained and forwarded to the convening authority prior to the signing of any pretrial agreement. A victim's input shall not be construed to impair commanders' discretion. Trial counsel should be available to consult with victims about major case decisions, such as pretrial negotiations and dismissals; however, trial counsel are attorneys for the government and do not represent victims. Therefore, during consultations, trial counsel should provide only non-sensitive data and public information, and consultations should comply with their obligations under applicable rules of professional conduct. Trial counsel should inform victims that neither the government's advocacy on their behalf nor any other effort the Marine Corps makes on behalf of a victim creates an attorney-client relationship between the victim and the trial counsel.

(7) Rescheduling of Military Justice Proceedings. Trial counsel shall ensure, as soon as possible, that all victims and witnesses who have been scheduled to attend military justice proceedings are notified of any schedule changes that may affect their appearances.

(8) Separate Waiting Room. During court-martial proceedings, trial counsel shall ensure that victims, victim witness support personnel, and prosecution witnesses are provided, if desired, with a waiting area that is separate from, and out of the sight and hearing of, the accused and defense witnesses.

(9) General Assistance at Trial. Trial counsel shall inform victims and witnesses about the availability of services such as transportation, parking, childcare, lodging, and courtroom translators or interpreters, and shall assist in securing needed services.

(10) Notification of Employer. Upon request by the victim and/or witness, the trial counsel shall take reasonable

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steps to inform that person's employer of the reasons for that person's absence from work.

(11) Victim's or Witness's Property. When trial counsel has possession of a victim's or witness's property, trial counsel shall safeguard the property held as evidence and shall return it as soon as possible with due consideration of the possibility of appeals and other post-trial requirements.

(12) Sentencing. Trial counsel shall inform victims of the opportunity to present evidence to the court at sentencing. In compliance with applicable law and regulations, the victim may submit a statement concerning the impact of the crime, including financial, social, psychological, and physical harm suffered by the victim.

(13) Post-Trial Information. At the conclusion of a court-martial resulting in a conviction, trial counsel shall inform victims and witnesses of basic information about the post-trial process and provide each with a completed DD Form 2703 (Post-Trial Information for Victims and Witnesses).

(14) Post-Trial Confinement Status of Accused. At the conclusion of every court-martial in which confinement is adjudged, including summary courts-martial, as a part of the ongoing duty to notify victims and witnesses of the rights and services available, trial counsel shall confer with each victim and witness to determine whether the respective victim or witness desires to receive information about the confinement status of the accused. Additionally, trial counsel shall complete a DD Form 2704 and shall ensure copies are provided to:

(a) The confinement facility.

(b) Victims and witnesses whose entitlement to receive information has been certified by trial counsel (victim and witness copies shall be redacted so that only that particular victim's or witness's information is visible).

(c) The responsible VWACs (VWAC copies shall be properly redacted).

(15) Data. Maintain data on the number of victims and witnesses provided DD Forms 2702 and 2703, and the number of victims and witnesses, using DD form 2704, which elected to be notified of a prisoner's status change. Ensure all VWAP data is

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entered into the CMS record for each victim and witness in each case.

(16) Cases on Appeal

(a) When relevant (i.e., once there has been a conviction resulting in an approved sentence of death, one year or more of confinement, or a punitive discharge), trial counsel or other designee must provide victims and witnesses basic information regarding the appeals process.

(b) Trial counsel shall determine whether victims and witnesses elect to receive further information and updates regarding appeals. If they do, trial counsel shall forward their contact information and a copy of the DD Form 2704 to OJAG, Code 46. Such information shall be transmitted directly to Code 46 by separate correspondence (such as email or letter) and shall not be appended to the Record of Trial.

(c) In cases remanded for rehearings on findings and/or sentence, coordinate with Code 46 to re-assume the role as primary point of contact for victims and witnesses associated with the case.

(17) Pornography. Trial counsel shall be aware of the requirements associated with victims of child pornography. Victims in child pornography cases have the same rights as victims in other cases. Assistance is available via CMC (JAM).

e. Brig and Pre-trial Confinement Facility (PCF) Commanding Officers/Officers-in-Charge

(1) Victim and Witness Assistance Program. Establish a local VWAP for persons entered into the program through receipt of a DD Form 2704 or through the personal request of victims and witnesses identified on a DD Form 2704.

(a) The brig/PCF commanding officer (CO) or OIC shall appoint, in writing, a Confinement Facility VWAC and an alternate VWAC. Note: Reference (j) uses the term "Victim and Witness Coordinator" (VWC) instead of "Victim Witness Assistance Coordinator" (VWAC). Care should be taken to avoid confusion, as the confinement facility VWAC, as defined in this order, is the same as the VWC as defined in reference (j). The confinement facility VWAC must be a mature individual who understands the importance of the program and shall be sensitive

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to the needs of victims and witnesses and ensure their confidentiality.

(b) Before assuming the duties of confinement facility VWAC, the individual shall be briefed regarding the responsibilities detailed in applicable references and any other relevant instructions issued by higher authority. Personally Identifiable Information (PII) of a victim or witness shall not be disclosed to any prisoner or any third party at any time by the confinement facility VWAC.

(c) The confinement facility VWAC will ensure information on Victim Witness screens in the Corrections Management Information System (CORMIS) is accurate, up-to-date, and complete. Information in CORMIS will be used by the confinement facility VWAC and the central repository CMC (PSL-Corr) for managing the program and generating reports.

(2) Request for Notification. The initial notification requirement will be sent to the brig/PCF by the trial counsel using a DD Form 2704. Receipt of a DD Form 2704 shall be documented in CORMIS by the confinement facility VWAC. Initial verification of the receipt of a DD Form 2704 is to be made at the time of confinement of an adjudged prisoner. A DD Form 2704 must accompany all prisoners, even if there are no witnesses or victims. If a DD Form 2704 does not accompany an adjudged prisoner at the time of confinement, the Duty Brig/PCF Supervisor shall notify, in writing, the confinement facility VWAC and Brig Senior Non-Commissioned Officer in Charge immediately (i.e., within 12 hours). Contact with trial counsel concerning a delinquent DD Form 2704 shall be made by the confinement facility VWAC no later than the next working day. All attempts to obtain a delinquent DD Form 2704 shall be fully documented in CORMIS. If a DD Form 2704 remains delinquent more than 2 working days, the CO or OIC shall attempt to resolve the deficiency using the chain of command. CMC (Physical Security and Law Enforcement (PSL) (Corrections)) will use reports derived from CORMIS to monitor and track non-receipt of a DD Form 2704 for adjudged prisoners and closely coordinate with the regional Legal Service Support Section and the cognizant Convening Authority to ensure expedient resolution of identified issues. Failure to present a completed DD Form 2704 at the time of confinement shall not be grounds for the brig/PCF to refuse a prisoner.

(3) Request Received. If a request for notification is received by a brig/PCF directly from a victim or witness by

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means other than a DD Form 2704, the confinement facility VWAC will determine if the individual is a bona fide victim or witness by reviewing the initial DD Form 2704 and conferring with the trial counsel or SJA for the case. If the confinement facility VWAC determines that the person is a bona fide victim or witness, a DD Form 2704 should be prepared by the trial counsel certifying the individual as a victim or witness and indicating the victim's or witness's election to be notified. The trial counsel shall provide the DD Form 2704 to the brig/PCF.

(4) Prisoner Individual Confinement Records. Individual confinement records of prisoners included in the victim and witness program will be identified by placing a white label on the outside of the file with the letters "VW" written at least one (1) inch high in black. A brig/PCF-specific number will be assigned to the case and placed on the white label.

(5) Victim/Witness Notification Record. The confinement facility VWAC will maintain a separate adjunct file by individual name of the prisoner, cross-referenced to the brig/PCF-specific number. The brig/PCF-specific number will be developed using the brig/PCF's CORMIS unit identification code (UIC), the year and month the prisoner's case was adjudged, and a sequential number of the file for that calendar year (e.g., 31001 10-11 001). All contact with a victim or witness, including telephonic and unsuccessful contact attempts, shall be documented in CORMIS, showing the date, time, type of contact, phone number/address used, staff name, and reasons for the contact, and outcome of contact.

(6) Types of Notification and Time Frames. DD Form 2705, Victim/Witness Notification of Inmate Status, is used to advise victims and witnesses of all release and release-related activities, transfers, and escapes. Unless a shorter period is prescribed below, notification should be made at least 45 days prior to the relevant action. All correspondence shall be sent certified mail, return receipt requested. The receipt shall be filed in the Victim and Witness Notification Record. If any certified mail is returned, the confinement facility VWAC shall attempt contact via telephone, and document that attempt.

(a) Initial Contact. The confinement facility VWAC shall send an acknowledgement of request to participate in the program to victims and witnesses within ten working days of receipt of the DD Form 2704. A completed DD Form 2705 (section I; section II, block 3, 4, 5 and 6; section III, block 8.a and

8.b; and section V) shall be included with the initial enrollment letter.

(b) Clemency/Parole Hearing. The confinement facility VWAC shall notify victims and witnesses at least 45 days in advance (or as soon as a date is established) of clemency or parole hearings held by the cognizant military Clemency and Parole Board (C&PB). The confinement facility VWAC shall notify victims and witnesses of their right to request a personal appearance at the parole hearing and to submit statements (written or taped) to the appropriate C&PB describing the impact of the crime on their lives. The confinement facility VWAC shall refer requests from victims and witnesses to appear in person before a C&PB hearing to the appropriate C&PB. Personal appearances before the brig/PCF disposition board are not authorized.

(c) Release. When a prisoner is to be released the confinement facility VWAC shall notify victims and witnesses through the use of a DD Form 2705, providing the date, reason for release, and destination (city and state). In parole cases, include location, phone number, and name of the parole officer. Notification should be made as soon as release is scheduled. Telephone contact shall be made when the prisoner is unexpectedly released and a DD Form 2705 would not be received by the victim or witness prior to the prisoner's release.

(d) Escape. The confinement facility VWAC shall notify victims and witnesses telephonically as soon as possible after discovery of an escape. Victims and witnesses shall also be notified telephonically of the prisoner's apprehension and return to confinement. This information shall be entered in CORMIS or provided to another service's central repository, as applicable, by the most expeditious means (facsimile, e-mail, telephone, etc.). Written follow-up notification shall also be mailed.

(e) Transfer

1. The confinement facility VWAC shall notify victims and witnesses of all planned transfers and include the address of the receiving brig/PCF. The victim and witness information will be hand delivered at the time of transfer or forwarded via certified mail to the CO or OIC of the receiving brig/PCF. If CORMIS is utilized by both facilities involved, data will be available to the gaining brig/PCF upon prisoner arrival.

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2. The confinement facility VWAC of the receiving brig/PCF shall notify victims and witnesses of the prisoner's new location and enrollment in the brig/PCF's victim and witness notification program within ten days of the prisoner's arrival.

3. If transferred to the United States Disciplinary Barracks (USDB), the confinement facility VWAC shall provide the original victim and witness information to the cross country chasers (via sealed envelope), which will be hand delivered to the Victim/Witness Coordinator at the USDB, Fort Leavenworth, KS.

4. If transferred to a civilian confinement facility, the confinement facility VWAC shall deliver the original victim and witness information to the Victim/Witness Coordinator and/or in processing personnel at the receiving civilian confinement facility. Copies of all victim and witness information shall be provided to the USMC central repository.

(f) Emergency Leave. The confinement facility VWAC shall notify victims and witnesses prior to the prisoner's release on emergency leave. This will normally be done by telephone.

(g) Death. The confinement facility VWAC shall notify the victim or witness within ten days of the death of the prisoner.

(7) Notification Request Cancellation.

(a) A victim or witness may request removal from the notification program by written request only. The request must be addressed to the brig/PCF where the prisoner is currently confined. All requests for removal shall be maintained in the prisoner's file.

(b) After three unsuccessful attempts to contact a victim or witness, at least once by certified mail, a brig/PCF may request cancellation of a victim's or witness' participation in the program from CMC (PSL-Corr). Requests shall be submitted in writing, providing full justification and a description of what efforts have been made to contact the victim or witness.

(8) Contact or Communication with Victims or Witnesses. Prisoners will be instructed that contact with any victim or government witness either directly or through a third party

without written permission from the brig/PCF CO or OIC is prohibited. This prohibition includes, but is not limited to, contact via telephone, in-person visits, written letters, e-mail, social media or any other manner of personal, written or electronic means. Prisoners desiring to communicate with victims or witnesses may submit a Form DD 510, Request for Interview, requesting permission from the CO or OIC. If directed by the CO or OIC, the confinement facility VWAC will contact victims or witnesses and ascertain their desire regarding contact with the prisoner. This requirement applies whether or not the victim or witness has elected to participate in the VWAP.

(9) Training. All brig/PCF personnel will be provided information about the VWAP and staff responsibilities at least annually.

(10) Repository Reports. Confinement facility VWACs shall ensure all VWAP information is entered in CORMIS within five days of the end of each quarter (i.e., by January 5, April 5, July 5, or October 5, as applicable). CMC (PSL-Corr) will compile the information and submit a consolidated report for inclusion into the annual report submitted to the Under Secretary of Defense (Personnel and Readiness) (USD(P&R)).

(11) Pretrial Detainee. Responsibility for notifying a victim or witness regarding the status of a pretrial detainee rests primarily with the prisoner's command and the trial counsel. The confinement facility VWAC should be prepared to advise remote commands, including duty officers in the absence of the primary command contact, of the appropriate action when events dictate (e.g., escape, emergency leave, etc.).

(12) Records Disposition.

(a) Transferred Prisoners. Victim and witness records shall be delivered or forwarded separately from the prisoner's record upon transfer. All victim and witness documents, to include DD forms 2704 and 2705, shall be placed in a sealed envelope marked "FOR COMMANDING OFFICER EYES ONLY" and hand delivered or mailed via certified mail to the gaining brig/PCF CO or OIC.

