

# Welcome to USMC VWAP Annual Training FY16

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Maj Beck  
HQMC, VWAP  
703 693 8901

# Training Goals: Why You're Here

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

# How We Will Get There...

- Recent & Upcoming Changes to Military Justice
- DoD VWAP Updates
- USMC SAPR Program Overview
- Family Advocacy Program (FAP) Overview
- Legal Assistance Available to Victims
- Victim Legal Counsel Organization (VLCO)
- Court-Martial Process Overview
- MRE 514 Victim Advocate–Victim Privilege
- PSL Corrections' VWAP Role

# How We Will Get There...

- USMC VWAP Overview
- VWLO, VWAC, and Legal Officer Responsibilities
- Article 139 Complaints and Personnel Claims Act (PCA)
- Transitional Compensation Best Practices
- Civilian Victim Assistance under Crime Victim's Rights Act
- Building an Effective VWAP Program
- Commanding General Inspection Process & 092 Checklist
- Impact of Crime on Victim Survivors
- Communicating with Victim Survivors
- VWAP Best Practices

# USMC VWAP Overview

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# Summary

- Victims and Witnesses of Crime Have Rights and Deserve Protection and Assistance
- Base Commanders Own Local Base Programs
- Interdisciplinary Program: Many Entities Have a Role
- Coordination is Key
- Know the VWAP DD Forms and Directives

# 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.

# VWAP References

- MCO 5800.14 – VWAP – current policy
  - MCO 5800.14A – pending publication of DoDI 1030.2

**MCO 5800.14A**

Foster Civ Catherine N

Sent: Thu 8/25/2016 8:47

To: Beck Maj Eldon W

Cc: Kazzi Civ Mark A

Maj. Beck,

I wanted to provide you an update that **your directive has completed final review and is ready to route for signature.** Please access the link below and on the left hand side of the website you will find "Final Review Library". In this library please utilize the document that I have uploaded today to route for signature. I have also provided a NAVMC 942 where I will need your DCP to electronically sign. This form will be routed with your package. Once you have obtained a "wet signature" please provide the entire hard copies/package here to ARDB so we can get this directive published for you! Please let me know if you have any further questions.

Link - <https://ehqmc.usmc.mil/sites/ard/dirrev/MCO%205800.14A/Final%20Review%20Library/Forms/AllItems.aspx>

Ms. Catherine N. Foster  
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m to ROT

matters for CA's

**Victims and Witnesses of Crime  
Have Rights and  
Deserve Assistance and  
Protection**

# 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:
  - **Military members and dependents.**
  - **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.
  - **Outside the Continental U.S.,** includes: DoD civilian employees, contractors, and family members.
  - Authorized representative of an **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.

# Victims' Rights – Article 6b

1. To be reasonably protected from the accused.
  - Military Protective Order (MPO), Civilian Protective Order (CPO)
  - Courtroom security
  
2. To 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 relating to the offense\*
  - A public proceeding of the Navy Clemency & Parole Board\*
  - The release or escape of the accused

\* Applicable to hearings/proceedings relating to the offense

# Victims' Rights – Article 6b

3. Not to be excluded from any such public hearing or proceeding described above. . .
  - Unless the military judge, preliminary hearing officer (PHO), 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.
  - Not a government obligation to pay expenses, except per JAGMAN 0145.
  
4. To be reasonably heard at:
  - A public hearing concerning the continuation of confinement (i.e. Initial Review Officer (IRO) hearing);
  - A sentencing hearing related to the offense; and
  - A public proceeding of the Navy Clemency & Parole Board.

# Victims' Rights – Article 6b

5. The reasonable right to confer with the attorney for the Government in the case in any proceeding in para 2.
6. To receive restitution as provided in law.
  - Article 139, PCA, state compensation funds.
7. To proceedings free from unreasonable delay.
8. To be treated with fairness and with respect for the victim's dignity and privacy.

# Victims' Rights – Art. 60/RCM 1104

- R.C.M. 1104(b)(1)(E): 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 (more expansive than Art. 54)
- Art. 60(d): All victims are entitled to submit matters for the CA to consider before taking action
  - But only if there's a conviction for an offense regarding that victim

# Victims' Rights – VWAP Policy

- To be reasonably present at administrative separation (ADSEP) proceedings unless 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.
- To be reasonably heard at a preliminary hearing proceeding or court-martial proceeding relating to the Military Rules of Evidence (M.R.E) 412, 513, or 514 of the Manual for Courts-Martial, or other rights provided by statute, regulation, or case law.

# Victims' Rights – VWAP Policy

- ! ■ If eligible, to consult with a Victim Legal Counsel or a legal assistance attorney. All victims may also seek the advice of a private attorney at their own expense.
- To be notified of:
  - apprehension of the accused,
  - initial appearance of accused before a military judge,
  - release of accused pending court-martial,
  - any escape of accused, and
  - time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing)

# Victims' Rights – VWAP Policy

- To express views regarding the disposition of the case to the commander or convening authority.
- ! ■ To receive information about the NJP results, ADSEP results, conviction, sentence, confinement, or appellate proceedings relevant to the accused.

# Witnesses

## Eligible for VWAP 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.

# 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 decision to dispose of an alleged offense at court-martial, NJP, or ADSEP proceedings.

# Witness' Rights

- To be notified of:

- apprehension of an accused,
- initial appearance of an accused before a military judge,
- release of the accused pending court-martial,
- any escape of the accused,
- the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing), and
- ! ■ post-trial confinement status of the accused.

- ! ■ ~~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.~~

# DoD Policy on Special Victims

- 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”~~ “Special Victim Investigation and Prosecution (SVIP)” cases that require special victim capable personnel to handle the sensitivities of these cases (including VWAP personnel)

# USMC VWAP Special Victim Policy



8. Special Victim Cases. Cases involving alleged violations of UCMJ Articles 118, 119, 119a, 120, 120b, 125 (with a child or forcible), 128 (domestic violence involving aggravated assault or child abuse), 134 (child pornography or assault with intent to commit the previously listed articles), or 80 (attempts to commit the previously listed articles).



9. Special Victim Investigation and Prosecution (SVIP) Capability. A distinct, recognizable group of professionals, consisting of specially trained and selected Military Criminal Investigative Organization (MCIO) investigators, judge advocates, victim witness assistance personnel, and administrative paralegal support personnel who work collaboratively to investigate allegations of: sexual assault; domestic violence involving sexual assault and/or aggravated assault with grievous bodily harm; child abuse involving sexual assault; or child abuse involving aggravated assaults that inflict grievous bodily harm. The Marine Corps provides special victim capable VWAP personnel as outlined in the enclosures.

# Base Commanders Own Local Base Programs

# How VWAP 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

- SJA to CMC – Provides DoD VWAP Council Rep
- 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 (e.g. advocates, chaplain, medical, etc.) – VWAP Representatives

**VWAP is an  
Interdisciplinary Program:  
Many Entities Have a Role**

# POP QUIZ!

List all VWAP officials:

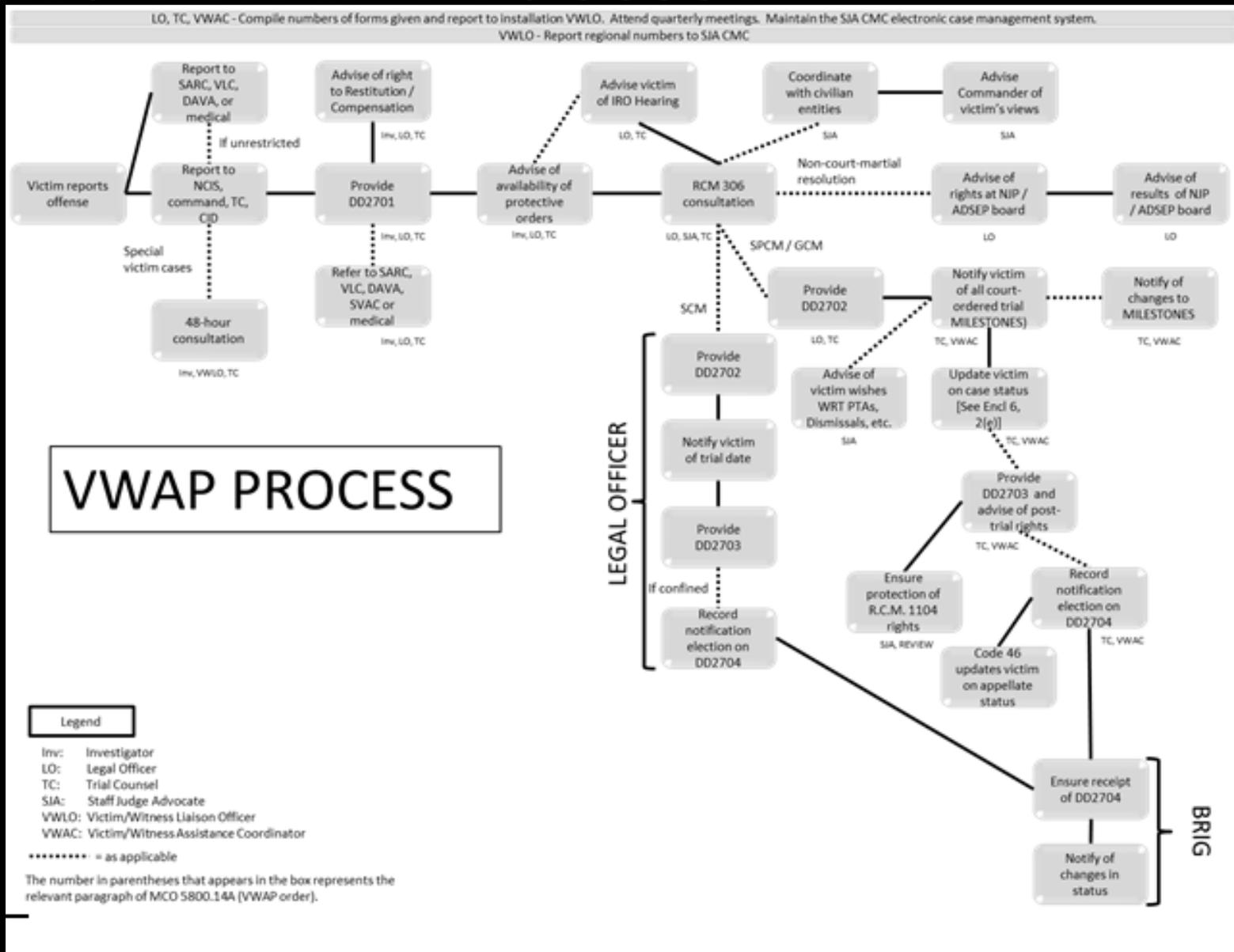
# VWAP Officials Definitions

- **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 [old]** – The command's primary point of contact for victim and witness assistance matters.
- **VWAC [new]** – A representative designated by a local service provider who assists designated V/W in exercising their rights under VWAP.
- **SVAC** – Like VWAC, but only assists those victims who are otherwise ineligible for representation or assistance through FAP, SAPR, or VLCO.
- **Legal Officer [new]** – Officer, appointed by a commander, responsible for command's legal mission.