(b) Released Prisoners. All documents pertaining to victims and witnesses shall be maintained in a secure and separate manner from the prisoner record for two years after the prisoner's full term release date. After the second anniversary

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of release, all victim and witness information shall be destroyed in accordance with service regulations regarding PII. Under no circumstances shall victim and witness documents be forwarded to the archives for storage.

(c) Victim/Witness Data. CMC (PSL) will retain indefinitely all victim/witness data contained in CORMIS.

(13) Internal Controls. Brig/PCF COs and OICs are responsible for establishing internal controls to ensure all information held on victims and witnesses is kept strictly confidential and that no unauthorized person(s) or any prisoner(s) shall access the information. All victim and witness information shall be placed in a separate envelope stamped on both sides "EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT. ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION." In addition, a cover sheet will be placed inside the envelope on top of the material stamped "ALL VICTIM AND WITNESS INFORMATION IS EXEMPT FROM RELEASE UNDER THE FREEDOM OF INFORMATION ACT. ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION." The Victim and Witness Notification Program shall be included in the brig/PCF standard operating procedures. In addition, VWAP shall be included in the brig/PCF's functional adequacy inspections conducted by CMC (PSL) and the Commanding General's Inspection Program.

5. Service Provider Roles and Responsibilities

a. Installation Marine and Family Programs (MF)

(1) Inform crime victims and witnesses about VWAP rights, services, and assistance when they receive counseling, treatment, or advice, if such information has not already been provided.

(2) Ensure that victims and witnesses in a case understand the rights afforded them under the law and this chapter, and are provided with a completed DD Form 2701 if one has not already been provided.

(3) Ensure processes are in place to maintain data on the number of victims and witnesses who received DD Form 2701.

(4) Ensure the total number of victims and witnesses provided DD Form 2701 is reported to the installation VWLO per enclosure (4).

(5) Inform victims of spousal or intrafamilial abuse of the benefits provided under Transitional Compensation for Abused Family Members. The spouse and/or family should be referred to the local Family Advocacy Program for assistance with completion of DD Form 2698 "Application for Transitional Compensation."

(6) Encourage victims of spousal or intrafamilial abuse to contact the local legal assistance office for additional information on their rights and benefits they may be entitled to receive. All efforts should be made to execute a "warm hand-off" to legal assistance providers, by ensuring a legal assistance attorney is prepared to assist the victim.

(7) As appropriate, inform crime victims of state crime compensation funds that may be available to reimburse victims for certain expenses incurred as a result of the crime.

(8) Know the VWAP points of contact at their respective installations.

(9) Appoint, by name and in writing, a representative to the local Victim and Witness Assistance Council.

(10) Compile and maintain data as to the number of victims and witnesses who received a DD Form 2701, and forward to the local responsible official in accordance with reporting requirements set forth in this chapter.

b. Legal Assistance Attorneys

(1) Provide crime victims and witnesses legal assistance support as authorized by law and regulation.

(2) Provide crime victims and witnesses information regarding their rights under the VWAP and applicable law and regulation. Specifically:

(a) The VWAP program, including rights and benefits afforded a victim.

(b) The military justice system, including the roles and responsibilities of the trial counsel, defense counsel, investigators, and commander, and the rights afforded an accused.

(c) The ability of the government to compel cooperation and testimony.

(d) The contempt power of the court.

(e) The availability of protections offered by civilian and military restraining and protective orders.

(3) When requested by a victim or witness, the Legal Assistance Attorney shall contact the creditor of a victim or witness who is subjected to serious financial strain caused by the crime(s) or by cooperation in the investigation or prosecution of an offense.

(4) Legal assistance attorneys will not represent, nor make an appearance on behalf of, victims of crime at a related criminal proceeding, unless authorized by law.

(5) Legal assistance attorneys shall not serve as a RVWLO, VWLO, or unit VWAC.

Victim and Witness Assistance Program Reporting

1. References (b) and (c) require an annual report to the Under Secretary of Defense for Personnel and Readiness, via the Assistant Secretary of the Navy (ASN (M&RA)) concerning assistance provided under this order. Not later than 1 March of each year, CMC (JA-2) shall forward to ASN (M&RA) a completed DD Form 2706 for data covering the preceding calendar year. Report Control Symbol DD-5800-10 (External Report Control Symbol DD-P&R(A) 1952) is assigned to this reporting requirement.)

a. To comply with this reporting requirement, all personnel involved with the VWAP shall maintain data, as appropriate, on the number of victims and witnesses provided DD Forms 2701-2703, the number of victims and witnesses who elected via DD Form 2704 to be notified of changes in prisoner status, and the total number of victims and witnesses provided notice of prisoner status changes via DD Form 2705.

(1) CMC (PSL) shall report to CMC (JA-2) via DD Form 2706, by 1 February, the total number of victims and witnesses to whom Marine Corps brig personnel provided notice of prisoner status changes via DD Form 2705, and a cumulative total (as of 31 December) of each service's prisoners for whom brig must provide victim or witness notifications.

(2) COMMCICOM, COMMARFORRES, and Regional Marine Corps Installation CGs. Collect and forward, on a quarterly basis via DD Form 2706 the total number of victims and witnesses who received DD Form 2701-2703 and the total number of victims and witnesses who elected via DD Form 2704 to be notified of changes in prisoner status. Reports are due to CMC (JA-2) on the 20th day of the month following the end of the quarter (i.e., 20 April, 20 July, 20 September, and 20 January) with the data for the previous quarter.

(a) LSST OICs. Ensure that all VWAP fields are completely filled out and VWAP data is accurately maintained in the Marine Corps Case Management System.

(b) Victim Service Providers (e.g., SAPR, MF, VWAC, etc.). Maintain data, as appropriate, and forward to the installation VWLO in a timely manner to ensure quarterly reports are submitted in accordance with this order.

(c) Law Enforcement Personnel. Maintain data as to the number of victims and witnesses provided DD 2701 and forward

to the Local Responsible Official to ensure quarterly reports are submitted in a timely manner.

b. Correction Facilities. Commanding officers of correction facilities shall submit a monthly report to CMC (PSL-Corr) concerning the status of their service members confined in Marine Corps facilities. The report shall include:

- (1) Prisoner's name and social security number.
- (2) Prisoner's date of confinement (indicate whether a new confinement or transfer from another facility).
- (3) Date of admittance into the program and the number of victims or witnesses for each prisoner.
- (4) Location of the court-martial convening authority.
- (5) Number of all victims or witnesses notified (via DD Form 2705 or telephonically) and the reason for notification for each prisoner status change during the month.
- (6) Information regarding unsuccessful attempts to contact a victim or witness who previously requested notification.
- (7) Copies of any correspondence received from a victim or witness (including requests for termination from the notification program).
- (8) Prisoner's minimum release date.
- (9) Prisoner's parole eligibility date.
- (10) The cumulative total of the service's prisoners for whom brigs must make victim or witness notifications, confined as of the last day of the reporting month.

2. Forms. The necessary VWAP forms are available via the DOD here <http://vwac.defense.gov/VWACForms.aspx> or via Judge Advocate Division, HQMC. If forms are unavailable online, contact CMC (JA-2), (703) 614-4250.



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 5800.11B
PERS 00J
JAN - 5 2006

SECNAV INSTRUCTION 5800.11B

From: Secretary of the Navy

Subj: VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)

Ref: (a) DOD Directive 1030.1 of 13 Apr 04
(b) DOD Instruction 1030.2 of 4 Jun 04
(c) 10 U.S.C. 47
(d) Manual for Courts-Martial, 2000
(e) OPNAVINST 5800.7
(f) MCO 5800.15A (LEGADMINMAN)
(g) SECNAVINST 5040.3A

Encl: (1) Definitions

1. Purpose. To establish the Victim and Witness Assistance Program (VWAP) and designate the persons responsible for identifying the victims of crime and performing the services required by references (a) and (b). This instruction is a complete revision and should be read in its entirety.

2. Cancellation. SECNAVINST 5800.11A.

3. Definitions. Definitions used in this instruction are provided in enclosure (1).

4. Background. Without the cooperation of victims and witnesses, criminal justice systems would cease to function. Yet, the needs of victims and witnesses have not always been adequately addressed. Seeking to correct this imbalance Congress enacted a series of laws designed to inform victims and witnesses of their rights and responsibilities in the criminal justice system; in references (a) and (b), the Department of Defense (DOD) has established policy in this area and directed implementation of relevant provisions of law. The Department of the Navy (DON) is committed to doing all that is possible within limits of available resources to assist victims and witnesses of crime and ensure that the military criminal justice system accords crime victims and witnesses their rights, without infringing on the constitutional rights of an accused.

5. Applicability. This instruction applies throughout the DON. It pertains to victims of offenses under reference (c) and to witnesses in proceedings under reference (d). The provisions of this instruction are not limited to offenses prosecuted at courts-martial. Crime victims and witnesses do not forfeit their status when offenses are referred for non-judicial punishment or administrative separation processing. In overseas locations, this program is limited to victims and witnesses who are military members and their families, and DOD civilian employees and contractors and their family members.

6. Policy. The DON will treat all victims and witnesses with respect. All service members and DON employees will make their best effort to ensure that victims and witnesses of crimes are informed of their rights and provided assistance as appropriate. Particular attention should be paid victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

7. Limitation. This instruction is not intended to, and does not create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or witness the assistance outlined in this instruction. No limitations are placed on the lawful prerogatives of the DON or its officials.

8. Responsibility

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)) is responsible for overall policy and execution of the VWAP. Additionally, ASN (M&RA) shall:

(1) Submit annual consolidated Navy and Marine Corps reports using DD 2706, Annual Report on Victim and Witness Assistance, to the Under Secretary of Defense for Personnel and Readiness, Attention: Legal Policy Office, 400 Defense Pentagon, Washington, DC 20302-4000. Reports shall be submitted by 15 March for the preceding calendar year. Guidance for form submission is provided in reference (b).

(2) Establish and chair an interdisciplinary Victim and Witness Assistance council per reference (b). This Navy and Marine Corps council will coordinate the development of policy recommendations and the implementation of the VWAP.

JAN - 5 2006

b. The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) are designated the "Component Responsible Official", as required by references (a) and (b), in references (e) and (f) respectively. References (e) and (f) establish procedures to ensure that local installation responsible officials provide the victim and witness services required by reference (b). Additionally, CNO and CMC shall:

(1) Develop and implement a VWAP using a multi-disciplinary approach by victim and witness service providers, including law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, medical personnel, Fleet and Family Service Center personnel, judge advocates, corrections personnel, and unit commanding officers (COs). All affected Navy and Marine Corps activities must comply with references (a) and (b).

(2) Ensure, to the extent practical, that each military installation establishes a Victim and Witness Assistance Council, and that an interdisciplinary approach is followed by the victim and witness service providers.

(3) Establish a training program to ensure the service providers listed in paragraph 8b(1) receive instruction to assist them in fulfilling their obligations under the DON VWAP.

(4) Appoint local responsible officials, as required under reference (b), who shall be responsible for ensuring that systems are in place at the installation level to provide victims and witnesses information on available benefits and services, assistance in obtaining those benefits, and other services as required by reference (b).

(5) Establish oversight procedures to ensure establishment of an integrated support system capable of providing services outlined in reference (b).

(6) Provide for the assignment of personnel in sufficient numbers to enable this program, and other programs designed to assist victims and witnesses, to be carried out effectively.

(7) Ensure that the assistance provided to crime victims and witnesses is tracked and recorded to assist in preparing the annual reports described in paragraph 8(a)(1).

c. Commander, Navy Personnel Command (COMNAVPERSCOM), Corrections and Programs Division (PERS 68), and the Commandant of the Marine Corps (CMC (PSL)), are designated the central repositories for the purpose of tracking notice of the status of Navy and Marine Corps offenders, respectively, confined in military correctional facilities, per references (a) and (b). COMNAVPERSCOM (PERS 68) and CMC (PSL) shall ensure that a Confinement Facility Victim and Witness Assistance Coordinator is appointed at each confinement facility who is responsible for victim and witness notification of changes in confinee status.

d. The Secretary of the Navy Council of Review Boards (SECNAVCORB), shall ensure that the Naval Clemency and Parole Board (NC&PB):

(1) Provides the appropriate confinement facility with sufficient notice of the scheduling of clemency and parole hearings. The confinement facility will inform victims who have requested notification of the scheduled hearings to allow them an opportunity to submit statements (written or taped) on the impact the crime has had on their lives or any other information they request the board to consider.

(2) Considers all available documentary evidence and correspondence submitted by a victim when reviewing a case. NC&PB will permit a personal appearance by the victim if it determines that such appearance would be useful or would provide information not otherwise available.

(3) Designates, as necessary, a victim witness assistance coordinator to implement the requirements of this program.

e. The Judge Advocate General of the Navy and Judge Advocate of the Marine Corps shall provide advice, instruction, guidance, and assistance regarding the legal aspects of the VWAP.

f. The Naval Inspector General (NAVINSGEN) and Inspector General of the Marine Corps shall give favorable consideration, upon request, to the inclusion of the VWAP in the Naval Command Inspection Program (reference (g)). NAVINSGEN shall also:

(1) Provide indoctrination and training in the VWAP to all NAVINSGEN investigative personnel.

(2) Ensure all field elements comply with the requirements of references (a) and (b).

(3) Coordinate through field elements with other agencies in support of victim and witness assistance for investigations conducted jointly with or in support of those agencies.

g. The Director, Naval Criminal Investigative Service (NAVCRIMINVSVC), shall ensure that all law enforcement and criminal investigative personnel:

(1) Comply with requirements of references (a) and (b).

(2) Provide annual reports to COMNAVPERSCOM (PERS 00J) and the CMC (JAM) on the delivery of services to victims and witnesses by field offices.

(3) Receive indoctrination and training in the VWAP.

(4) Coordinate with other agencies in support of victim and witness assistance for investigations conducted jointly with or in support of those agencies.