# 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
- **VWAC / Legal Officer** – Provides information & assistance to victims in receiving restitution
- **Corrections personnel** – Manage post-trial confinement forms, reports & notifications

# The VWAP Process?



# More at the Installation Level: Who Does What?

- Sexual Assault Prevention and Response Program/  
SARCs, UVAs – SA Only
- Victim Legal Counsel – Represents eligible victims
- Family Advocacy Program –
  - Domestic Abuse Victim Advocates
  - Transitional Compensation (HQMC FAP via commanders)
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – Counseling, comfort
- Medical – Services
- Civilian advocacy services, social services, medical

# VWAP v. SAPR v. FAP

## Applicability

### SAPR

Applies to all eligible adult victims of sexual assault that aren't eligible for FAP:

- Service members,
- Dependents, or
- DOD employees overseas

### FAP

Applies to all eligible victims of domestic violence or child abuse:

- Current/former spouse;
- Current/former intimate partner with whom the abuser shares or has shared a common domicile
- Child, foster child, or child under care of abuser

### VWAP

Applies to all *victims and witnesses* of crimes committed in violation of the UCMJ

VW  
Per

NOTE: These can't be the same person

- Privilege issues under MRE 513/514
- VWAP reports to commander, FAP/SAPR serve the victim

## SAPR

- Uniform Victim Advocates (UVA)
- Victim Advocates (VA)
- Sexual Assault Response Coordinator (SARC)

## FAP

- Domestic Abuse Victim Advocates (DAVA)
- Counselors

## VWAP

Victim Witness Assistance Coordinators & Liaisons (VWAC , VWLO)  
Special Victim Assistance Coordinator (SVAC)

**Coordination is Key**

# 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 the right contact information is given on each DD Form to each Victim or Witness.
- Ensure continuing coverage for Victims/Witnesses of services and rights.

**For all the keys to success--  
The VWAP Key Ring:**



**Victim and Witness  
Assistance Councils**

# Key to Coordination: Victim & Witness Assistance Council

- An installation level council designed to ensure that a multi-disciplinary approach is followed by local victim and witness service providers.
- Combines the expertise and services of law enforcement, family advocacy personnel, victim advocates, medical professionals, legal service providers, corrections personnel, etc.

# Key to Coordination: Victim & Witness Assistance Council

- The local council should consist of VWAP officials, i.e.
  - Installation VWLO
  - Tenant unit VWACs
- And representatives from
  - SAPR
  - NCIS
  - CID
  - Provost Marshall's Office (PMO)
  - Installation SJA Office
  - Legal service providers
  - Chaplain
  - Confinement facility / brig (if there is a brig on the installation) and
  - Marine and Family Programs (i.e. FAP).

# Key to Coordination: Victim & Witness Assistance Council

- Does NOT discuss specific cases, victims, or witnesses,
- Focuses on victim and witness *services* and the *manner in which those services are being provided locally*.
- 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.

# **Know the VWAP Forms and Directives**

# VWAP Forms Overview

- Updated 2701, 2702, and 2703 published in March 2016
- Updated DD 2704 pending
- New DD 2704-1 pending
- An end to themselves? No! They ensure that the support, services and rights are provided and ensured.
- ***DD Forms 2701-2704 do not replace genuine service and support.***

# 2701: Pretrial

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

# 2702: Military Trial Process

- Upon first contact with victim or witness, prosecution provides DD Form 2702
  - Explains military trial process, gives tips and restates rights.
  - Includes rights regarding participating in trial process.
  - Provides contact information for VWAP responsible official and prosecutor/trial counsel

# 2703: Post-Trial

- Prosecution provides victim or witness with DD Form 2703 at completion 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.”*

# 2704: Post-Trial Elections

- TC provides brig with DD Form 2704 at finish of trial *upon sentence to confinement*.
  - Requires election by each V/W whether to receive information on confinement status
  - Provided to victims and witnesses upon request (redacted)

The DD D2704 is never included in the ROT – this has personal info of victims and witnesses and should not be shared

# 2704-1: Post-Trial Victim Rights

- DD Form 2704-1, Victim Election of Post-Trial Rights, is under development
- Will include V/guardian & VLC contact information, V election of post-trial rights, and POCs for record of trial, clemency matters, and appellate proceedings

# 2705: Post-Trial Notification

- 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

# 2706: Annual/Quarterly Report

- Each calendar year, USMC reports to DoD the total VWAP numbers (DD Form 2701 through 2704 elections).
- Regional VWLOs provide reports to HQMC, Judge Advocate Division each quarter.
  - Reports due from RVWLOs to JAD on the 20<sup>th</sup> day after the end of each quarter (i.e. 20<sup>th</sup> of each Jan, Apr, Jul, and Oct)

# MCO: 5800.14 (2013)

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

# New MCO: 5800.14A (2016)

- Eliminates unit VWACs and creates VWAP duties for Legal Officers
- Identifies special victim capable VWAP personnel and establishes procedures to comply with SVIP requirements.
- Authorizes convening authority or military judge to designate V representative for minor, incompetent, incapacitated, or deceased Vs.

# New MCO: 5800.14A (2016)

- Establishes Special Victim Assistance Coordinator (SVAC)
  - Serves as part of the installation SVIP capability for civilian Vs of sexual assault, domestic violence, and child abuse.
  - Ensures civilian Vs receive appropriate VWAP notifications, services, and information.

# New MCO: 5800.14A (2016)

- Integrates VLC in the VWAP process
  - Assigns VLC, when detailed, primary responsibility for all VWAP notifications and elections.
  - Establishes separate procedures for when (1) V/W is member of legal officer's command and no VLC is detailed and (2) legal officer's command is the CA.
  - Requires appropriate notifications to VLC.
  - Requires TC to work with V through VLC, when applicable.

# Functional Area Checklist

- USMC IG
  - 092 Functional Area Checklist for VWAP
  - The Marine Corps Standard for VWAP
  - Core inspection area
  - <http://www.hqmc.marines.mil/igmc/Resources/FunctionalAreaChecklists.aspx>