(5) Appoint victim witness assistance coordinators in field offices.

9. Forms and Reports

a. DD 2706 (DEC 94), Annual Report on Victim and Witness Assistance is available online at <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>

b. Report Control Symbol DD-P&R(A)1952 is assigned to the report contained in paragraph 8a(1).



William A. Navas, Jr.
Assistant Secretary of the Navy
(Manpower and Reserve Affairs)

Distribution:

Electronic only via Navy Directives Web site

<http://neds.daps.dla.mil/>

DEFINITIONS

1. Central Repository. A headquarters office, designated by the Secretary of the Navy to serve as a clearing-house of information on confinee status and to collect and report data on the delivery of victim and witness assistance, including notification of confinee status changes.
2. Component Responsible Official. Person designated by the CNO and the CMC primarily responsible for coordinating, implementing, and managing the VWAP within their respective Service branch.
3. Confinement Facility Victim Witness Assistance Coordinator. A staff member at a military confinement facility who is responsible for notifying victims and witnesses of changes in a confinee's status and reporting those notifications to the central repository.
4. Local Responsible Official. Person designated by the CNO and the CMC who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services through an interdisciplinary approach as described in reference (b).
5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the UCMJ (reference (c)) or in violation of the law of another jurisdiction in cases where military authorities have been notified. Such individuals shall include, but are not limited to, the following:
 - a. Military members and their family members.
 - b. When stationed outside the continental United States, DOD civilian employees and contractors, if provided for by contract, and their family members. This program applies to services not available to DOD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.
 - c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following: a legal guardian, spouse, parent, child, sibling,

another family member, or another person designated by the court or local responsible official, or designee.

d. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice, even though the individual may be one of the representatives described above.

e. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

6. Witness. A person who has information or evidence concerning a crime, and provides that knowledge to a DON representative about an offense in the investigative jurisdiction of the DON. When the witness is a minor, that term includes a parent or legal guardian. The term "witness" does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.



Department of Defense

DIRECTIVE

NUMBER 1030.01

April 13, 2004

Certified Current as of April 23, 2007

USD(P&R)

SUBJECT: Victim and Witness Assistance

References: (a) DoD Directive 1030.1, Victim and Witness Assistance, November 23, 1994 (hereby canceled)
(b) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
(c) Sections 10606 and 10607 of title 42, United States Code
(d) Sections 1512-1514 of title 18, United States Code
(e) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," *June 4, 2004*

1. REISSUANCE AND PURPOSE

This Directive:

1.1. Reissues reference (a) to update Department of Defense (DoD) policies and responsibilities for providing assistance to victims and witnesses of crimes committed in violation of reference (b).

1.2. Implements references (c) and (d) by providing guidance for assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of Inspector General of the DoD (IG, DoD), the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 1.

4. POLICY

It is DoD policy that:

4.1. The necessary role of crime victims and witnesses in the criminal justice process should be protected.

4.2. The DoD Components shall do all that is possible within limits of available resources to assist victims and witnesses of crime, in accordance with the requirements listed in DoD Instruction 1030.2 (reference (e)) without infringing on the constitutional rights of an accused. Particular attention should be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

4.3. This Directive is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or a witness the assistance outlined in this Directive. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

4.4. Law enforcement and legal personnel directly engaged in the detection, investigation, or prosecution of crimes, shall ensure that victims are accorded their rights. As provided for in references (c) and (d), a crime victim has the right to:

4.4.1. Be treated with fairness and respect for the victim's dignity and privacy.

4.4.2. Be reasonably protected from the accused offender.

4.4.3. Be notified of court proceedings.

4.4.4. Be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

4.4.5. Confer with the attorney for the Government in the case.

4.4.6. Receive available restitution.

4.4.7. Be provided information about the conviction, sentencing, imprisonment, and release of the offender.

4.5. Court-martial convening authorities and clemency and parole boards shall consider making restitution to the victim a condition of pretrial agreements, sentence reduction, clemency, and parole. They may consider victim statements on the impact of crime.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

5.1.1. Develop overall policy for victim and witness assistance and monitor compliance with this Directive and reference (e).

5.1.2. Approve procedures developed by the Secretaries of the Military Departments that implement this Directive and are consistent with reference (e).

5.1.3. Maintain a Victim and Witness Assistance Council to provide a forum for the exchange of information and the consideration of victim and witness policies, and provide a liaison with the Department of Justice Office for Victims of Crime.

5.1.4. Ensure the Defense Manpower Data Center assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

5.1.5. Change, reissue, or amend reference (e), as required.

5.2. The IG, DoD shall oversee the development of investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the USD(P&R), the Heads of the DoD Components, the Component responsible officials, or the local responsible officials.

5.3. The Secretaries of the Military Departments and the Heads of the Other DoD Components shall:

5.3.1. Ensure compliance with this Directive and establish policies and procedures to implement this program within their Component.

5.3.2. Designate the "Component Responsible Official," as defined in item E1.1.2. of enclosure 1.

5.3.3. Maintain a central repository, as defined in item E1.1.1. of enclosure 1, for each Military Service, to ensure that victims shall be notified of changes in a confinee's status.

5.3.4. Ensure that a multi-disciplinary approach is followed by victim and witness service providers, including law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments; and ensure that those providers receive training to assist them in complying with this Directive.

5.3.5. Establish procedures to ensure that local installation responsible officials provide victim and witness services as required in reference (e) at the installation level through coordination with the representatives identified in paragraph 5.3.4., above.

5.3.6. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in reference (e). Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.


5.3.7. Report annually to the OUSD(P&R) in the format prescribed in reference (e) for the preceding calendar year.

6. INFORMATION REQUIREMENTS

The annual reporting requirements in subparagraph 5.3.7., above, have been assigned Report Control Symbol DD-P&R(A)1952.

7. EFFECTIVE DATE

This Directive is effective immediately.



Paul Wolfowitz
Deputy Secretary of Defense

Enclosures - 1
E1. Definitions

E1. ENCLOSURE 1

DEFINITIONS

E1.1.1. Central Repository. A headquarters office, designated by Service regulation, to serve as a clearinghouse of information on a confinee's status and to collect and report data on the delivery of victim and witness assistance, including notification of confinee status changes.

E1.1.2. Component Responsible Official. Person designated by the Head of each DoD Component to be primarily responsible in the Component for coordinating, implementing, and managing the victim and witness assistance program established by this Directive.

E1.1.3. Confinement Facility Victim Witness Assistance Coordinator. A staff member at a military confinement facility who is responsible for notifying victims and witnesses of changes in a confinee's status and reporting those notifications to the central repository.

E1.1.4. Local Responsible Official. Person designated by the Component Responsible Official who has primary responsibility for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Directive through a multi-disciplinary approach. The position or billet of the local responsible official shall be designated in writing by Service regulation. The local responsible official may delegate responsibilities under this Directive as provided in reference (e).

E1.1.5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of the Uniform Code of Military Justice) (Chapter 47 of 10 U.S.C., reference (b) or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals shall include, but are not limited to, the following:

E1.1.5.1. Military members and their family members.

E1.1.5.2. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This applies to services not available to DoD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.

E1.1.5.3. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse,

legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.

E1.1.5.4. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

E1.1.6. Witness. A person who has information or evidence about a criminal offense within the investigative jurisdiction of a DoD Component and who provides that knowledge to a DoD Component. When the witness is a minor, that term includes a family member or legal guardian. The term does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.



Department of Defense

INSTRUCTION

NUMBER 1030.2
June 4, 2004

USD(P&R)

SUBJECT: Victim and Witness Assistance Procedures

- References: (a) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," December 23, 1994 (hereby canceled)
- (b) DoD Directive 1030.1, "Victim and Witness Assistance," April 13, 2004
 - (c) Chapter 47 of title 10, United States Code, "Uniform Code of Military Justice"
 - (d) Sections 10601-10607 of title 42, United States Code
 - (e) through (h), see enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction:

1.1. Reissues reference (a) to implement policy, assign responsibilities, and prescribe procedures under reference (b) to assist victims and witnesses of crimes committed in violation of reference (c).

1.2. Implements reference (d), sections 1512-1514 of title 18, United States Code, DoD 5400.7-R, and sections 113 (note), 1058, 1059 and 1408 of title 10, United States Code (references (e) through (g)) by providing guidance on assisting victims and witnesses of crime from initial contact through investigation, prosecution, and confinement.

1.3. Establishes annual reporting requirements on assistance provided to victims and witnesses of crime.

2. APPLICABILITY

This Instruction applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities in the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

3. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

4. POLICY

4.1. This Instruction implements policy established in reference (b).

4.2. This Instruction is not intended to, and does not, create any entitlement, cause of action, or defense in favor of any person arising out of the failure to accord to a victim or a witness the assistance outlined in this Instruction. No limitations are hereby placed on the lawful prerogatives of the Department of Defense or its officials.

5. RESPONSIBILITIES

5.1. The Under Secretary of Defense for Personnel and Readiness (USD(P&R)) shall:

5.1.1. Develop overall policy for victim and witness assistance and monitor compliance with this Instruction.

5.1.2. Approve procedures developed by the Secretaries of the Military Departments that implement this Instruction and are consistent with section 6., below.

5.1.3. Change, reissue, or amend this Instruction, as required.

5.1.4. Ensure the Defense Manpower Data Center assists in formulating a data collection mechanism to track and report victim notifications from initial contact through investigation, prosecution, confinement, and release.

5.1.5. Establish an interdisciplinary Victim and Witness Assistance Council.

5.1.5.1. The Council shall provide a forum for the exchange of information, consider victim and witness assistance policies, and provide liaison with the Department of Justice Office for Victims of Crime.

5.1.5.2. The membership of the Council shall be selected from members of the Armed Forces and other DoD employees having expertise in the disciplines and professions addressed in subparagraph 5.2.6., below. The Council shall meet quarterly or at the call of the chair.

5.2. The Secretaries of the Military Departments and the Heads of the DoD Components shall:

5.2.1. Ensure compliance with this Instruction and establish policies and procedures to implement the victim and witness assistance program within their Component.

5.2.2. Designate the Component responsible official, as defined in enclosure 2, for the victim and witness assistance program, who shall report annually to the USD(P&R) using DD Form 2706, "Victim and Witness Assistance Annual Report" (enclosure 8).

5.2.3. Provide for the assignment of personnel in sufficient numbers to enable those programs identified in 10 U.S.C. 113 note (reference (g)) to be carried out effectively.

5.2.4. Designate a central repository for confinee information, as defined in item E2.1.1. of enclosure 2, for each Military Service, and establish procedures to ensure victims who so elect are notified of changes in inmate status.

5.2.5. Establish an interdisciplinary Victim and Witness Assistance Council in each Military Department to develop policy recommendations and facilitate coordination between the Department's victim and witness assistance program and its victim advocacy program.

5.2.6. Establish a Victim and Witness Assistance Council, when practicable, at each military installation, to ensure victim and witness service providers follow an interdisciplinary approach. These providers may include law enforcement personnel, criminal investigators, chaplains, family advocacy personnel, emergency room personnel, family service center personnel, equal opportunity personnel, judge advocates, unit commanding officers, corrections personnel, and other persons designated by the Secretaries of the Military Departments.

5.2.7. Establish a training program to ensure the providers listed in subparagraph 5.2.6., above, receive instruction to assist them in complying with this Instruction.

5.2.8. Ensure that local responsible officials are designated. The local responsible official (also referred to as Victim/Witness Coordinator or Victim/Witness Liaison) shall coordinate the effort to ensure that systems are in place at the installation level to provide information on available benefits and services, assistance in obtaining those benefits and services, and other services required in section 6., below. The local responsible official may delegate the duties as appropriate, but retains responsibility to coordinate the delivery of required services. To coordinate the delivery of services, the local responsible official may use an interdisciplinary approach involving the various service providers listed in subparagraph 5.2.6., above.

5.2.9. Establish oversight procedures to ensure establishment of an integrated support system capable of providing the services outlined in section 6., below. Such oversight could include coverage by Military Service or organizational Inspectors General, staff assistance visits, surveys, and status reports.

5.3. The Inspector General of the Department of Defense shall oversee the development of investigative policy and perform appropriate oversight reviews of the management of the victim and witness assistance program by the DoD criminal investigative organizations. This is not intended to substitute for the routine managerial oversight of the program provided by the DoD criminal investigative organizations, the USD(P&R), the Heads of the DoD Components, the Component responsible officials, or the local responsible officials.

6. PROCEDURES

6.1. Initial Information and Services to be Provided to Victims and Witnesses. At the earliest opportunity after identification of a crime victim or witness, the local responsible official, law enforcement officer, or criminal investigation officer shall provide the following services to each victim and witness, as appropriate: The DD Form 2701, "Initial Information for Victims and Witnesses of Crime," (enclosure 3) or computer-generated equivalent shall be used as a handout to convey basic information and points of contact and shall be recorded on the appropriate form authorized for use by the particular Service. This serves as evidence that the officer notified the victim or witness of his or her statutory rights. The following services shall also be provided by the local responsible official or designee:

6.1.1. Information about available military and civilian emergency medical and social services, victim advocacy services for victims of domestic violence and sexual assault, and, when necessary, assistance in securing such services.

6.1.2. Information about restitution or other relief a victim may be entitled to under references (d) and (e), or other applicable laws, and the manner in which such relief may be obtained.

6.1.3. Information to victims of intra-familial abuse offenses on the availability of limited transitional compensation benefits and possible entitlement to some of the active duty member's retirement benefits under 10 U.S.C. 1058, 1059, 1408 (reference (g)) and DoD Instruction 1342.24 (reference (h)).

6.1.4. Information about public and private programs that are available to provide counseling, treatment, and other support, including available compensation through Federal, State, and local agencies.

6.1.5. Information about the prohibition against intimidation and harassment of victims and witnesses, and arrangements for the victim or witness to receive reasonable protection from threat, harm, or intimidation from a suspected offender and from people acting in concert with or under the control of the suspected offender.

6.1.6. Information concerning military and civilian protective orders, as appropriate.

6.1.7. Information about the military criminal justice process, the role of the victim or witness in the process, and how the victim or witness can obtain additional information concerning the process and the case.

6.1.8. If necessary, assistance in contacting the people responsible for providing victim and witness services and relief.

6.2. Information to be Provided During Investigation of a Crime. If the victim or witness has not already received the DD Form 2701 from law enforcement officials, it shall be used by investigators as a handout to convey basic information and points of contact. The date it is given to the victim or witness is reportable and shall be recorded on the appropriate form authorized for use by the particular Service. This serves as evidence that the officer notified the victim or witness of his or her statutory rights. Law enforcement investigators and criminal investigators shall inform all victims and witnesses, as appropriate, of:

6.2.1. The status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.

6.2.2. The arrest of the suspected offender.

6.2.3. A decision not to pursue further investigation.

6.3. Information and Services to be Provided Concerning the Prosecution of a Crime

6.3.1. If applicable, the following shall be provided by Government trial counsel or designee to victims and witnesses:

6.3.1.1. Consultation concerning the decision not to prefer charges against the suspected offender.

6.3.1.2. Consultation concerning the disposition of the offense if other than a court-martial.

6.3.1.3. The decision to pursue court-martial charges against the suspected offender. The DD Form 2702, "Court-Martial Information for Victims and Witnesses," (enclosure 4) shall be used as a handout to convey basic information about the court-martial process. The date it is given to the victim or witness is reportable and shall be recorded on the appropriate form authorized for use by the particular Service.

6.3.1.4. Notification of the initial appearance of the suspected offender before a judicial officer at a pretrial confinement hearing or at an Article 32, Uniform Code of Military Justice (UCMJ), investigation (10 U.S.C. 832, reference (c)).

6.3.1.5. Notification of the release of the suspected offender from pretrial confinement.

6.3.1.6. Consultation concerning the decision to refer or not to refer the charges against the suspected offender to trial by court-martial.

6.3.1.7. Explanation of the court-martial process upon referral to trial.

6.3.1.8. Prior to the actual court-martial, assistance in obtaining available services such as transportation, parking, child care, lodging, and courtroom translators or interpreters that may be necessary to allow the victim or witness to participate in court proceedings.

6.3.1.9. During the court proceedings, provide a private waiting area out of the sight and hearing of the accused and defense witnesses. In the case of proceedings conducted aboard ship or in a deployed environment, provide a private waiting area to the greatest extent practicable.

6.3.1.10. Notification of the scheduling, including changes and delays, of each investigation pursuant to Article 32, UCMJ (reference (c)), and each court proceeding the victim is entitled to or required to attend. Upon request of a victim or witness whose absence from work or inability to pay an account is caused by the crime or cooperation in the investigation or prosecution, the employer or creditor of the victim or

witness shall be informed of the reasons for the absence from work or inability to make timely payments on an account. This requirement does not create an independent entitlement to legal assistance or a legal defense against claims of indebtedness.

6.3.1.11. Consultation concerning any decision to dismiss charges or to enter into a pretrial agreement.

6.3.1.12. Notification of the disposition of the case, to include the acceptance of a plea of "guilty," the rendering of a verdict, or the withdrawal or dismissal of charges.

6.3.1.13. Notification to victims of the opportunity to present to the court at sentencing, in compliance with applicable law and regulations, a statement of the impact of the crime on the victim, including financial, social, psychological, and physical harm suffered by the victim.

6.3.1.14. After court proceedings, take appropriate action to ensure that property of a victim or witness held as evidence is safeguarded and returned as expeditiously as possible.

6.3.1.15. Notification of the offender's sentence and general information regarding minimum release date, parole, clemency, and mandatory supervised release, if applicable.

6.3.2. Except for information that is releasable under paragraph 6.2. and subparagraph 6.3.1., requests for information relating to the investigation and prosecution of a crime (e.g., investigative reports and related documents) from a victim or witness shall be processed in accordance with DoD 5400.7-R (reference (f)). The local responsible official may authorize release of a copy of the record of trial without cost to a victim when necessary to lessen the physical, psychological, or financial hardships suffered as a result of a criminal act.

6.3.3. Any consultation or notification required by subparagraph 6.3.1. may be limited to avoid endangering the safety of a victim or witness, jeopardizing an ongoing investigation, disclosing classified or privileged information, or unduly delaying the disposition of an offense. Although the victim's views should be considered, this Instruction is not intended to limit the responsibility or authority of the Military Service or the Defense Agency officials to act in the interest of good order and discipline.

6.4. Information and Services to be Provided Upon Order to Confinement. The following services shall be provided by the Government trial counsel or designee to victims and witnesses upon sentencing of an offender to confinement in a court-martial: The DD Form 2703, "Post-Trial Information for Victims and Witnesses," (enclosure 5) shall be used as a handout to convey basic information about the post-trial process. The date it is given to the victim or witness is reportable and shall be recorded

on the appropriate form authorized for use by the particular Service. When appropriate, the following shall be provided to victims and witnesses:

6.4.1. General information regarding convening authority action, the corrections process, information about work release, furlough, probation, parole, mandatory supervised release, or other forms of release from custody, and eligibility for each.

6.4.2. Specific information regarding the election to be notified of changes in inmate status. The DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status," (enclosure 6) shall be used for victims and appropriate witnesses (those who fear harm by the offender) to elect to be notified of changes in the offender's status in confinement. For all cases resulting in a sentence to confinement, the DD Form 2704 shall be completed and forwarded to the Service central repository, the gaining confinement facility, the local responsible official, and the victim or witness, if any. The date it is given to the victim or witness is reportable and shall be recorded on the appropriate form authorized for use by the particular Service. Do not allow the inmate access to DD Forms 2704 or 2705 or attach a copy of the forms to any record to which the confinee has access. Doing so could endanger the victim or witness. The DD Forms 2704 and 2705 are exempt from release under reference (f).

6.5. Information and Services to be Provided Upon Entry into Confinement Facilities. The victim and witness assistance coordinator at the military confinement facility shall:

6.5.1. On entry of an offender into post-trial confinement, obtain the DD Form 2704 to determine victim or witness notification requirements. If the form is unavailable, ask the Service central repository whether any victim or witness has requested notification of changes in inmate status in the case.

6.5.2. When a victim or witness has requested notification of changes in inmate status on the DD Form 2704, and that status changes as listed in subparagraphs 6.5.2.1. through 6.5.2.6., below, use the DD Form 2705, "Victim and Witness Notification of Changes in Inmate Status," (enclosure 7) to notify the victim or witness. The date it is given to the victim or witness is reportable and shall be recorded on the appropriate form authorized for use by the particular Service to comply with the reporting requirement in subparagraph 6.6.1.5. Provide the earliest possible notice of:

6.5.2.1. The scheduling of a clemency or parole hearing for the inmate.

6.5.2.2. The transfer of the inmate from one facility to another.

6.5.2.3. The escape (and subsequent return to custody), work release, furlough, or any other form of release from custody of the inmate.

6.5.2.4. The release of the inmate to parole supervision.

6.5.2.5. The death of the inmate, if the inmate dies while in custody.

6.5.2.6. A change in the scheduled release date of more than 30 days from the last notification due to a disposition or disciplinary and adjustment board.

6.5.3. Make reasonable efforts to notify all victims and witnesses who have requested notification of changes in inmate status of any emergency or special temporary home release granted an inmate.

6.5.4. On transfer of an inmate to another military confinement facility, forward the DD Form 2704 to the gaining facility, with an information copy to the Service central repository.

6.5.5. Annually report the status of victim and witness notification requests to the Service central repository as required by section 7., below.

6.6. Reporting Procedures

6.6.1. To comply with the requirements of references (d), (e), and (g), the Component responsible official shall submit an annual report using the DD Form 2706 (enclosure 8) to the following address: The Under Secretary of Defense for Personnel and Readiness, Attention: Legal Policy Office, 4000 Defense Pentagon, Washington, DC 20301-4000. The report shall be submitted by March 15 for the preceding calendar year and shall address the assistance provided victims and witnesses of crime. The report shall include the following:

6.6.1.1. The number of victims and witnesses who received a DD Form 2701 from law enforcement or criminal investigations personnel.

6.6.1.2. The number of victims who received a DD Form 2702 from Government trial counsel or designee.

6.6.1.3. The number of victims and witnesses who received a DD Form 2703 from Government trial counsel or designee.

6.6.1.4. The number of victims and witnesses who elected via the DD Form 2704 to be notified of changes in inmate status.

6.6.1.5. The number of victims and witnesses who were notified of changes in inmate status by the confinement Victim Witness Assistance Coordinators via the DD Form 2705 or a computer-generated equivalent.

6.6.1.6. The cumulative number of inmates in each Service for whom victim witness notifications must be made by each Service's confinement facilities. These numbers are derived by totaling the number of inmates with victim or witness notification requirements at the beginning of the year, adding new inmates with the requirement, and then subtracting those confinees who were released, deceased, or transferred to another facility (Federal, State, or sister Service) during the year.

6.6.2. The Office of the USD(P&R) shall consolidate all reports submitted pursuant to paragraph 6.6., above, and submit an annual report to the Office for Victims of Crime, Department of Justice.

7. INFORMATION REQUIREMENTS

The annual reporting requirement in subparagraph 6.6.1., above, has been assigned Report Control Symbol DD-P&R(A)1952.

8. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu
Under Secretary of Defense
(Personnel and Readiness)

Enclosures - 8

- E1. References, continued
- E2. Definitions
- E3. Sample DD Form 2701
- E4. Sample DD Form 2702
- E5. Sample DD Form 2703
- E6. Sample DD Form 2704
- E7. Sample DD Form 2705
- E8. Sample DD Form 2706

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Sections 1512-1514 of title 18, United States Code
- (f) DoD 5400.7-R, "DoD Freedom of Information Act Program," September 4, 1998
- (g) Sections 113 (note), 1058, 1059 and 1408 of title 10, United States Code
- (h) DoD Instruction 1342.24, "Transitional Compensation for Abused Dependents,"
May 23, 1995

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Central Repository. A Military Service headquarters office designated by the Secretary for each Military Department to serve as a clearing-house of information on inmate status and to collect and report data on the delivery of victim and witness assistance including notification of inmate status changes.

E2.1.2. Component Responsible Official. Person designated by the Head of each DoD Component who coordinates, implements, and manages the Victim and Witness Assistance Program established by this Instruction.

E2.1.3. Confinement Facility Victim and Witness Assistance Coordinator. A staff member at a military confinement facility who notifies victims and witnesses of changes in inmate status and annually reports the number of those notifications to the Military Service central repository.

E2.1.4. Local Responsible Official. Person designated by the Component responsible official who is responsible for identifying victims and witnesses of crime and for coordinating the delivery of services described in this Instruction through an interdisciplinary approach. The position or billet of the local responsible official shall be designated in writing in accordance with Service regulation. The local responsible official may delegate responsibilities under this Instruction as provided in subparagraph 5.2.8., above.

E2.1.5. Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of reference (c), (or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the DoD Components). Such individuals shall include, but are not limited to, the following:

E2.1.5.1. Military members and their family members.

E2.1.5.2. When stationed outside the continental United States, DoD civilian employees and contractors, and their family members. This designation makes services available to them that are not available to DoD civilian employees, contractors, and their family members in stateside locations, such as medical care in military medical facilities.

E2.1.5.3. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following (in order of precedence): a spouse, legal guardian, parent, child, sibling, another family member, or another person designated by the court or the Component responsible official, or designee.

E2.1.5.4. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

E2.1.6. Witness. A person who has information or evidence about a crime within the investigative jurisdiction of a DoD Component who provides that knowledge or evidence to a DoD Component. When the witness is a minor, that term includes a family member or legal guardian. The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

E3. ENCLOSURE 3

SAMPLE DD FORM 2701

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the Investigator below:

David F. Smith
(Name)
(999) 123-4567
(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

Robert Jones
(Name)
(123) 456-7890
(Telephone Number)

In regard to the prosecution, contact the legal office below:

Eric Prosecute
(Name)
(777) 234-4321
(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime .Victim Compensation:

Sara Help
(Name)
(777) 777-7777
(Telephone Number)

Please notify these offices of any changes of address or telephone number. For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at: <<http://dod.mil/vwac>>

DEPARTMENT OF
DEFENSE



INITIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

Initial Information
For Victims and Witnesses of Crime

Introduction. We are concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may experience anger, frustration, or fear as a result of your experience. The officer responsible for Victim/Witness Assistance at your installation can help.

We have prepared this brochure to help you deal with the problems and questions which often surface during an investigation and to provide you with a better understanding of how the military criminal justice system works. Your continued assistance is really needed and appreciated.

A criminal investigation can be both complex and lengthy and may involve several agencies, some Federal and some local. If you request, you will be kept informed of the status of your case by the investigator handling your case. His or her name is on the back of this brochure.

If You Are Threatened Or Harassed. If anyone threatens you or you feel that you are being harassed because of your cooperation with this investigation, contact the investigator or the Victim/Witness Responsible Official right away. It is a crime to threaten or harass a victim or witness.

If You Were Insured. If you do not have insurance to pay the cost of your medical or counseling bills, or related expenses, the state Crime Victim Compensation office may be able to assist. The telephone number for this office is on the back of this brochure.

If You Were a Victim of Spouse or Child Abuse or Sexual Assault. For your safety, you may want a restraining order, or temporary shelter. For information about these steps or about counseling services, call the Victim/Witness Responsible Official. If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the prosecutor identified on the back of this brochure for further information.

Restitution. If an individual is arrested and prosecuted in federal court, you may be eligible for restitution. Restitution is court-ordered payment to you as a victim of crime. It is made by the offender for any out of pocket expenses caused by the crime. Restitution cannot be ordered as a sentence in a military court-martial, but it can be used as a condition of a pre-trial agreement to plead guilty to an offense, or as a condition of clemency or parole.