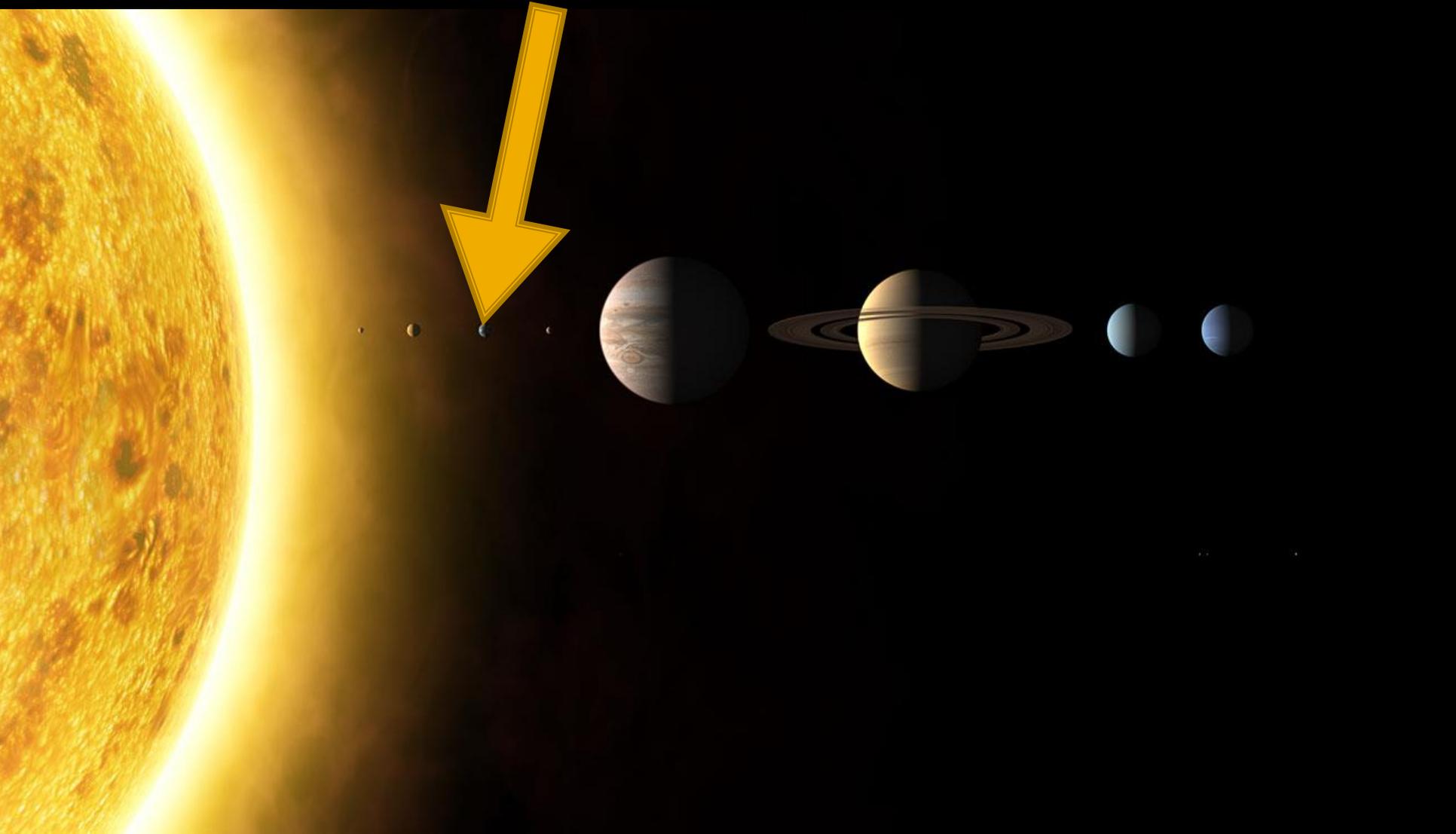
# Resources and Forms

- HQMC, JAD Military Justice Branch (Maj Eldon Beck): (703) 693-8901
- HQMC, PSL Corrections: (703) 614-1480
- Your Installation Victim Witness Liaison Officers (VWLO)
  
- VWAP Forms (2701 through 2706):  
<http://www.dtic.mil/whs/directives/forms/dd/ddforms2500-2999.htm>
- DoD Victim Witness Assistance Council: <http://vwac.defense.gov/>
- DOJ Office for Victims of Crime: <http://www.ovc.gov/>
- National Center for Victims of Crime: <http://www.victimsofcrime.org/>

# Summary

- Victims/Witnesses of Crime Have Rights and Deserve Protection and Assistance
- Base Commanders Own Local Base Programs
- Interdisciplinary Program: Many Entities Have a Role
- Coordination is Key
- Know the VWAP DD Forms and Directives

# Questions?





# **RECENT AND UPCOMING CHANGES TO MILITARY JUSTICE**

**VICTIM WITNESS ASSISTANCE PROGRAM TRAINING  
30 AUGUST 2016**

**Major Harlye S.M. Carlton, USMC  
Military Justice Branch, JAD, HQMC  
Executive Secretary, JSC**







# OVERVIEW



- Sources of Military Law
- Recent Updates to the MCM
- Pending Updates to MCM
- Military Justice Act of 2016

***Many of these changes affect the rights of victims and witnesses***



# SOURCES OF MILITARY LAW



**U.S. Constitution**

**Congress**  
(U.S. Const. art. 1, sec 8. cl. 14)

**Statutes**  
(U.S.C. Title 10; 10 U.S.C. 47 (UCMJ);  
NDAAs)

**Code Committee**  
Annual Review of UCMJ  
(Art. 146, UCMJ)





# SOURCES OF MILITARY LAW



- **Uniform Code of Military Justice**
  - Art. 6b, UCMJ – FY14/15/16 NDAAAs
    - Protection
    - Notice
    - Right to be reasonably heard
  - Art. 46, UCMJ – FY14/15 NDAAAs
    - Defense counsel interviews of victims



# SOURCES OF MILITARY LAW



**U.S. Constitution**

**President**  
(Art. 36, UCMJ)

**Congress**  
(U.S. Const. art. 1, sec 8. cl. 14)

**SecDef**  
(via DoD OGC)

**Executive Orders**

**Statutes**  
(U.S.C. Title 10; 10 U.S.C. 47 (UCMJ);  
NDAAs)

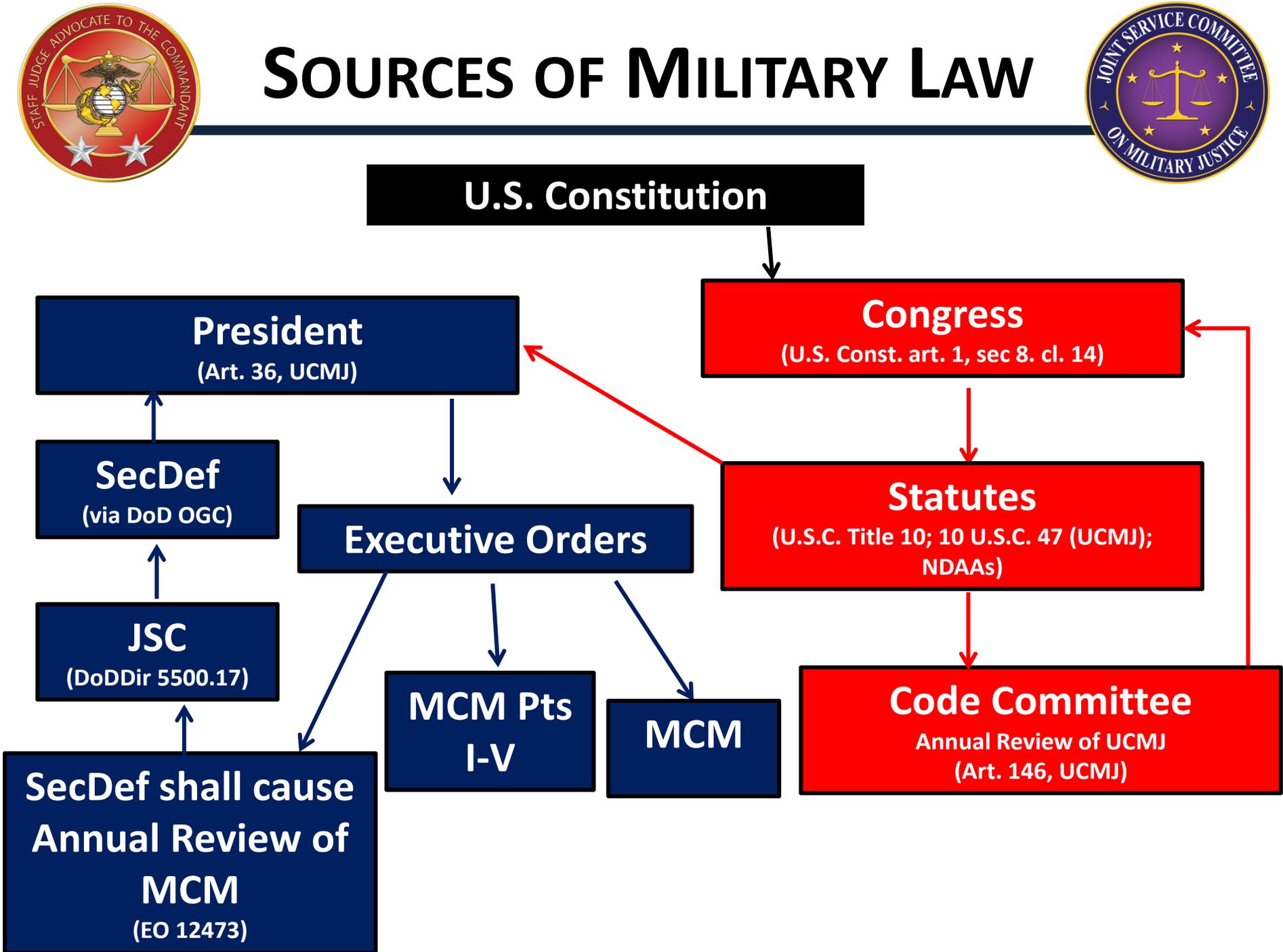
**JSC**  
(DoDDir 5500.17)

**SecDef shall cause  
Annual Review of  
MCM**  
(EO 12473)

**MCM Pts  
I-V**

**MCM**

**Code Committee**  
Annual Review of UCMJ  
(Art. 146, UCMJ)





# SOURCES OF MILITARY LAW



- **Manual for Courts-Martial**

- Rules for Courts-Martial

- R.C.M. 1001A – Victims' rights during presentencing
- R.C.M. 1005A – Victims' rights to submit matters

- Military Rules of Evidence

- Mil.R.Evid. 513/514



# CHANGES TO UCMJ/MCM SINCE 2012



Changes to the UCMJ	Changes to the MCM
<p><b>Implemented</b></p> <p>FY12 NDAA: 8 Articles FY13 NDAA: 4 Articles FY14 NDAA: 14 Articles FY15 NDAA: 10 Articles <u>FY16 NDAA: 1 Article</u></p> <p><b>Total: 37 Articles</b></p>	<p><b>Implemented</b></p> <p>EO 13643 + Supplementary Mats EO 13669 + Supplementary Mats EO 13696 + Supplementary Mats <u>EO 13730 + Supplementary Mats</u></p> <p><b>Total: ~415 changes</b></p> <p><b>Pending Implementation</b></p> <p><u>Pending EO + Supplementary Mats</u></p> <p><b>Total: ~238 changes</b></p>

2014/15

Prevention & Response

\$1711 – Prevention of entry into service of convicted sex offenders	\$1722 – Shortened RSP deadline	\$1725 – Min. requirements for SAPR personnel	\$545 – Requires JPP to review & assess use of victims' mental health records
\$1746 – Service Academy initial SAPR training	\$1731 – Additional RSP duties	\$1725 – SANE availability at MTFs	\$1726 – Added DOD SAPRO responsibilities
\$1741 – Regs on inappropriate conduct with recruits and trainees (mandatory separation processing)	\$1741 – Report to Congress on need for specific UCMJ article regarding prohibited relationships with recruits and trainees	\$1733 – Review of SAPR training	\$546 – Provides that JPP will be succeeded by a 5-yr defense advisory committee
\$1734 – SecDef review of retention of, and access to, evidence and records relating to sexual assault	\$1721 – Verification of command climate surveys	\$1735 – SecDef review of how sexual harassment is handled (EO vs. SAPRO?)	\$531 - Prohibition on relationships between recruiters & a potential recruit "who is pursuing or has recently pursued becoming a member of the Armed Forces"
	\$1747 – Completion of SF 86 by sexual assault victims	\$531 - SVC/VLC prohibited from assisting w/ civil suits against US	\$539 - Victims who may be a Sexual Assault Forensic Examiner & requires certification standards
		\$547 - Requires Secretaries of Military Depts to establish a confidential BUCMR/BCNR process for SA victims to challenge terms of their discharges	

All phases of a court-martial

\$1701 – Add Crime Victims' Rights Act to UCMJ	\$1704 – DC must go through VLC to interview victim	\$1716 – Special Victims Counsel requirement	\$540 – Moves the final day of a CA judge's term from 9/30 to 12/31	\$537 - Adoption of Klemick standard for in camera reviews of MRE 513
\$1701 – Crime Victims' Rights Act implementing regulations	\$1703 – Eliminate SOL for sexual assault and sexual assault of a child	\$1707 – Repeal of consensual entry	\$531 - Crime victims' rights article limited to "an individual"	\$533 - Expands access to SVC/VLC for Service Component
\$534 - Within 180 days, Military Rules of Evidence must be amended to provide that where the victim has the right to be heard, the victim may exercise that right through counsel, especially a SA, under section 1044e	\$537 - R.C.M. 513 "Constitutional requirements for exception stricken. Privilege must be extended to cover SA, per license amendment for SA professional	\$534 - Service Secretaries must promulgate procedures to ensure that victims' counsel receive adequate notice of the scheduling of proceedings	\$532 - Depos limited to circumstances where "it is in the interest of justice that the testimony of the prospective witness be taken and preserved for use at a preliminary hearing under section 832 of this title (Article 832) or a court-martial."	

Reporting

\$1717 – Expedited transfer for USCG	\$1724 – NG reserves access to SARCS	\$1751 – Sense of Congress on command climate free of retaliation for allegations of sexual assault	\$1714 – Expanded whistleblower protection (e.g., broadens unfavorable personnel actions and covered communications)
\$1743 – SecDef policy on timing of day incident reports for all sexual assault	\$1725 – 30 year retention of restricted reports	\$1715 – IG investigation of retaliation claims in sexual assault and sexual harassment cases	\$543 - Within a year, CA must propose a plan to allow those who make restricted reports to have data about the offense and offender collected on a confidential basis to identify individuals who are suspected of perpetrating multiple sexual assaults. The plan must be executed within the next year.
\$1703 – Guide on transfer of an accused following an allegation of sexual assault	\$1709 – Service regulation to prohibit retaliation against members who report a crime of offense	\$544 - Requires, within one year, a plan to create a domestic violence database	\$545 - Requires reports to include analysis of disposition of the most serious offense during a sexual assault, if the subject of an unrestricted report
\$1709 – Due on establishing a new punitive article for retaliation offenses			

Investigation

\$1732 – SecDef review of OIG investigative practices	\$1742 – Immediate referral of sexual assault allegations to MCIO
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Pre-Trial

\$1752 – Sense of Congress on disposition of sex offenses via court-martial	\$1753 – Sense of Congress on discharge in lieu of court-martial	\$531 - Term "Legal Guardian" eliminated for judge-appointed designee to assert victim rights of minors	\$534 - Victims must be consulted for preference as to exercise of military or civilian jurisdiction; CA must consider this preference
\$1708 – Elimination of "character and military service of accused" as a factor in disposition decision	\$1702 – Complete revision of Article 32 (now a probable cause "preliminary hearing") for all Article 32 hearings on or after 26 Dec 2015. Ability for Accused to waive Art 32 reinstated.	\$1744 – Review of decisions not to refer sexual assaults, requires ISIC, or Secretary review, and Secretary review if requested by Service Chief Prosecutor	

Trial

\$1705 – Mandatory CCA jurisdiction for penetration offenses	\$1705 – Mandatory dismissal for DD for penetration offense convictions	\$536 - Admissibility of good military character evidence limited to military-specific offenses	\$535 - Victims can petition CCA for writ of mandamus if they believe military judge erred in MRE 412/513 ruling	\$531 - CA authorized to take action on findings re: qualifying offenses
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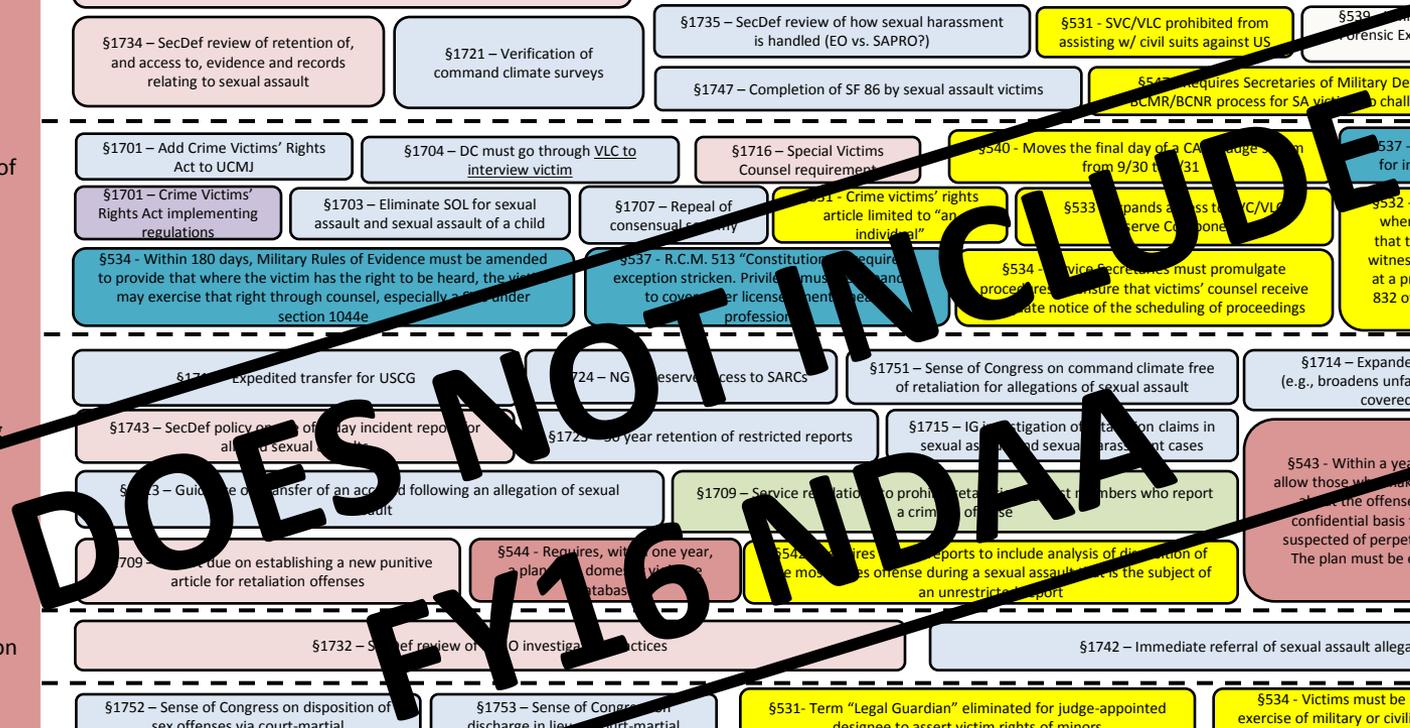
Post-trial

\$1702 – Complete revision to commander's authority to take post-trial action. Where a mandatory minimum punitive discharge was adjudged for a post 6/24/2014 offense, CA has old Article 60 powers where an accused is found guilty of offenses occurring before & after 6/24/2014	\$1706 – Victim participation in clemency phase	\$1745 – Inclusion and command review of records of sex-related offenses	\$538 - Allows return of personal property seized as evidence upon conclusion of proceedings
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Effective dates

Immediate changes in FY14 NDAA	25 Apr 14 (120 days after FY14 NDAA)	24 Jun 14 (180 days after FY14 NDAA)	June 2014	26 Dec 14 (1 year after FY14 NDAA)	Immediate changes in FY15 NDAA	18 Apr 15 (120 days after FY15 NDAA)	16 Jun 15 (180 days after FY15 NDAA)	19 Dec 15 (1 year after FY15 NDAA)
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NLT 30 days before termination of JPP (31 Aug 17)





# EXECUTIVE ORDER 13696 – 17 JUN 15



- Implements Article 6b rights throughout MCM
  - Notice
  - Not to be excluded
  - Heard
- R.C.M. 404A and 405 – New Article 32 procedures
- R.C.M. 702 – Depositions
- R.C.M. 1001 and 1001A – Addresses crime victims' rights to be heard during presentencing and allows sworn or unsworn victim impact statements
- Mil.R.Evid. 513 and 514 – Requires a hearing prior to MJ ordering *in camera* review of matters



# EXECUTIVE ORDER 13730 – 20 MAY 16



- R.C.M. 104 – Ratings for SVC/VLC
- R.C.M. 306 – Victim preference on jurisdiction
- R.C.M. 705 – Victim consultation on PTAs
- R.C.M. 1109 – Vacation hearing procedures
- R.C.M. 1203 – Procedures for victim writs of mandamus
- Part IV, para. 4.e. – Mandatory punitive discharge for attempts of certain SA crimes



# PENDING EXECUTIVE ORDER



- Currently pending signature by the President
- Implements portions of FY12, FY14, and FY15 NDAAAs
- Provides elements, explanations, and sample specifications for Articles 120, 120b, and 120c
- Defense counsel interview of victims
- Indecent conduct
  - Prior “Indecent Acts with Another,” but no requirement for another person



# MILITARY JUSTICE ACT OF 2016 (MJA16)



- 2013 - CJCS – General Dempsey requested DOD GC “conduct a comprehensive, holistic review of the UCMJ and the military justice system.”
- In December of 2015, the DoD submitted the MJA16 to Congress
- Proposes 37 new arts. and revisions to 68 arts.
- Both the House and Senate-passed versions of the FY17 NDAA include variations of the MJA16



# MILITARY JUSTICE ACT OF 2016 (MJA16)



- Retains all recent rights provided to victims
- Additionally:
  - Pre-referral authorities
  - Judge-alone sentencing with parameters and criteria
  - The government may appeal sentences
  - Improvements to data collection, case management, and public access to court-martial documents
  - Increased training for commanders
- Two year implementation estimate



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# QUESTIONS?