If Property Was Stolen. If your property was stolen, we hope to recover it as part of our investigation. If we do, we will notify you and return it to you as quickly as possible. Sometimes property needs to be held as evidence for trial. We will return your property once it is no longer needed as evidence.

If You Need Assistance With Your Employer or Command. If you have problems at work because of the crime or the investigation, we can contact your employer or Commanding Officer to discuss the importance of your role in the case.

If An Arrest Is Made. If you ask, you will be notified if a suspect is arrested. Since criminal defendants may be released before trial, you can ask for a restraining order to help protect you from the suspect.

Trial. Once an offense has been referred to trial, you will be contacted by the military trial counsel (prosecutor) or the Assistant U.S. Attorney assigned to handle your case, as appropriate. Each command and U.S. Attorney has a Victim/Witness Responsible Official to help answer your questions and deal with your concerns during the prosecution. You have the right to be consulted at key stages in the trial and will be informed of these rights by trial counsel.

Confinement. If the accused is sentenced to confinement (prison), you have a right to notification of changes in the confinee's status. Use a DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status", to request that the confinement facility notify you of parole hearings, escape, release, or death of the confinee.

The Emotional Impact of Crime. Many victims and witnesses are emotionally affected by the crime. Although everyone reacts differently, victims and witnesses report some common behaviors, such as

E4. ENCLOSURE 4

SAMPLE DD FORM 2702

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Your Participation

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

Robert Jones
(Name)
(123) 456-7890
(Telephone Number)

Trial Counsel

Eric Prosecute
(Name)
(777) 234-4321
(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at: <<http://dod.mil/vwac>>

DEPARTMENT OF
DEFENSE



COURT-MARTIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

DD FORM 2702, MAY 2004

Court-Martial Information
For Victims and Witnesses of Crime

Introduction

The Department of Defense is concerned about the problems often experienced by victims and witnesses of crime. We know that as a victim or witness, you may feel anger, confusion, frustration, or fear as a result of *your* experience and then feel added frustration in the course of the trial. The information in this brochure will explain the criminal justice procedures, and your role as a witness.

In the military, a prosecutor is called the Trial Counsel. The Trial Counsel's office will make every effort to keep you informed of the times and places you may be needed. However, it is not unusual for court dates to change several times before the trial. It is very important to keep the Trial Counsel informed of your current address and telephone number.

Preferal of Charges

Like a civilian criminal "complaint," the preferal of charges begins the criminal trial process. Upon preferal, you may participate in the case at several points as outlined below.

Pretrial Conference

You will be asked to speak with the Trial Counsel handling the case at least once before you testify. The Trial Counsel will answer any questions you may have at this time, and will tell you what will be expected of you as a witness.

Article 32 Hearing

Serious crimes are dealt with in a "General" court-martial which includes an "Article 32" hearing. Similar to a grand jury hearing, an Article 32 hearing is the preliminary investigation into the charges to determine if reasonable grounds exist to believe the accused committed the crimes charged. In the Article 32 hearing, testimony is given to an Investigating Officer (IO), rather than a judge or jury. You may have to appear at the hearing and testify under oath regarding what you know about the charges. After the Article 32 hearing, the IO recommends whether to "refer" (send) the case to trial. In less serious cases, the preliminary hearing is not required and cases are referred to a Special Court-Martial.

Court-Martial

This is the trial of the accused. It generally has two parts: findings (guilty or not guilty) and sentencing (punishment). In the findings phase the accused has the right to choose whether a Military Judge sitting alone or a panel of "members" (jury) will decide whether the accused is guilty of any offenses.

Testimony

If you testify, you will be placed under oath and asked questions by the Trial Counsel, and, in most cases, cross-examined by the Defense Counsel. Usually, counsel for both sides will have spoken to you prior to testifying so there will be very few surprises. If you have concerns about embarrassing questions that could be asked, tell the Trial Counsel before trial.

Pointers When Testifying

- Dress Appropriately: Be neat. Dress conservatively.
- Tell the Truth: Honesty is the best policy.
- Speak Clearly and Loudly: Everyone in the courtroom must be able to hear what you have to say. No gum chewing.
- Don't Guess or Speculate: If you don't know, say you don't know. Give positive, definite answers when you remember positively.
- Be Courteous: Answer politely and address the judge as "Your honor."
- Don't Lose Your Temper: Stay calm.

Closing Argument

After all evidence is received by the court, each side makes a closing argument. After argument, the judge or members will adjourn to deliberate on the issue of guilt or innocence. If there is a finding of "not guilty," the accused is released and the court-martial process ends. If there is a finding of "guilty," the trial immediately goes to the sentencing phase.

E5. ENCLOSURE 5

SAMPLE DD FORM 2703

Your Rights As A Victim

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-547):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;
- To confer with the attorney for the Government (Trial Counsel) in the case;
- To receive available restitution;
- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

Points of Contact:

Service Central Repository

 Mike Handler
(Name)

 (202) 234-5678
(Telephone Number)

Confinement Facility

 Alan Goodman
(Name)

 (802) 234-5678
(Telephone Number)

Service Clemency and Parole Board

Gerald Powers
(Name)
 (703) 234-5678
(Telephone Number)

Other

 Sara Help. State Compensation
(Name)

 (777) 777-7777
(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at: <<http://dod.mil/vwac>>

DEPARTMENT OF
DEFENSE



POST-TRIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

DD FORM 2703, MAY 2004

Post-Trial Information
For Victims and Witnesses of Crime

Introduction

This brochure details the post-trial process and your rights in that process. Most important is your right to be notified of changes in the confinement status of the offender in your case.

Location of Confinement Facility

The Victim and Witness Assistance Program does not end with the completion of the court-martial. If the accused is convicted of any offense, the court-martial will sentence the accused. If the sentence includes confinement, the accused, now called "inmate", is usually taken immediately to jail. If there is a confinement facility at the installation where the trial was held, the inmate will be held there temporarily.

Depending on the security level of the inmate, he/she may be assigned to various work details around the installation. If the inmate's period of confinement is minimal, and there are adequate facilities on the installation, the inmate may serve the entire sentence at the installation.

If there is no confinement facility at the installation, the facility is not adequate to house the inmate, or the sentence is in excess of what is handled at the installation, he/she will be taken to a regional confinement facility. The inmate may later be transferred to other facilities available,

DD FORM 2703 MAY 2004 (BACK)

based on length of sentence, programs and security levels. You will be notified of these changes if you fill out a form called DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status." It is very important that you keep the confinement facility informed of your current address and telephone number.

Convening Authority Action

The other parts of the sentence (e.g., forfeitures of pay, reduction in rank) will not be effective until the "convening authority", usually a senior officer, takes "action" on it, generally within 6 to 9 months. The convening authority may disapprove the findings, disapprove or reduce any part of the sentence, or approve everything except a punitive discharge. The convening authority cannot increase any part of the sentence. You have the right to submit a statement to the convening authority on how you feel about the Inmate receiving clemency. You can ask the Trial Counsel about this right.

Clemency and Parole Consideration

Military inmates are eligible for parole consideration when they have completed 1/3 of their confinement, and every year thereafter. You may make a statement to the Clemency and Parole Board on how the crime affected you. The statement may be on audio or video tape or in writing and may be sent to the Service Clemency and Parole Board at the address on the back of this page.

A personal appearance before the Board may

also be permitted.

Notification Rights

You have the right to be notified in writing of the following changes in the Inmate's status: transfer to another facility, parole, escape, release from confinement, or death while in confinement. If the Inmate is released on temporary home leave (for example, to visit a dying parent), the confinement facility will make every effort to notify you in advance.

How To Exercise Your Rights

If you want to exercise these rights, and be notified of the dates of any clemency and parole hearings, and changes in the Inmate's status, you must fill out DD Form 2704, "Victim/Witness Certification and Election Concerning Inmate Status." You MUST notify the Service Central Repository of all address and telephone number changes if you want to receive notices. This information will be kept confidential.

Points of Contact

From now on, your point of contact will be on confinement facility or the Service Central Repository listed on the back of this page. Please call if you have any questions.

E7. ENCLOSURE 7

SAMPLE DD FORM 2705

VICTIM/WITNESS NOTIFICATION OF INMATE STATUS <i>(This form is exempt from Freedom of Information Act release.)</i>			
<p>EXPLANATION: This form is being used to give basic information on changes in an inmate's status to victims and witnesses who elected, on the DD Form 2704, to be notified. The confinement facility holding the inmate must promptly notify victims and witnesses of initial entry into confinement and of confinee status changes in accordance with DoD Instruction 1030.2.</p>			
SECTION I - DISTRIBUTION			
1. TO: <i>(Victim or Witness)</i>		2. FROM: <i>(Victim/Witness Assistance Coordinator at Confinement Facility)</i>	
a. NAME <i>(Last, First, Middle Initial)</i> Johnson, Mary A.		a. NAME <i>(Last, First, Middle Initial)</i> Smith, Lynda D.	
b. STREET ADDRESS <i>(Include apartment no.)</i> self-explanatory		b. STREET ADDRESS self-explanatory	
c. CITY	d. STATE	e. ZIP CODE	c. CITY d. STATE e. ZIP CODE
f. TELEPHONE NUMBER <i>(Include area code)</i>		f. TELEPHONE NUMBER <i>(Include area code)</i>	
SECTION II - INMATE STATUS			
3. INMATE NAME <i>(Last, First, Middle Initial)</i> Perpetrator, John Q.	4. REGISTER NUMBER assigned by the facility	5. MINIMUM RELEASE DATE ON/ABOUT <i>(YYYYMMDD)</i> 19970601	6. MAXIMUM RELEASE DATE <i>(YYYYMMDD)</i> 19981215
7. ADDRESS OF SERVICE CLEMENCY AND PAROLE BOARD			
a. STREET self-explanatory		b. CITY	c. STATE d. ZIP CODE
<p>NOTE 1: Clemency Boards will meet annually from the date of the Initial board until the inmate is released. Clemency Boards will be held in conjunction with Parole Boards when the inmate becomes eligible for parole after serving one third of the sentence.</p> <p>NOTE 2: You may submit documentation to Clemency and Parole Boards when the inmate is scheduled to appear. If you would like to submit a Victim Impact Statement to the Board, please send it to the address above approximately two weeks prior to the scheduled board meeting. Your statement may be submitted in the form of a letter, or audio or video cassette. A personal appearance may also be permitted.</p>			
SECTION III - RELEASE ELIGIBILITY			
8. RESTORATION AND CLEMENCY ELIGIBILITY			
<input type="checkbox"/> a. INMATE IS INITIALLY ELIGIBLE TO BE CONSIDERED FOR RESTORATION AND CLEMENCY ON <i>(YYYYMMDD)</i> _____ . <input type="checkbox"/> b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR RESTORATION AND CLEMENCY ON <i>(YYYYMMDD)</i> _____ .			
9. PAROLE ELIGIBILITY			
<input type="checkbox"/> a. INMATE IS INITIALLY ELIGIBLE FOR RELEASE ON PAROLE ON <i>(YYYYMMDD)</i> _____ . <input type="checkbox"/> b. INMATE IS SCHEDULED TO MEET A SERVICE CLEMENCY AND PAROLE BOARD FOR PAROLE ON <i>(YYYYMMDD)</i> _____ .			
SECTION IV - CHANGE IN INMATE STATUS			
10. CLEMENCY/PAROLE APPROVAL			
<input type="checkbox"/> a. INMATE WAS APPROVED FOR <input type="checkbox"/> CLEMENCY <input type="checkbox"/> PAROLE ON <i>(YYYYMMDD)</i> AT <i>(Location)</i>		b. PAROLE OFFICER'S NAME <i>(Last, First, Middle Initial)</i> TELEPHONE NUMBER <i>(Incl. area code)</i>	
c. INMATE'S SENTENCE HAS BEEN CHANGED AS FOLLOWS:			
11. RELEASE			
<input type="checkbox"/> a. INMATE IS BEING RELEASED ON <i>(YYYYMMDD)</i> _____ . <input type="checkbox"/> b. INMATE'S RELEASE IS UNDER NO COMMUNITY SUPERVISION.		c. PLANNED RELEASE DESTINATION CITY STATE	
12. INMATE IS DECEASED <i>(Date of death)</i>			
13. INMATE ESCAPED			
a. DATE AND TIME OF ESCAPE	b. DESTINATION <i>(If known)</i>	c. DATE, TIME, AND PLACE OF APPREHENSION <i>(If apprehended)</i>	d. PLACE OF RECONFINEMENT
14. INMATE WAS TRANSFERRED TO ANOTHER CORRECTIONS FACILITY ON <i>(YYYYMMDD)</i>			
a. STREET ADDRESS		b. CITY	c. STATE d. ZIP CODE
15. OTHER		16. WE HAVE CANCELLED YOUR REQUEST TO BE NOTIFIED OF THIS INMATE'S RELEASE DUE TO:	
<input type="checkbox"/> a. WORK RELEASE PROGRAM BEGAN ON <i>(YYYYMMDD)</i> _____ . <input checked="" type="checkbox"/> b. RELEASE ON TEMPORARY HOME PAROLE FROM <i>(YYYYMMDD)</i> _____ 19950125 TO <i>(YYYYMMDD)</i> _____ 19950130 . <input type="checkbox"/> c. <i>(Specify)</i> _____ .		<input type="checkbox"/> a. YOUR REQUEST <input type="checkbox"/> b. OTHER <i>(Specify)</i> _____ .	
SECTION V - VICTIM/WITNESS ASSISTANCE COORDINATOR			
17.a. NAME <i>(Last, First, Middle Initial)</i> Smith, Lynda D.		b. RANK MSgt	c. SIGNATURE <i>Lynda D. Smith</i> d. DATE SIGNED 19950106