JSC Website: <http://jsc.defense.gov>

Maj Carlton: [harlye.carlton@usmc.mil](mailto:harlye.carlton@usmc.mil)



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# ***DoD VWAP Policy and Perspective***



**Lt Col Reggie D. Yager**

Deputy Director, Office of Legal Policy

Office of Under Secretary of Defense for Personnel & Readiness

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# Way Ahead

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- Perspective: *Why do we (still) have VWAP?*
  - Their Rights: *Beyond Article 6b*
  - Your Standards: *DoDI 6400.07*
  - The Forms: *2701 thru 2704-1 & 2706*
  - The Team: *SVIP*
-



# References

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- **DTM 14-003**, *DOD Implementation of Special Victim Capability (SVC) Prosecution and Legal Support*
- **DoD Instruction 1030.02** (pending), *Victim Witness Assistance*
- **DoD Instruction 6400.07**, *Standards for Victim Assistance Services in the Military Community*
- ***Manual for Courts-Martial***



# Perspective

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## ➤ Why do we (still) have VWAP?

- Ever been a witness?
  - Waited for an important answer that took months?
  - Imagine you or family member are called in by police in foreign country (e.g., Lochte robbery incident in Rio)
-



# Perspective

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- **VWAP fills critical communication and information role**
    - Not legal advice
    - Need for your services can vary depending on circumstances
    - SVC program: byproduct of inadequate VWAP?
-



# Perspective

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## ➤ Why do we (still) have VWAP?

- Not every Victim or Witness entitled to other victim services
  - Everyone entitled to communication
  - Witnesses matter too
  - You are spokesperson for military (justice)
  - You are central resource to connect Vs/Ws to services and rights
-



# Their Rights: Beyond Art. 6b

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- Right to Make Statement in Sentencing (R.C.M. 1001A)
    - Whether testified or not during findings
    - Sworn or unsworn
  - Record of Trial (ROT):
    - Sexual Assault Cases: Right to ROT (Art 54(e), UCMJ)
      - Likely opened for all victims in future
    - Other victims:
      - Can always request through FOIA
      - Pending DODI gives Military Departments discretion to provide without using FOIA process
-



# Their Rights: Beyond Art. 6b

---

- Right to submit clemency matters (Art 60(d))
    - Applies to all victims
  - Appellate Rights:
    - *Pending* policy, DODI 1030.02, Victim Witness Assistance, right to notice (in appeal/conviction section).
    - Will be in new DD Form 2704-1
    - Military Departments responsible for process
    - Congress / Independent panels looking at possibly expanding appellate rights for victims
-



# Your Standards: Competency

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- **Recognize basic principles of effective communication**, including verbal, nonverbal, and cultural variation
  - **Listen attentively** 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
  - **Educate and explain your role** to victims and to other agency personnel in order to address victims' needs
  - **Understand and describe the variety of resources** available in the immediate environment
  - **Recognize the impact of trauma** on victims' ability to connect to services and to assist in the military justice or administrative process
  - **Understand the impact of specific types of crime** on victims
  - **Help victims identify and prepare for potential stressors.**
-



# Your Standards: Ethical

---

- **Ensure** victims understand that participation is **voluntary**
  - **Respect the privacy** of information provided by victims.
  - **Understand your role, responsibilities, limitations**, and perform duties IAW applicable laws, policies, and regulations.
  - **Respect victims' rights** and act accordingly.
  - **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.
  - **Avoid conflicts of interest** and disclose any possible conflict to the appropriate program personnel and victims served.
  - **Seek support** and increased levels of supervision **when necessary** to serve the best interests of a victim.
-



# Your Standards: Foundational

---

- **Document and** administer services to **ensure quality** and responsiveness to victims' needs
  - **Provide info on** available on and off-base **resources / services**
  - **Respect victim's** right to make own **decisions** about services
  - **Ensure basic rights are explained, including application** to case
  - **Provide information about military justice system and process**
  - **Manage expectations** of military justice / admin proceedings
  - **Ensure victims understand what constitutes legal advice** and representation, **and who can and cannot provide**
  - **Provide liaison** assistance with other support personnel **as needed**
-



# The Forms

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- **DD Form 2701:** @ Initial Contact re: Investigation Process
  - **DD Form 2702:** @ Preferral re: court-martial process
  - **DD Form 2703:** After Conviction re: post-trial process
  - **DD Form 2704:** After Sentencing re: notice of prisoner status
  - **DD Form 2704-1 (pending):** After conviction re: **victim** post-trial elections
  - **DD Form 2706:** Annual reporting form
-



# The Forms

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- You have to fill in POCs on 2701-2703
  - Provide flexibility for pending programs (e.g., Retaliation Prevention)
  - Smart Forms with redaction features
  - New block to permit contact with inmate and still receive status notifications
-



# The Team: SVIP

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## ➤ **Special Victim Investigation and Prosecution Capability (SVIP):**

*A “distinct, recognizable group of professionals to provide effective, timely, and responsive worldwide support, and capability to support the investigation and prosecution of special victim offenses”*

➤ **Intended to integrate, not replace programs**

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# The Team: SVIP

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- Includes specially trained:
    - **MCIO Investigators**
    - **Judge advocates to serve as prosecutors**
    - **VWAP personnel**
    - **Paralegal / admin support** personnel
  - Works closely with local **SARCs, SAPR VAs, FAPMs, and DAVAs**
  - Applies to **sexual assaults, aggravated domestic violence, and child abuse**
-



# The Team: SVIP

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- **Active liaisons** should be established :
    - Local military and civilian law enforcement
    - SARCs / SHARP
    - Victim Advocates (sex assault and domestic violence)
    - Family Advocacy Program Managers
    - Chaplains
    - Medical / Mental Health providers, and SAFEs
    - Commanders
    - Others designated by Military Department
-



# Final Thoughts

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- Why do we (still) have VWAP?
    - *Witnesses only have you*
    - Nobody likes to lose, but worse if don't understand rules or feel ignored
    - You are a network resource
    - V/ Ws have been missed in past
  - I.e., **WE NEED YOU.**
-



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# Questions?

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# Sexual Assault Prevention & Response Program

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*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

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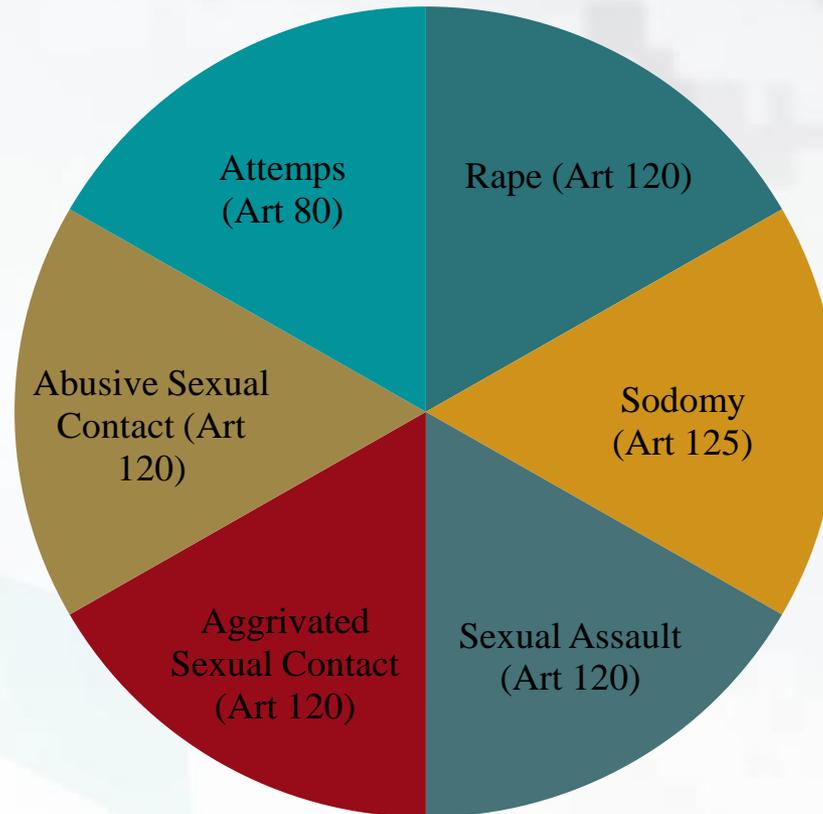
## *An Overview of Sexual Assault*

# 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

# Sexual Assault in the UCMJ



# Impact of Sexual Assault on the Victim

---

## Immediate

- Numbness and detachment
- Anxiety or severe fear
- Guilt and anger
- Extreme fatigue or exhaustion
- Difficulty concentrating
- Memory Problems
- Racing thoughts
- Greater startle response

## Long Term

- Irritability and/or hostility
- Depression, anxiety, and shame
- Fear of recurrence
- Emotional detachment
- Sleep disturbances, fatigue
- Intrusive memories or flashbacks
- Difficulty making decisions
- Powerlessness
- Suicidal thinking

# A Source of Support

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*The USMC SAPR Program*

# The USMC SAPR Program

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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*

# Those Eligible for SAPR Services

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- All Active Duty Service Members
- Reservists
- Adult Dependents
  - *Eligible for treatment in the military healthcare system when the offender is not the spouse or family member*
- DoD Civilians and Their Dependents
  - *When stationed or working OCONUS*
- DoD Contractors
  - *When stationed or working OCONUS*

# Services Provided by the SAPR Program

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- **24/7 sexual assault crisis intervention**
- Nonclinical support and referring the victim to other supportive services (e.g. Victims' Legal Counsel, clinical counseling, medical, chaplain).
- 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

# Key Roles in the SAPR Program

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# Victim Reporting Options

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## *Unrestricted Reporting*

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

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## *Restricted Reporting*

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

# Unrestricted Reporting

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- Election made on the DD2910, “Victim’s Reporting Preference Statement” \* (VRPS)
- An official law enforcement investigation is conducted in order to hold the offender accountable
- Command is notified and therefore able to provide the maximum care and support to the victim, i.e. MPO
- Victim may chose NOT to participate in the law enforcement investigation

# Unrestricted Reporting

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For an Unrestricted Report, the victim can contact:

- Uniformed Victim Advocate (SAPR VA)\*
- Civilian Victim Advocate (SAPR VA)\*
- Sexual Assault Response Coordinator (SARC)\*
- Healthcare Personnel
- Command
- Law Enforcement

# Expedited Transfers in Unrestricted Reports

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- Allows victims an opportunity to *request a transfer and receive a decision quickly from their commander*
- Option available for Unrestricted Reports only
- With the assistance of the Victim Advocate or SARC, the victim can submit a request for the transfer to the CO
- The CO will respond to the victim's request within 72 hours with an approval or disapproval

# Restricted Reporting

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- Supports victims who need more time or simply don't feel comfortable coming forward
- Election is made on the DD2910, VRPS\*
- A law enforcement investigation is not initiated
- Command is not notified
- The Installation Commander is notified within 24 hours that a Restricted Report has been filed however, *no identifying information will be provided*

# Restricted Reporting

---

- Victim can **only** report to:

- Uniformed/Civilian Victim Advocate\*
- SARC\*
- Healthcare Personnel

*In some states, including California, medical providers are required to report sexual assault*

- Option can also be preserved if you speak to a:

- Chaplain
- Military Legal Assistance Attorney/VLC

# A Valuable Partnership

---

*Working with your local  
SAPR Program*

# A Valuable Resource to One Another

## The Process

SAPR is focused on advocacy and supporting the victim through the processes

VWAP is focused on helping victims understand the military judicial process



## Victim Support

SAPR will provide advocacy & accompaniment for as long as the victim desires

VWAP provides critical information to victims, this may occur after SAPR case has closed



## Ideal Outcome

**Both programs can work together seamlessly to provide maximum support to the victim**

# Connecting With The SAPR Program

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- 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
- Victim has a “team” focused approach
- Attend the Case Management Group (CMG) and High Risk Response Team (HRRT) when assigned to a victim's case

# Raise Awareness Together

---

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

# Conclusion

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

# VWAP Roles and Responsibilities

Maj Beck  
HQMC, VWAP  
703 693 8901

As Promised . . .



# What This Presentation Covers

- This presentation:
  - Focuses on the new/forthcoming VWAP order: MCO 5800.14A
  - Summarizes many of the requirements from the original order
  - Highlights most new requirements
  - *Is not a complete overview of all changes or additions to the VWAP MCO*

# Parties involved in the VWAP

- Component Responsible Official (SJA to CMC)
- Local Responsible Official (Installation Commanders)
- Unit Commanders
- SJA
- Unit Legal Officers (formerly unit VWAC)
- Regional VWLO
- Installation VWLO
- Special Victim Assistance Coordinator (SVAC)
- Law Enforcement
- Corrections
- LSSS/LSST OICs
- Trial Counsel
- Service Providers
- Victims' Legal Counsel
- Legal Assistance Attorneys

# Headquarters Marine Corps

# 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)
- Maintain current list of all RVWLOs, VWLOs, and SVACs

! VWLOs, and SVACs

**Commander,  
Staff Judge Advocate (SJA), &  
Legal Officer**

# COMMCICOM, MFR, and Regional MCI Commanders

- Ensure that the VWAP is properly implemented by installation Commanders
- Appoint a Regional VWLO to ensure compliance with VWAP (may be IVWLO)
- Report data to HQMC with regard to DD Forms 2701 – 2704 (via DD Form 2706)

# Installation Commanders

- ! ■ Ensure coordination between **VWLO, SVAC**, and VWAP reps from NCIS, legal service providers, MPs, COs, Marine & Family Programs, **SAPR**, corrections facilities, chaplains, and **VLC in SVIP cases or others where one has been detailed to represent the victim.**
- ! ■ Appoint VWLO and **SVAC**; provide their info to VWAP reps on base.
  - Appoint confinement facility VWAC.
  - Establish a local Victim Witness Assistance Council.
- ! ■ In situations where one party to a MPO resides off-base, ensure an MOA between installation PMO and local police and/or sheriff departments exists.

# Unit Commanders

- ! ■ Appoint a ~~VWAC~~/legal officer in writing
- Protect victims to the extent possible
- ! ■ ~~Provide annual training to their personnel on victim and witness rights~~
- ! ■ Ensure all personnel in the unit are aware of the identity of the ~~VWAC~~/legal officer and the ~~VWAC~~/legal officer's role in enforcing victim and witness rights

# Unit Commanders

- ! ■ If a sexual assault victim expresses a preference for civilian prosecution of an offense, the convening authority shall ensure that the appropriate civilian authority is notified of this preference.
- ! ■ Ensure **legal officer** compiles data on number of victims and witnesses who receive DD 2701-2703 and elect notification via DD 2704.

# Staff Judge Advocate (SJA)

- Advise the Commander on the VWAP.
- Ensure commanders solicit victim input when making a disposition decision, dismissing charge, or accepting pretrial agreement.
- 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.

# ! Unit Legal Officer

- Officer/SNCO/Civilian Equivalent.
- Ensure close coordination with VWAP personnel.
  - When VLC is detailed to a case, all victim notices must be made through VLC.
- Ensure victims and witnesses understand rights
  - Provide DD 2701, if not already done.
- In pretrial confinement cases the legal officer shall notify the victim (VLC, if detailed) or witness of accused's pretrial confinement status, any hearings regarding that status, and any changes in the accused's confinement status.
- Compile data on the number of victims and witnesses who receive DD 2701-2703 and elect notification via DD 2704. Report data to IVWLO.
- Provide annual training to the Command.

# ! Unit Legal Officer

- Where Victim is in LO's unit and no VLC is detailed:
  - Ensure victim is in touch with FAP VA, VLC, and/or SAPR VA, if appropriate
  - Assist in obtaining counseling as necessary
  - Provide info about transitional comp, Article 139, PCA, state comp, and other civilian resources
  - Assist in exercise of rights, as outlined in DD 2702/2703
    - Trial Counsel will assist the victim with this in GCM or SPCM
  - Provide info about protective orders (MPO/CPO)

# ! Unit Legal Officer

- Where LO's Command is Convening Authority:
  - Identify victim(s), victim's VLC, and witnesses
    - For victims/witnesses in other units, notify their LO
    - For civilian victims, notify SVAC
  - Ensure victim receives notice of ALL trial milestones and rights
  - Ensure all victims and witnesses in a command investigation receive DD 2701.
  - For Summary Courts-Martial (SCM):
    - Ensure victims and witnesses are provided appropriate notices and copies of DD 2702-2704
    - Notify the SCM officer that victim has right to be heard at SCM

**Victim Witness Liaison Officers  
(VWLO)  
&  
Special Victim  
Assistance Coordinator (SVAC)**

# Regional VWLO Requirements

- Ensure training is available to all VWLOs and VWACs
- Maintain list of all VWLOs in region
- ! ■ Ensure semi-annual training for VWLOs and SVACs
- Compile/report data for the region
- Available to inspect VWLOs and VWACs as part of CGIP
- Liaise with Program Manager about problems or trends in region

# Installation VWLO Requirements

- Ensure coordination among all offices
- ! ■ Maintain list of **SVACs**, service providers, LOs, and SJAs aboard installation
- ! ■ Ensure each command appoints a **LO**
- Chair quarterly Victim Witness Assistance Council
- Ensure victims are notified of all support, services and rights available and VWAC/LO information
- Provide annual training to SVACs and LOs
- Compile data on DD 2701-2704

# Installation VWLO Requirements

- 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.
- ! ■ Maintain access to installation blotter to ensure victims are contacted and offered applicable VWAP services by SVAC or LO

# ! Special Victim Assistance Coordinator (SVAC) Requirements

- Contact all civilian victims that are NOT eligible for SAPR, FAP, or VLC services to ensure they are aware of their rights and the services available to them under the VWAP (i.e. state victim compensation, Art. 139, and PCA/FCA).
- Upon request, attend all legal meetings, administrative and judicial proceedings with the civilian victim.

# ! Special Victim Assistance Coordinator (SVAC) Requirements

- Upon request, assist civilian victims in obtaining base access, childcare, transportation, and parking for all court related interviews, meetings, and proceedings.
- Ensure competency, ethical, and foundational standards are met.
- Serve as part of the installation SVIP capability for civilian victims of sexual assault, domestic violence, and child abuse.