DD FORM 2705, DEC 94

E8. ENCLOSURE 8

SAMPLE DD FORM 2706

ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE					REPORT CONTROL SYMBOL DD-P&R(A)1952
This report summarizes delivery of services to victims and witnesses as prescribed by the Victim and Witness Protection Act of 1982 (18 USC 1512) and the Victim's Rights and Restitution Act of 1990 (42 USC 10601-10607). It is submitted annually in accordance with DoD Instruction 1030.2.					
1. REPORTING OFFICE Component Responsible Office			2. REPORTING PERIOD		
			a. FROM January 1, 1996	b. TO December 31, 1997	
3. DURING THE REPORTING PERIOD, OUR LAW ENFORCEMENT, SPECIAL INVESTIGATION, TRIAL COUNSEL, AND RELATED OFFICES ASSISTED:					
<p>a. UPON INITIAL CONTACT: _____ 11600 crime victims and _____ 12300 witnesses were informed of their rights to assistance (DD Form 2701).</p> <p>b. UPON REFERRAL TO COURT-MARTIAL: _____ 9450 crime victims were informed of their consultation rights in courts-martial (DD Form 2702).</p> <p>c. UPON SENTENCING TO CONFINEMENT: _____ 6342 crime victims and _____ 8298 witnesses were informed of their right to be notified of changes in the confinee's status in prison (i.e., escape, parole, death) (DD Form 2703).</p> <p>d. ONCE INFORMED OF THEIR RIGHT TO BE NOTIFIED OF CHANGES IN THE CONFINEE'S STATUS: _____ 4432 crime victims and _____ 6324 witnesses, using the DD Form 2704, elected to be notified of confinee status changes.</p>					
4. DURING THE REPORTING PERIOD: _____ 452 confinee status changes resulted in _____ 575 notification letters (DD Form 2705) being sent from our confinement facilities.					
5. AS OF DECEMBER 31, 1997 Our confinement facilities reported the <u>cumulative</u> total of Service confinees for whom they must make victim or witness notifications as follows:					
(1) ARMY 50	(2) NAVY 50	(3) AIR FORCE 50	(4) MARINES 50	(5) COAST GUARD 5	(6) OTHER 5
6. DOD COMPONENT RESPONSIBLE OFFICIAL					
a. NAME (Last, First, Middle Initial) self-explanatory		b. SIGNATURE		c. DATE SIGNED (YYYYMMDD)	

DD FORM 2706, DEC 94 (EG)

Designed using Perform Pro, WHS/DIOR, Dec 94



Department of Defense INSTRUCTION

NUMBER 1342.24

May 23, 1995

Administrative Reissuance Incorporating Change 1, January 16, 1997

USD(P&R)

SUBJECT: Transitional Compensation for Abused Dependents

- References:
- (a) Assistant Secretary of Defense (Force Management Policy) Memorandum, "Implementation of Transitional Compensation for Abused Dependents," January 24, 1995 (hereby canceled)
 - (b) Sections 801-940, 860(c), 1059, 1077, and 1408(h) of title 10, United States Code
 - (c) Sections 1311(a)(1), 1311(b), and 1313 of title 38, United States Code

1. PURPOSE

This Instruction:

- 1.1. Supersedes reference (a).
- 1.2. Implements policy, assigns responsibilities, and prescribes procedures under 10 U.S.C. Sec. 1059 (reference (b)) for the payment of monthly transitional compensation to dependents of members separated for dependent abuse.

2. APPLICABILITY AND SCOPE

This Instruction applies to:

- 2.1. The Office of the Secretary of Defense and the Military Departments (including Coast Guard when it is operating as a Service in the Navy).
- 2.2. Dependents of members of the Armed Forces who have been on active duty for more than 30 days and who, *after November 29, 1993, are:*

2.2.1. Separated from active duty under a court-martial sentence resulting from a dependent-abuse *offense*;

2.2.2. Administratively separated from active duty if the basis for separation includes a dependent-abuse *offense*; or

2.2.3. *Sentenced to forfeiture of all pay and allowances by a court-martial which has convicted the member of a dependent-abuse offense.*

3. DEFINITIONS

3.1. Dependent-Abuse Offenses. A dependent-abuse offense is conduct by an individual while a member of the Armed Forces on active duty for a period of more than 30 days that involves abuse of the then-current spouse or a dependent child of the member and that is a criminal offense defined by 10 U.S.C. Secs. 801-940 (reference (b)) or other criminal code applicable to the jurisdiction where the act of abuse is committed. The term "involves abuse of the then-current spouse or a dependent child" means that the criminal offense is against the person of that spouse or a dependent child. Crimes that may qualify as "dependent-abuse offenses" are ones such as sexual assault, rape, sodomy, assault, battery, murder, and manslaughter. (This is not an exhaustive or exclusive listing of dependent-abuse offenses, but is provided for illustrative purposes only.)

3.2. Dependent Child. An unmarried child, including an adopted child or a stepchild, who was residing with the member at the time of the dependent-abuse offense, and who is:

3.2.1. Under 18 years of age;

3.2.2. Eighteen years of age or older and is incapable of self-support because of a mental or physical incapacity that existed before the age of 18 and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support; or

3.2.3. Eighteen years of age or older, but less than 23 years of age, is enrolled in a full-time course of study in an institution of higher learning approved by the Secretary of Defense and who is (or, when a punitive or other adverse action was carried out on the member, was) dependent on the member for over one-half of the child's support.

3.3. Member. The term "member" includes "former member," where appropriate.

3.4. Spouse. The term "spouse" means a dependent spouse and, where appropriate, includes "former spouse."

4. POLICY

It is DoD policy to make monthly payments of transitional compensation and provide other benefits described herein for dependents of members who are separated for dependent abuse.

5. RESPONSIBILITIES

5.1. The Assistant Secretary of Defense for Force Management Policy shall develop, publish, and maintain this Instruction and ensure compliance.

5.2. The Secretaries of the Military Departments shall appoint representatives to coordinate requests for transitional compensation, to approve requests, forward them to the Defense Finance and Accounting Service (DFAS), and notify DFAS of any action that affects payment of transitional compensation.

5.3. The Under Secretary of Defense (Comptroller)/Chief Financial Officer shall ensure that DFAS shall process payment requests forwarded by Service representatives.

6. PROCEDURES

6.1. Recipients of Payments. Payments shall be made to dependents described in paragraphs 2.2.1. or 2.2.2., above, as follows:

6.1.1. If the member was married when the offense occurred, payment shall be made to that spouse.

6.1.2. If there is a spouse who is ineligible to receive payment because of remarriage (under paragraph 6.3.1., below), cohabitation (under paragraph 6.3.2., below), or active participation (under paragraph 6.3.3., below), payments shall be made to each dependent child of the member who does not reside in the household of the member or the spouse.

6.1.3. If there is no eligible spouse for reasons other than those in paragraphs 6.3.1. through 6.3.3., below (for example, because the member had no dependent spouse or the spouse has died), payments shall be made to the dependent children of the member who do not reside in the household of the member.

6.1.4. For paragraphs 6.1.2. and 6.1.3., above, status as a "dependent child" is determined as of the date on which the member is convicted of the offense or as of the date of the member's administrative separation, whichever is applicable.

6.1.5. If a recipient is incapable of handling his or her own affairs, payments may be made only to a court-appointed guardian. For a dependent child under 18 years of age, payments may be made only to a court-appointed guardian or a natural parent (who is not a spouse of the member), if the natural parent legally has custody of the dependent child.

6.2. Payments

6.2.1. Commencement and Duration

6.2.1.1. Payment shall commence on the date: the person acting under 10 U.S.C. Sec. 860(c) (reference (b)) approves the court-martial sentence that includes a dismissal, dishonorable discharge, or bad-conduct discharge; or the member's commander starts administrative separation action. The duration of payments shall be 36 months except, if, as of the starting date of payment, the unserved portion of the member's obligated active duty service is less than 36 months, the duration of payment shall be the greater of the unserved portion or 12 months.

6.2.1.2. No payment shall be made for any period before *November 30, 1993*.

6.2.1.3. For enlisted members, the "obligated active duty service" shall be the time remaining on their terms of enlistment. For officers, the "obligated active duty service" shall be indefinite unless an officer has a date of separation established, then it shall be the time remaining until the date of separation.

6.2.2. Amount

6.2.2.1. Monthly payments to a spouse shall be at the rate in effect for the payment of dependency and indemnity compensation under 38 U.S.C. Sec. 1311(a)(1) (reference (c)). If the spouse has custody of a dependent child or children

of the member, the amount of monthly compensation to the spouse shall be increased for each child by the amount in effect under 38 U.S.C. Sec. 1311(b) (reference (c)). If there is no eligible spouse, compensation paid to a dependent child or children under 6.1.2. or 6.1.3., above, shall be paid in equal shares at the rate in effect under 38 U.S.C. Sec. 1313 (reference (c)).

6.2.2.2. Payments shall be prorated for months when payments start or stop in the middle of a month.

6.2.2.2.1. When paying children, if the payment amount does not divide evenly, the youngest child shall receive the odd cent.

6.2.2.2.2. If recipient dies, arrears of pay shall not be paid.

6.2.3. Cessation of Payments

6.2.3.1. Any payment of transitional compensation that has started under paragraph 6.2.1., above, shall stop effective as of the first day of the first month following the month in which the Secretary concerned notifies a recipient in writing that payment of transitional compensation shall cease because of subparagraph 6.2.3.1.1. or 6.2.3.1.2., below.

6.2.3.1.1. The member is sentenced by a court- martial to receive punishment that includes a dismissal, dishonorable discharge, or bad conduct discharge as a result of a conviction by a court- martial for a dependent-abuse offense and such punishment is remitted, set aside, or mitigated to a lesser punishment that does not include any such punishment.

6.2.3.1.2. The administrative separation of a member from active duty is proposed on a basis that includes a dependent-abuse offense and the proposed administrative separation is disapproved by competent authority under applicable regulations.

6.2.3.2. The recipient shall not be required to repay amounts of transitional compensation received before the effective date of cessation determined under subparagraph 6.2.3.1., above (except as necessary to recoup any amount that was erroneous when paid).

6.3. Forfeiture Provisions

6.3.1. Remarriage. If a spouse receiving payments remarries, payments

terminate as of the date of the remarriage. Payment shall not be renewed if such remarriage is terminated. If the payments to the spouse terminate due to remarriage and there is a dependent child not living in the same household as the spouse or member, payments shall be made to the dependent child, as in paragraph 6.1.2., above.

6.3.2. Cohabitation

6.3.2.1. If the member resides in the same household as the spouse or dependent child to whom compensation is otherwise payable under this Instruction, payment shall terminate as of the date the member begins residing in such household.

6.3.2.2. Once terminated under subsection 6.3.2.1., above, payment shall not be resumed.

6.3.2.3. Compensation paid in accordance with this Instruction before the member resides in the household shall not be recouped.

6.3.3. Active Participant. If the victim was a dependent child, and the spouse has been found by competent authority designated by the Secretary concerned to have been an active participant in the conduct constituting the criminal offense or to have actively aided or abetted the member in such conduct against that dependent child, the spouse, or dependent child living with the spouse shall not be paid transitional compensation.

6.3.4. Annual Certification. The spouse must notify the DFAS within 30 days of the date of remarriage or the date the member begins residing in the same household as the spouse or dependent child. The spouse (or if applicable, the individual receiving payments under paragraph 6.1.5., above) shall annually certify to DFAS on a Certificate of Eligibility (COE) that he or she has not remarried and has not been cohabitating with the member. Dependent children (or if applicable, the individual receiving payments under paragraph 6.1.5., above) shall annually certify via the COE process that they are not cohabitating with the member or ineligible spouse.

6.4. Coordination of Benefits. A spouse may not receive payments under both sections 1059 and 1408(h) of 10 U.S.C. (reference (b)). If a spouse is otherwise eligible for both, the spouse must elect which to receive.

6.5. Source of Funds. Transitional compensation must be paid from operations and maintenance funds.

6.6. Application Procedures. An individual must initiate a request through a

Service-appointed representative. The Service representative shall coordinate the collection of information necessary to determine the validity of the claim, the recipient(s), and duration of payments using DD Form 2698, "Application for Transitional Compensation." The Service representative shall approve payment and forward the application to DFAS at the following address:

DFAS-DE/FRB
6760 East Irvington Place
Denver, CO 80279-6000

Facsimile numbers:
DSN: 926-4667
COMM: (303) 676-4667

The DFAS point of contact is DFAS-DE/FRBS, at DSN: 926-4514 or COMM: (303) 676-4514.

6.7. Commissary and Exchange Benefits

6.7.1. Recipients are also entitled to use commissary and exchange stores while receiving their payments. They are allowed the same commissary and exchange privileges as a dependent of a member of the Armed Forces on active duty for a period of more than 30 days.

6.7.2. If a recipient eligible or entitled to use the commissary and exchange stores under paragraph 6.7.1., above, is also eligible or entitled under another law, eligibility and entitlement shall be determined under the other law and not paragraph 6.7.1., above.

6.8. Medical Benefits

6.8.1. *A dependent of a member who has been separated from a Uniformed Service due to a dependent-abuse offense may receive medical or dental care in facilities of the Uniformed Services or through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS). Receipt of the medical or dental care is subject to the limitations in paragraphs 6.8.2. and 6.8.3., below.*

6.8.2. *Eligible dependents of a member who receives a dishonorable or bad-conduct discharge, is dismissed as a result of a court-martial, or is administratively separated from a Uniformed Service as a result of a dependent-abuse*

offense are entitled to medical or dental care for problems associated with the abuse. Entitlement to such care is limited to a period of one year following the member's separation from the Uniformed Service, and eligibility will be granted only upon request to the Secretary of the Military Department concerned. The determination of whether an offense involved abuse of a dependent shall be made by the Secretary of the Military Department concerned.

6.8.3. Eligible dependents of a member who is retirement eligible, but who loses eligibility for retired pay because of dependent-abuse misconduct, may receive medical and dental care in accordance with section 1408(h) of 10 U.S.C. (reference (b)).