# **Legal Services Support Section/Team (LSSS/LSST) & Trial Counsel**

# Legal Services Support Team (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
- ! ■ If no VLC, ensure eligible victims have opportunity to submit matters for CA's consideration and receive copies of SJA Review or JA Review and the Record of Trial

# Trial Counsel

- Once assigned to a case must:
  - Identify victims and witnesses
  - Provide victims/witnesses 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 (to V, VLC, and SVAC, if applicable)
  - Comply with consultation requirement

# TC's Notification Requirements

- Victim must advised of:
  - Scheduling of a public hearing concerning the continuation of confinement prior to trial of the accused and the right to be heard at such hearing;
  - Release or escape of the accused, unless such notice may endanger the safety of any person;
  - Scheduling of an Article 32, UCMJ, preliminary hearing;
  - Receipt of a preliminary hearing officer's recommendation when an Article 32 preliminary hearing is held;
  - Consultation regarding the CA's decision to refer or not refer charges;
  - Offer or acceptance of a pretrial agreement;
  - Consultation regarding the dismissal of charges or specifications related to the victim;
  - Scheduling of a hearing involving any M.R.E. 412, 513, or 514 motions;
  - Scheduling of sentencing hearing, ADSEP proceeding, or NJP hearing;
  - Scheduling of each court proceeding;
  - Entry of court-martial findings;
  - Awarding of a sentence.

# TC's 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's Notification Requirements

- Witness must be advised of:
  - Acceptance of a plea
  - Findings of a court-martial
  - Sentence adjudged
  - ! ■ Decision to dispose of the case, if other than at court-martial
- TC must notify all witnesses who have been scheduled to attend any MJ proceedings of scheduling changes that affect their appearance

# TC's 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

# TC's Sentencing Responsibilities

- ! ■ Inform victims, **through VLC when applicable**, 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

# ! LSST VWAC Responsibilities

- Assist TC in VWAP responsibilities
- Ensure CMS entries are completed
- Serve as LSST representative to VWA Council
- Coordinate all victim/witness travel for hearings/proceedings
- Inform victims/witnesses about availability of services such as transportation, parking, lodging, translators and interpreters and assist in securing needed services
- Ensure victims/witnesses are informed of:
  - appointed time and place to appear for all hearings and proceedings,
  - anticipated order of events, and
  - the progress of the trial.

# Law Enforcement & Corrections

# Law Enforcement

- Appoint a VWAC to the Victim Witness Assistance Council
- Provide DD 2701 forms to victims and witnesses
- Maintain data on the number of victims and witnesses provided DD 2701
- Provide annual training on VWAP to LE personnel
- Notify victim of availability of VLC before interviewing victim
- Provide a threat assessment as required
- Regularly inform victim of status of investigation
- Promptly notify victims/witnesses when suspect is arrested
- Notify Command LO when investigating cases with an accused or victim that is a member of the command

# Brig and PTC Facility CO/OIC

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

# Victim Service Providers

# 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
- Compile data on victims/witnesses who receive DD 2701
- Appoint representative to the local Victim and Witness Assistance Council

# Victim Legal Counsel

- Provide victims counseling and representation as authorized by law and regulations.
- Attend Victim and Witness Assistance Council
- Compile data on number of victims/witnesses who receive DD 2701-2703 and elect notification via DD 2704. Report data to installation VWLO.

# Victim Legal Counsel

- When VLC is detailed to represent a victim, VLC assumes primary responsibility for all VWAP notifications/elections for victim:
  - Ensure victim understands rights and assist in exercising rights contained in DD 2701-2703.
  - Advise SA victims of right to express preference for civilian prosecution and ensure CA is notified.
  - When applicable, coordinate with the Domestic Abuse Victim Advocate to ensure victim/witness receives information concerning availability of resources, including information on compensation programs available to victims of intra-familial abuse offenses.
  - When applicable, coordinate with UVA to ensure the victim receives appropriate SAPR services for unrestricted reports of sexual assault.
  - Assist the victim in obtaining necessary counseling.
  - Provide information about the availability of military and civilian protective orders, as appropriate.
  - Promptly advise victim upon notice of any pretrial confinement of accused, the date of any hearing regarding the confinement, and opportunity to be heard.
  - Advise on availability of state victim compensation programs and assist in filling out required documents.
  - Advise on availability of restitution under Article 139 for property crimes and assist the victim in filing an Article 139 complaint.

# Victim Legal Counsel

- VLC duties continued:
  - Advise on availability of restitution under the Personnel Claims Act, for evidence seized during the course of the investigation, and the Foreign Claims Act, for crimes committed in foreign countries.
  - Advise on other victim assistance programs available in the local area and the services they may provide.
  - Communicate to the convening authority the victim's preference on any decision to prefer charges, conduct an Article 32, refer charges, accept a pretrial agreement, or otherwise dispose of charges.
  - Promptly advise the victim upon notice of any decision to prefer charges, schedule an Article 32 hearing, refer charges, accept a pretrial agreement, or otherwise dispose of charges.
  - Promptly advise the victim upon notice of any motions for a continuance, motions for release from pretrial confinement of the accused, and the scheduling of a hearing involving any M.R.E. 412, 513, or 514 motions, and the victim's right to be heard on these motions.
  - Promptly advise the victim upon notice of the final disposition of a case whether it is at court-martial, ADSEP processing, or NJP hearing.
  - Advise eligible victims of their rights and make an appropriate election regarding whether they want to be informed of the release, escape, transfer, clemency, or parole hearing for the accused, obtain a copy of the record of trial or submit matters for the convening authority's consideration on the findings and sentence.

# Legal Assistance Attorneys

- Provide crime victims and witnesses legal assistance support as authorized by law and regulation.
- 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.
- Shall not serve as VWLO or SVAC.

**Questions?**



# Family Advocacy Program

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# 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

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***“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

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***“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
  - Within My Reach

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***“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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***“Keeping Faith”***



# Victim Advocacy Program

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- 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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***“Keeping Faith”***



# 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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***“Keeping Faith”***



# 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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***“Keeping Faith”***



# 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)
  - Domestic Violence Focused Couples Therapy (DVFCT)
  - Triple P (Standard Teens and Group Teens)
  - Skills, Techniques, Options, Plans (STOP) Curriculum

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***“Keeping Faith”***



# New Parent Support Program

## Responsibilities

- 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
- Prevention based program
- Referrals: Self referrals, commands, medical providers, community agencies, Family Advocacy Program
- Serves families who have allegations of child maltreatment or who have 'met criteria' cases of child maltreatment

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***“Keeping Faith”***



# New Parent Support Program

- Services provided
  - Home visitation: At least twice per month
  - Classes/groups: Baby Boot Camp, breastfeeding support, play mornings, parenting classes
  - Offering home visits and classes outside of normal duty hours to increase participation by service members
- Program Curriculums
  - Infant Massage
  - Safe and Sound Campaign launched at Camp Lejeune
  - Period of Purple Crying App
  - Parents As Teachers

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***“Keeping Faith”***



# Family Advocacy Staff Training (FAST) Course

- Three day hosted training to new and veteran FAP employees
- Provides overview of FAP role, purpose and execution, Marine Corps culture, OSD initiatives
- Includes presentations from Subject Matter Experts in the field of child abuse and domestic violence incorporating trauma informed care
- In FY15, MFPCP-2 initiated providing FAST in a traveling format on the east and west coast in order to reduce TAD costs, to address any backlog of untrained staff, and to limit disruptions to the installations' mission

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***“Keeping Faith”***



# Way Ahead

- FY17 FAST course hosted at Okinawa
- FY17 Quality Assurance Tool/Chart Audits
- Developing research projects with HQMC Research and Program Development
- FAP Needs Assessment
- Domestic Abuse Victim Advocate Functionality Assessment and Staffing Model
- Clinical Case Staff Meeting Quality Assurance
- Parents As Teachers Curriculum
- Forms revision with CCP and SAP
- Case collaboration within Behavioral Health and identification of gaps in service delivery
- Revising DoDCMS
- MCO 1754.11 revision

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***“Keeping Faith”***



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Questions?

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***“Keeping Faith”***

# Legal Assistance & Victims

SERVICES PROVIDED TO VICTIMS OF SEXUAL ASSAULT

CAPTAIN SINNOTT

LEGAL ASSISTANCE ATTORNEY

VICTIM'S LEGAL COUNSEL

# What am I? What do I do?

- ▶ Legal Assistance Office, National Capital Region (LAO) provides a full range of legal services related to **civil** matters affecting Marines, their dependents and “other eligible clients.”
  - ▶ **We are authorized, but not mandated, by Congress to do this.**
- ▶ Estate Planning: Wills & Trusts, Powers of Attorney, Advance Medical Directives
- ▶ Family Law: Separation & Divorces, Family Mediation Program, Custody/Support/Visitation Agreements, Adoptions, etc...
- ▶ Consumer Law: Landlord Tenant disputes, Fair Debt Collection, Automobile problems
- ▶ Military Rights: SCRA, USSERA