7. EFFECTIVE DATE:

This Instruction is effective immediately.



F. Pang
Principal Deputy Under Secretary of Defense
For Personnel and Readiness



Department of Defense INSTRUCTION

NUMBER 6400.07
November 25, 2013

USD(P&R)

SUBJECT: Standards for Victim Assistance Services in the Military Community

References: See Enclosure 1

1. PURPOSE. This instruction, in accordance with the authority in DoD Directive (DoDD) 5124.02 (Reference (a)):

a. Establishes policy, assigns responsibilities, and sets standards for victim assistance services within the military community. These standards are consistent with the *Standards for Victim Assistance Programs and Providers* (Reference (b)) established by the National Victim Assistance Standards Consortium, but incorporate the unique needs of the military community.

b. Establishes the DoD Victim Assistance Leadership Council, referred to in this instruction as “the Council.”

2. APPLICABILITY. This instruction:

a. Applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this instruction as the “DoD Components”).

b. Does **not** apply to civilian complainants covered under Equal Employment Opportunity policy.

3. POLICY. It is DoD policy that:

a. The DoD Components will do all that is possible within limits of available resources to assist victims of crime and harassment in accordance with the requirements listed in DoD Instruction (DoDI) 1030.2 (Reference (c)) and DoDD 1350.2 (Reference (d)). Particular attention will be paid to victims of serious, violent crime, including child abuse, domestic violence, and sexual misconduct.

b. A complainant under DoD Military Equal Opportunity (MEO) policy, as contained in Reference (d), and Service-specific regulations, will receive the same treatment as a person identified as a victim for the purposes of this instruction.

c. DoD victim assistance services will focus on the victim and will respond, protect, and care for the victim from initiation of a report through offense disposition or until the victim no longer requires services.

d. DoD standards for victim assistance services must meet the competency, ethical, and foundational levels described in Enclosure 2 of this instruction.

e. The DoD Victim Assistance Leadership Council will advise the Secretary of Defense on policies and practices related to the provision of victim assistance across the DoD.

4. RESPONSIBILITIES. See Enclosure 3.

5. RELEASABILITY. **Unlimited**. This instruction is approved for public release and is available on the Internet from the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

6. EFFECTIVE DATE. This instruction:

a. Is effective November 25, 2013.

b. Must be reissued, cancelled, or certified current within 5 years of its publication to be considered current in accordance with DoDI 5025.01 (Reference (e)).

c. Will expire effective November 25, 2023 and be removed from the DoD Issuances Website if it hasn't been reissued or cancelled in accordance with Reference (e).


Jessica L. Wright
Acting Under Secretary of Defense
for Personnel and Readiness

Enclosures

1. References
2. Standards for Victim Assistance Personnel
3. Responsibilities
4. Victim Assistance Leadership Council Charter

Glossary

ENCLOSURE 1

REFERENCES

- (a) DoD Directive 5124.02, "Under Secretary of Defense for Personnel and Readiness (USD(P&R))," June 23, 2008
- (b) DeHart, D.D. (2003) *National Victim Assistance Standards Consortium: Standards for Victim Assistance Programs and Providers*. Columbia, SC: Center for Child and Family Studies, University of South Carolina
- (c) DoD Instruction 1030.2, "Victim and Witness Assistance Procedures," June 4, 2004
- (d) DoD Directive 1350.2, "DoD Military Equal Opportunity Program," August 18, 1995, as amended
- (e) DoD Instruction 5025.01, "DoD Directives Program," September 26, 2012, as amended
- (f) DoD Directive 6495.01, "Sexual Assault Prevention and Response (SAPR) Program," January 23, 2012, as amended
- (g) DoD Instruction 6400.06, "Domestic Abuse Involving DoD Military and Certain Affiliated Personnel," September 20, 2011
- (h) DoD 5400.11, "Department of Defense Privacy Program," May 14, 2007
- (i) Chapter 47 of Title 10, United States Code, also known as the "Uniform Code of Military Justice"

ENCLOSURE 2

STANDARDS FOR VICTIM ASSISTANCE PERSONNEL

1. COMPETENCY STANDARDS

a. General. Victim assistance personnel are expected to maintain standards of competence. They provide victim assistance services in accordance with DoD and Military Service qualification requirements, such as education, training, or relevant experience. Victim assistance personnel must exercise careful judgment, apply flexibility and innovative problem-solving, and take appropriate precautions to protect victims' welfare under the guiding principle of "do no harm."

b. Communication. Victim assistance personnel communicate effectively with victims by:

(1) Recognizing and understanding the basic principles of effective communication, including verbal, nonverbal, and cultural variation.

(2) Listening attentively to the victims and using the information they provide to offer appropriate assistance and provide information and resources that the victim may elect to pursue.

(3) Using effective communication to de-escalate crisis situations, seeking support as necessary so that assessment and assistance planning may take place.

(4) Monitoring their own verbal and nonverbal reactions when communicating with the victim.

(5) Educating and explaining their roles to victims and to other agency personnel that address victims' needs.

(6) Understanding and describing to victims the variety of resources, advocacy, and outreach services available in the immediate vicinity (e.g., on- and off-base financial assistance resources; medical care and counseling; spiritual support services; and social welfare services, which may include child protective services or guardian *ad litem* services, as relevant to the persons served).

c. Response to Victimization. Victim assistance personnel help victims deal with their individual response to victimization by:

(1) Recognizing the range of reactions to victimization (e.g., anger, self-blame, helplessness) and responding to the victim accordingly.

(2) Recognizing the impact of trauma on victims' ability to connect to assistance services and to assist in the military justice or administrative process.

(3) Understanding the relationship dynamics and environmental stressors (e.g., previous victimization, dependence on the perpetrator) as these relate to victim response and resiliency.

(4) Recognizing the importance of victim self-care.

(5) Understanding the impact of specific types of crime or offense on the needs of victims and using specific support, as appropriate, to the type of victimization (i.e., developing and using safety planning, as relevant to the persons being served).

d. Crisis Support. Victim assistance personnel provide support when confronted with a crisis situation by:

(1) Understanding specific program policies and procedures for crisis situations and recognizing what constitutes a crisis or danger to the victim or others.

(2) Listening attentively to allow and accept the victim's retelling of the event in order to appropriately identify a crisis situation.

(3) Understanding and facilitating victim safety, as applicable, to the victim being served.

(4) Recognizing exceptions to Restricted Reporting as contained in DoD Directive 6495.01 (Reference (f)) and DoD Instruction 6400.06 (Reference (g)), applicable privileged communications, and privacy rules and limitations on disclosure of information to other parties in crisis or dangerous situations. Ensure all personally identifiable information (PII) is collected, maintained, disseminated, and used in accordance with DoD 5400.11-R (Reference (h)).

(5) Addressing foreseeable crisis situations (i.e., understanding signs leading to suicidal ideation and attempts and how to appropriately intervene) and contacting appropriate experts, if needed.

(6) Helping victims identify and prepare for potential stressors.

2. ETHICAL STANDARDS. Within the military community, victim assistance personnel are required to abide by standards for appropriate and ethical conduct when performing duties by:

a. Ensuring understanding by the victim that participation in victim assistance services is voluntary.

b. Respecting the privacy of information provided by the victims served or acquired from other sources before, during, and after the course of the professional relationship in accordance with Restricted Reporting, applicable privileged communications, and privacy rules. Ensure all PII is collected, maintained, disseminated, and used in accordance with Reference (h).

- c. Understanding their responsibilities, limitations, and the implications of their actions within the victim assistance setting and perform duties in accordance with applicable laws, regulations, policies, and rights of person(s) served.
- d. Respecting victims' rights and acting accordingly.
- e. Refraining from behaviors that communicate blame or suspicion regarding victim accounts of the crime or offense, condemnation for past behavior, or other judgmental sentiments to the victim.
- f. Avoiding conflicts of interest and disclosing any possible conflict to the appropriate program personnel and victims served.
- g. Not improperly discriminating against a victim for any reason.
- h. Respecting boundaries of the victim assistance role, including distinguishing personal feelings from professional responses, and promoting empowerment of victims rather than rescuing them.
- i. Accurately representing roles of victim assistance personnel, which may include qualifications, titles, and credentials, in relationships with the person(s) being served.
- j. Maintaining objectivity and professional conduct in relationships with victims (e.g., by avoiding impropriety and the appearance of impropriety, not engaging in a relationship that goes beyond victim assistance responsibilities, and avoiding abuse of a position).
- k. Achieving and maintaining professional competence by:
 - (1) Seeking support and increased levels of supervision when necessary to serve the best interests of a victim.
 - (2) Not engaging in victim assistance duties while under the influence of drugs or alcohol.
 - (3) Refraining from providing services when experiencing a mental or physical condition that impairs the ability and judgment to perform duties safely.
- l. Knowing the interests of the persons served are a very important responsibility while performing victim assistance duties.

3. FOUNDATIONAL STANDARDS FOR PROGRAMS. These standards identify ways of documenting and administering services to ensure quality and responsiveness to victims' needs. In relation to the goals and objectives of the individual program, these foundational standards will be incorporated, as appropriate to the persons served, into the specific victim assistance programs consistent with law and Service regulations.

a. Access to Resources and Services: Victims will be provided with information regarding available resources and services appropriate to their needs as applicable by assistance personnel.

(1) Each victim assistance program must establish and advertise their standard hours of operation and contact information.

(2) Victim assistance personnel will:

(a) Describe to victims in clear language the capabilities and limitations of the victim assistance role.

(b) Provide a complete explanation of victim's rights and reporting options.

(c) Provide information to victims for appropriate service resources on- and off-base. Services may include, but are not limited to, health care, counseling, social welfare agencies, child protective services, military and civilian protective orders, and legal assistance.

(d) As needed, provide victims publicly available written information on the available services on- and off-base (e.g., safety planning, advocacy, compensation and restitution, physical and mental health care, social services, spiritual services, legal services) and resources and procedures for:

1. Addressing imminent danger (e.g., stalking, victim or witness intimidation)

2. Obtaining information on administrative or military justice proceedings.

(e) Respect victims' right to make their own decisions about the services received.

(f) Advocate appropriately on behalf of victims' rights and needs throughout service delivery (within the limits of ethics and program policy).

(g) Ensure that, in accordance with Service regulations, victims' basic rights are explained to them and how those rights apply to their individual situation.

(h) Engage in ongoing support and follow-up for individual victims as applicable.

(i) If an imminent danger situation is current, immediately contact law enforcement.

b. Interaction with the Military Justice System. Victims of crime will be provided information concerning the military justice and administrative processes, as applicable to the victim being served. Regardless of any professional titles, credentials, or licenses maintained by victim assistance personnel, their direct victim assistance will not involve clinical treatment or legal advice. They should not represent themselves as licensed medical, psychological, behavioral health, or legal advisors. In situations when victims need such services, victim

assistance personnel must refer victims to licensed clinicians or attorneys. Victim assistance personnel must:

(1) Explain in clear language the interaction between the program's victim assistance services and the military justice system, in particular by recognizing and explaining how other military or civilian personnel may relate to the victim throughout the military justice process (e.g., victim-witness assistance personnel, investigators, lawyers, commanders, guardians *ad litem*).

(2) Know the processes for helping victims access and participate in military justice, administrative, and service-related systems. Recognize the significant impact that military justice and administrative proceedings can have for victims, both as potential environments for victim empowerment or re-traumatization under the circumstances.

(3) Manage the expectations of military justice or administrative proceedings.

(4) Ensure that, in accordance with Service regulations, victims get help as needed in advocating for their rights in military justice or administrative settings.

(5) Ensure that, in accordance with Service regulations, victims understand basic components of proper decorum and courtroom proceedings as relevant to their needs.

(6) Ensure that, in accordance with Service regulations, victims understand the prohibitions against victim assistance personnel on providing legal advice and legal representation.

(7) Provide liaison assistance with other organizations and agencies on victim care matters relevant to the person being served.

ENCLOSURE 3

RESPONSIBILITIES

1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)). The USD(P&R):

a. Develops and establishes overall policy for standards for victim assistance services and monitors compliance with this instruction.

b. Maintains the DoD Victim Assistance Leadership Council to provide a forum that promotes efficiencies, coordinates victim assistance-related policies, and assesses the implementation of victim assistance standards across the DoD's victim assistance-related programs.

2. CHAIR OF THE DoD VICTIM ASSISTANCE LEADERSHIP COUNCIL. Under the authority, direction, and control of the USD(P&R), the Council chair ensures that the Council recommends guidance for and provides oversight of DoD Component victim assistance-related programs and policies that meet the policies and standards in this instruction.

3. DoD COMPONENT HEADS. The DoD Component heads:

a. Ensure compliance with this instruction.

b. Establish policies and procedures consistent with this instruction.

c. Establish Component policies and procedures to develop and implement victim assistance programs in accordance with the standards in this instruction.

4. SECRETARIES OF THE MILITARY DEPARTMENTS. In addition to the responsibilities in section 3 of this enclosure, the Secretaries of the Military Departments will designate a general or flag officer (G/FO) or Senior Executive Service (SES) level representative to serve on the Council as described in Enclosure 4 of this instruction.

ENCLOSURE 4

DoD VICTIM ASSISTANCE LEADERSHIP COUNCIL

1. OBJECTIVES AND SCOPE OF ACTIVITIES

a. The Council will advise the Secretary of Defense, through the USD(P&R), on policies and practices related to the provision of victim assistance across the DoD.

b. Council objectives will include, but not be limited to:

(1) To promote efficiencies, coordinate victim assistance-related policies, and assess the implementation of victim assistance standards across the DoD's victim assistance-related programs.

(2) To provide a forum for senior leaders to exchange information and collaborate on issues affecting victims of crime and harassment within the DoD.

c. For the purposes of the Council and this instruction, the victim assistance-related programs consist of:

(1) The Sexual Assault Prevention and Response (SAPR) Program.

(2) The Family Advocacy Program (FAP).

(3) The Victim Witness Assistance Program (VWAP).

(4) The MEO Program.

2. COUNCIL MEMBERSHIP

a. Chair

(1) The Director of the Sexual Assault Prevention and Response Office (SAPRO) will serve as the Council chair for 2 years from the Council's inaugural meeting. Thereafter, the chair position will be filled by its serving members on a rotating basis.

(2) If the Chair cannot fulfill the 2-year term, a new chair will be designated by the USD(P&R) to fulfill remaining commitment of the two-year term.

b. Members. The Council will be comprised of full-time or permanent part-time federal employees. Membership will include:

(1) A G/FO or SES level representative from each of the Military Services staffs, as well as the National Guard Bureau, who has responsibility for or can speak on behalf of:

- (a) The SAPR Program.
- (b) The FAP.
- (c) The VWAP.
- (d) The MEO Program.

(2) A representative on the G/FO or SES level from:

- (a) OSD FAP.
- (b) OSD, Office of Diversity Management and Equal Opportunity (ODMEO).
- (c) The Office of the General Counsel of the Department of Defense.
- (d) The Department of Defense Human Resources Activity.
- (e) DoD SAPRO.

(3) The Director, Office of Legal Policy, Office of the USD(P&R).

(4) Other individuals as designated by the USD(P&R).

c. In the event that designated personnel are unable to attend a particular Council meeting, a comparable alternate (O-6 or civilian equivalent, or above) should be identified.

d. Additional staff representatives below the O-6 level may be invited to accompany Council members to provide program- or field-level expertise.

e. Representatives from other DoD Components may be invited to specific Council meetings as subject matter experts to inform and resolve issues addressed by the Council.

3. COUNCIL MEETINGS. The Council will meet, at a minimum, once per year. The Council chair has the authority to schedule *ad hoc* meetings, as necessary.

4. QUORUM. The number of members required for a quorum will be determined at the inaugural meeting of the Council.

5. DURATION OF THE COUNCIL. The need for the Council is on a continuing basis. The Chair will ensure this instruction and any applicable procedural guidance for the Council are reviewed and certified current or amended, every two years, with the biennial review date determined at the inaugural meeting.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

DoDD	DoD Directive
DoDI	DoD Instruction
FAP	Family Advocacy Program
G/FO	general or flag officer
MEO	Military Equal Opportunity
ODMEO	Office of Diversity Management and Equal Opportunity
PII	personally identifiable information
SAPR	Sexual Assault Prevention and Response
SAPRO	Sexual Assault Prevention and Response Office
SES	Senior Executive Service
USD(P&R)	Under Secretary of Defense for Personnel and Readiness
VWAP	Victim Witness Assistance Program

PART II. DEFINITIONS

Unless otherwise noted, these terms and their definitions are for the purposes of this instruction.

complainant. A Service member who files an allegation of harassment in accordance with DoD MEO policy and service-specific regulations.

ethical standards. The behavioral expectations for victim assistance personnel when performing victim assistance-related duties.

guardian ad litem. A term used in law to refer to the appointment by a court of one party to act in a court of law on behalf of another party—for instance, a child or an incapacitated adult—who is deemed incapable of representing him or herself.

Restricted Reporting. Defined in Reference (f) and Reference (d).

victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime committed in violation of Chapter 47 of Title 10 of the United States Code (also known as the “Uniform Code of Military Justice” (Reference (i)) or in violation of the law of another jurisdiction if any portion of the investigation is conducted primarily by the one or more DoD Components.

victim assistance personnel. Personnel who are available to provide support and assistance to victims of crime and harassment consistent with their assigned responsibilities and in accordance with this instruction. They include part-time, full-time, collateral duty, and other authorized individuals, and may be domestic violence or sexual assault prevention and response coordinators (to include unit and uniformed victim advocates), Sexual Assault Response Coordinators, victim-witness assistance personnel, or military equal opportunity advisors.

victim assistance-related programs. The SAPR Program; FAP; and the VWAP. A complainant under the DoD MEO Program may be referred by the MEO office to one of the victim assistance-related programs for additional assistance.



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 U.S. Code (uscode/text) Title 42 (/uscode/text/42) Chapter 112 U.S. Code §
 (/uscode/text/42/chapter-112) > § 10601

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10601 - Crime Victims Fund

Current through Pub. L. 114-19 (<http://www.gpo.gov/fdsys/pkg/PLAW-114publ19/html/PLAW-114publ19.htm>). (See Public Laws for the current Congress (<http://thomas.loc.gov/home/LegislativeData.php?n=PublicLaws>)).

US Code (/uscode/text/42/10601?qt-us_code_temp_noupdates=0#qt-us_code_temp_noupdates)

Notes (/uscode/text/42/10601?qt-us_code_temp_noupdates=1#qt-us_code_temp_noupdates)

Authorities (CFR) (/uscode/text/42/10601?qt-us_code_temp_noupdates=3#qt-us_code_temp_noupdates)

[prev](/uscode/text/42/10602) | [next](/uscode/text/42/10602) (/uscode/text/42/10602)

(a) Establishment

There is created in the Treasury a separate account to be known as the Crime Victims Fund (hereinafter in this chapter referred to as the "Fund").

(b) Fines deposited in Fund; penalties; forfeited appearance bonds

Except as limited by subsection (c) of this section, there shall be deposited in the Fund—

(1) all fines that are collected from persons convicted of offenses against the United States except—

(A) fines available for use by the Secretary of the Treasury pursuant to—

(i) section 11(d) of the Endangered Species Act (16 (/uscode/text/16) U.S.C. 1540 (/uscode/text/16/1540) (d) (/uscode/text/16/usc_sec_16_00001540----000-#d)); and

(ii) section 6(d) of the Lacey Act Amendments of 1981 (16 (/uscode/text/16) U.S.C. 3375 (/uscode/text/16/3375) (d) (/uscode/text/16/usc_sec_16_00003375----000-#d)); and

(B) fines to be paid into—

(i) the railroad unemployment insurance account pursuant to the Railroad Unemployment Insurance Act (45 (/uscode/text/45) U.S.C. 351 (/uscode/text/45/351) et seq.);

(ii) the Postal Service Fund pursuant to sections 2601 (/uscode/text/39/2601) (a)(2) (/uscode/text/39/usc_sec_39_00002601----000-#a_2) and 2003 (/uscode/text/39/2003) of title 39 (/uscode/text/39) and for the purposes set forth in section 404 (/uscode/text/39/404) (a)(7) (/uscode/text/39/usc_sec_39_00000404----000-#a_7) of title 39 (/uscode/text/39);

(iii) the navigable waters revolving fund pursuant to section 311 of the Federal Water Pollution Control Act (33 (/uscode/text/33) U.S.C. 1321 (/uscode/text/33/1321)); and

(iv) county public school funds pursuant to section 3613 (/uscode/text/18/3613) of title 18 (/uscode/text/18);

(2) penalty assessments collected under section 3013 (/uscode/text/18/3013) of title 18 (/uscode/text/18); ^[1]

RELATED BILLS NOW IN CONGRESS

- 113 H. R. 2787
 (<https://beta.congress.gov/bill/113th/congress/house-bill/2787>) :
 purposes, 2014, 30, september, ending
- 113 H. R. 3530
 (<https://beta.congress.gov/bill/113th/congress/house-bill/3530>) :
 trafficking, victims, justice, provide,
- 113 H. R. 3547
 (<https://beta.congress.gov/bill/113th/congress/house-bill/3547>) :
 purposes, 2014, 30, september, ending
- 113 H. R. 4660
 (<https://beta.congress.gov/bill/113th/congress/house-bill/4660>) :
 purposes, 2015, 30, september, ending
- 113 S. 1329
 (<https://beta.congress.gov/bill/113th/congress/senate-bill/1329>) :

(3) the proceeds of forfeited appearance bonds, bail bonds, and collateral collected under section 3146 (/uscode/text/18/3146) of title 18 (/uscode/text/18);

(4) any money ordered to be paid into the Fund under section 3671 (/uscode/text/18/3671) (c)(2) (/uscode/text/18/usc_sec_18_00003671--000-#c_2) of title 18 (/uscode/text/18); and

(5) any gifts, bequests, or donations to the Fund from private entities or individuals, which the Director is hereby authorized to accept for deposit into the Fund, except that the Director is not hereby authorized to accept any such gift, bequest, or donation that—

(A) attaches conditions inconsistent with applicable laws or regulations; or

(B) is conditioned upon or would require the expenditure of appropriated funds that are not available to the Office for Victims of Crime.

(c) Retention of sums in Fund; availability for expenditure without fiscal year limitation

Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this chapter for grants under this chapter without fiscal year limitation. Notwithstanding subsection (d)(5) of this section, all sums deposited in the Fund in any fiscal year that are not made available for obligation by Congress in the subsequent fiscal year shall remain in the Fund for obligation in future fiscal years, without fiscal year limitation.

(d) Availability for judicial branch administrative costs; grant program percentages

The Fund shall be available as follows:

(1) Repealed. Pub. L. 105-119 (/usc-cgi/get_external.cgi?type=pubL&target=105-119), title I, § 109(a)(1), Nov. 26, 1997, 111 Stat. 2457 (/usc-cgi/get_external.cgi?type=statRef&target=date:Nov. 26, 1997ch:nonestatnum:111_2457).

(2)

(A) Except as provided in subparagraph (B), the first \$10,000,000 deposited in the Fund shall be available for grants under section 10603a (/uscode/text/42/10603a) of this title.

(B)

(i) For any fiscal year for which the amount deposited in the Fund is greater than the amount deposited in the Fund for fiscal year 1998, the \$10,000,000 referred to in subparagraph (A) plus an amount equal to 50 percent of the increase in the amount from fiscal year 1998 shall be available for grants under section 10603a (/uscode/text/42/10603a) of this title.

(ii) Amounts available under this subparagraph for any fiscal year shall not exceed \$20,000,000.

(3) Of the sums remaining in the Fund in any particular fiscal year after compliance with paragraph (2), such sums as may be necessary shall be available for the United States Attorneys Offices and the Federal Bureau of Investigation to improve services for the benefit of crime victims in the Federal criminal justice system, and for a Victim Notification System.

purposes, 2014, 30, september, ending

- 113 S. 2437
(<https://beta.congress.gov/bill/113tl/congress/senate-bill/2437>) : purposes, 2015, 30, september, ending
- 113 S. 2646
(<https://beta.congress.gov/bill/113tl/congress/senate-bill/2646>) : purposes, act, youth, homeless, runaway
- 113 S. CON. RES. 8
(<https://beta.congress.gov/bill/113tl/congress/senate-bill/8>) : year, fiscal, levels, budgetary, appropriate

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(4) Of the remaining amount to be distributed from the Fund in a particular fiscal year—

(A) 47.5 percent shall be available for grants under section 10602 (/uscode/text/42/10602) of this title;

(B) 47.5 percent shall be available for grants under section 10603 (/uscode/text/42/10603) (a) (/uscode/text/42/usc_sec_42_00010603--000-#a) of this title; and

(C) 5 percent shall be available for grants under section 10603 (/uscode/text/42/10603) (c) (/uscode/text/42/usc_sec_42_00010603--000-#c) of this title.

(5)

(A) In addition to the amounts distributed under paragraphs (2), (3), and (4), the Director may set aside up to \$50,000,000 from the amounts transferred to the Fund in response to the airplane hijackings and terrorist acts that occurred on September 11, 2001, as an antiterrorism emergency reserve. The Director may replenish any amounts obligated from such reserve in subsequent fiscal years by setting aside up to 5 percent of the amounts remaining in the Fund in any fiscal year after distributing amounts under paragraphs (2), (3) and (4). Such reserve shall not exceed \$50,000,000.

(B) The antiterrorism emergency reserve referred to in subparagraph (A) may be used for supplemental grants under section 10603b (/uscode/text/42/10603b) of this title and to provide compensation to victims of international terrorism under section 10603c (/uscode/text/42/10603c) of this title.

(C) Amounts in the antiterrorism emergency reserve established pursuant to subparagraph (A) may be carried over from fiscal year to fiscal year. Notwithstanding subsection (c) of this section and section 619 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001 (and any similar limitation on Fund obligations in any future Act, unless the same should expressly refer to this section), any such amounts carried over shall not be subject to any limitation on obligations from amounts deposited to or available in the Fund.

(e) Amounts awarded and unspent

Any amount awarded as part of a grant under this chapter that remains unspent at the end of a fiscal year in which the grant is made may be expended for the purpose for which the grant is made at any time during the 3 succeeding fiscal years, at the end of which period, any remaining unobligated sums shall be available for deposit into the emergency reserve fund referred to in subsection (d)(5) of this section at the discretion of the Director. Any remaining unobligated sums shall be returned to the Fund.

(f) "Offenses against the United States" as excluding

As used in this section, the term "offenses against the United States" does not include—

(1) a criminal violation of the Uniform Code of Military Justice (10 (/uscode/text/10) U.S.C. 801 (/uscode/text/10/801) et seq.);

(2) an offense against the laws of the District of Columbia; and

(3) an offense triable by an Indian tribal court or Court of Indian Offenses.

(g) Grants for Indian tribes; child abuse cases

(1) The Attorney General shall use 15 percent of the funds available under subsection (d)(2) of this section to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve—

(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

(2) The Attorney General may use 5 percent of the funds available under subsection (d)(2) of this section (prior to distribution) for grants to Indian tribes to establish child victim assistance programs, as appropriate.

(3) As used in this subsection, the term “tribe” ^[2] has the meaning given that term in section 450b (</uscode/text/25/450b>) (b) (/uscode/text/25/usc_sec_25_00000450---b000-#b) ^[3] of title 25 (</uscode/text/25>).

[1] See References in Text note below.

[2] So in original. Probably should be “ ‘Indian tribe’ ”.

[3] See References in Text note below.

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K. Miscellaneous Resources