# Why Talk to Us?

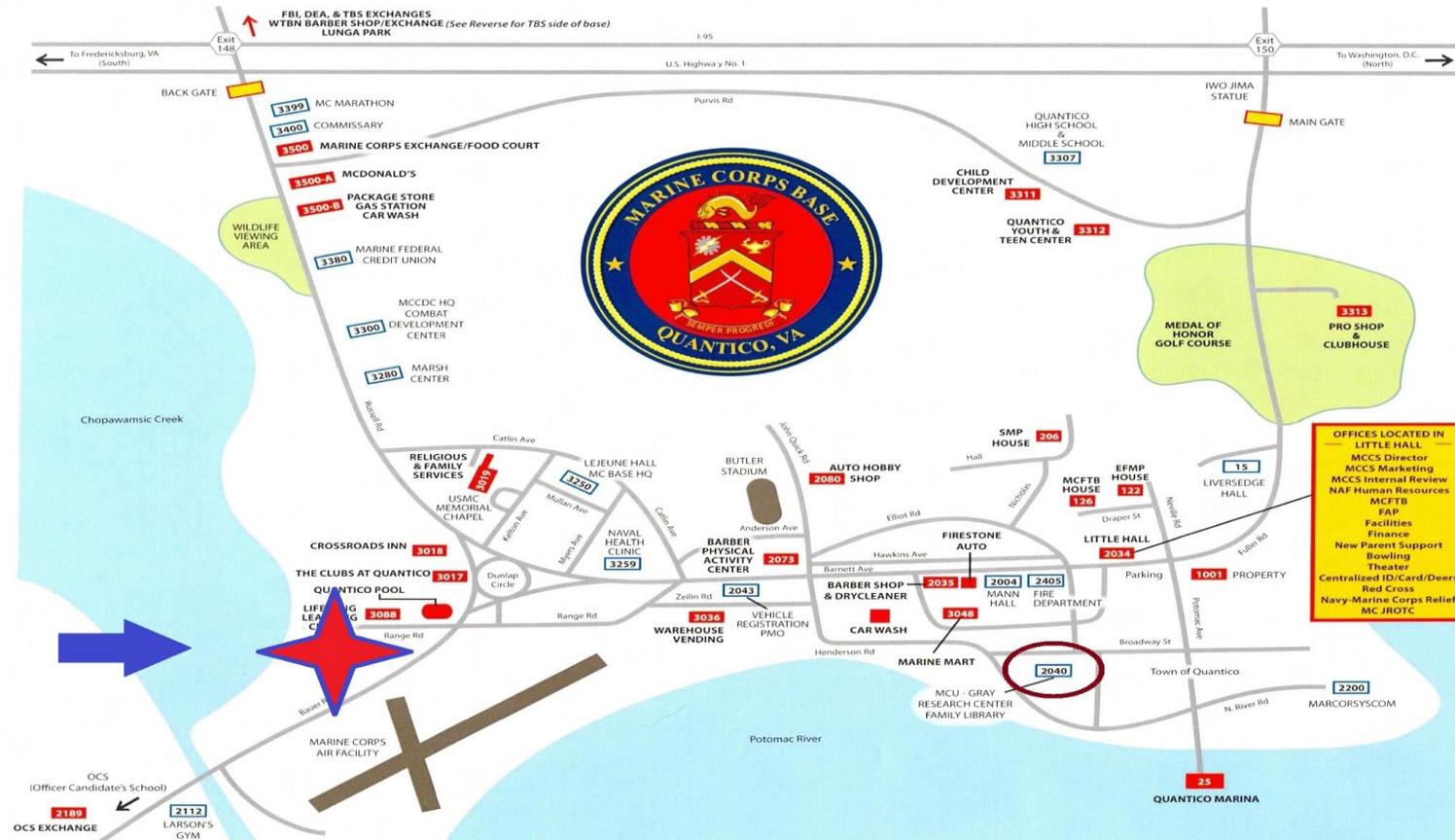
## Pros / Capabilities

- ▶ **Confidentiality**
- ▶ **Attorney / Client Privilege**
- ▶ **Free services**

## Cons / Limitations

- ▶ Cannot litigate out in town
- ▶ We are lawyers
- ▶ Office is hidden

# Where am I?



# Services Broken into Two Paths:

- ▶ When a Client comes into the Legal Assistance Office first, and we identify that they are a Victim.
  - ▶ We explain – as best we can – the entire system and give overviews on resources and options. We do not get these things done for the client, but we get them to who can.
  - ▶ Proverbial “warm hand-off”
- ▶ When a client has already been identified as a Victim and is actively using those available resources and is referred to us for our core, legal assistance competencies.
  - ▶ Normally a Victim’s Legal Counsel (more to follow) will identify a need and refer them over to Legal Assistance

# Victim Service's Overview

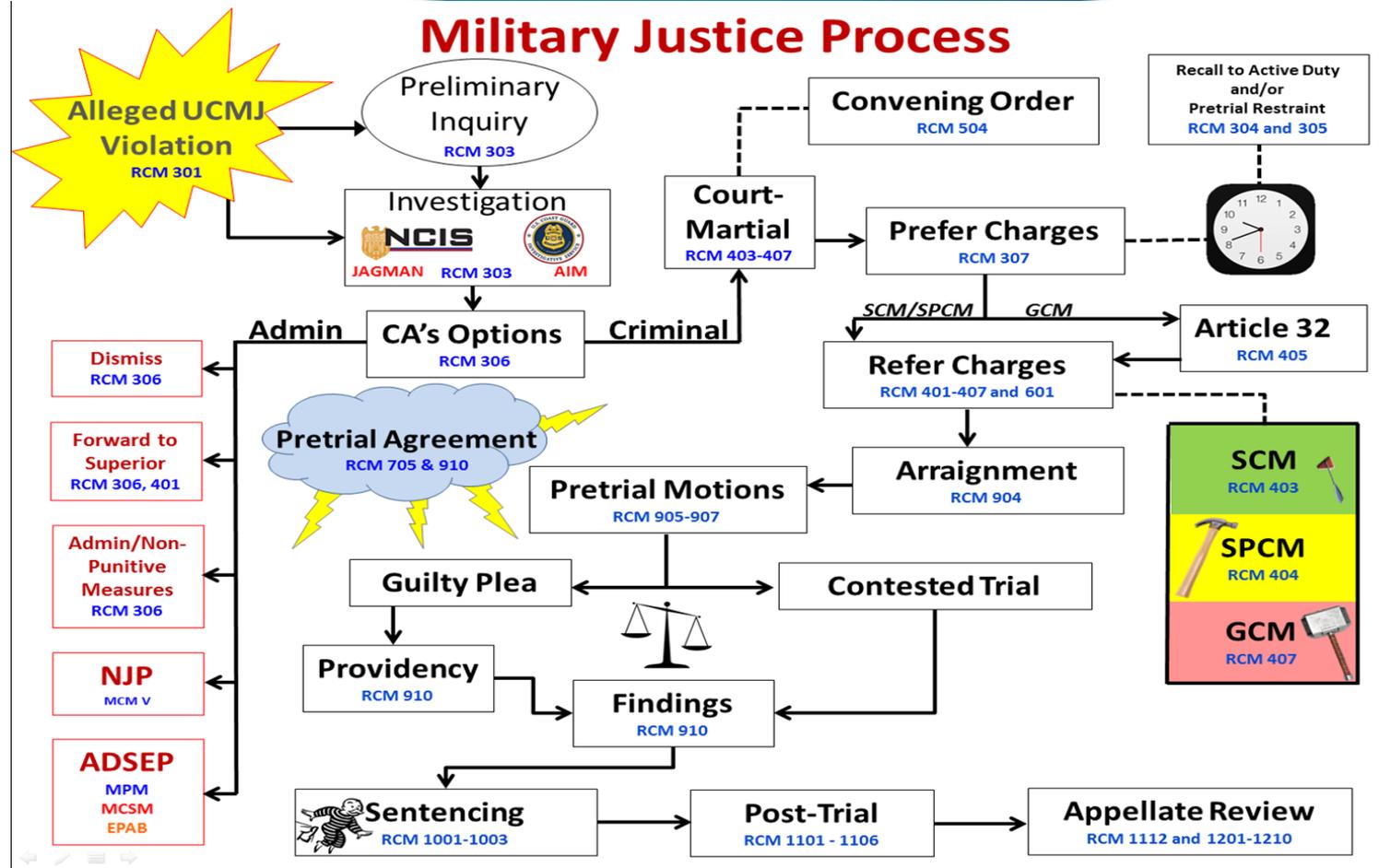
- ▶ The most immediate service we provide to victims is walking them through the process. We discuss legal aspects such as:
  - ▶ The Military Justice System
    - ▶ New Victim's rights
  - ▶ Availability of Victim's Legal Counsel and what they do
  - ▶ Restricted v. Unrestricted Reporting options and considerations
  - ▶ Military & Civilian Protective Orders
  - ▶ VWAP – Victim Witness Advocate Program
  - ▶ Expedited Transfers
  - ▶ Mitigating Reprisal and Retaliation
  - ▶ Transitional Compensation

# Victim Services Overview – Military Justice System

- ▶ Major players in the Military Justice System, as explained:
  - ▶ Convening Authority – First flag officer in the COC (hence “General Courts-Martial”)\*\*
  - ▶ Trial Counsel – Prosecutor
  - ▶ Defense Counsel – Detailed to defend the accused throughout the Military Justice process
  - ▶ Victims’ Legal Counsel – attorney detailed to the Victim (more to follow)
  - ▶ NCIS – typically the lead investigatory agency.
    - ▶ Not like the show. At all.

\*\* Or O-6 / O-6 Commanders depending on the forum

# Victim Services Overview – The Military Justice System, con't



Credit: Naval Justice School, Newport, RI

# Victim Services Overview – Victims' Legal Counsel

- ▶ 10 U.S.C. §1044(e), MARADMIN 583/13, and MCO P5800.16A Chapter 7 establish and implement the Victims' Legal Counsel Organization (VLCO).
- ▶ Provides any victim of sexual assault, domestic violence, child abuse, or any other crime punishable under the UCMJ a detailed uniformed attorney, known as a Victim's Legal Counsel (VLC).
- ▶ VLC is the advocate for the victim on all matters throughout the Military Justice Process.
  - ▶ Ensure that the Victim's preferences are sent to any Convening Authority / Commander for his or her consideration – Pre and Post Trial!
- ▶ Victim **MUST BE NOTIFIED about availability of VLC** before an investigator or trial counsel interviews or requests a statement from the victim regarding an alleged sex-related offense.

# Victim Services Overview – Victims' Legal Counsel, con't

- ▶ VLC will be the single point of contact for the victim. All communications by the Trial Counsel, Defense Counsel, NCIS, or anybody will go through the VLC.
- ▶ VLC is an advocate for the Victim in Pre-Trial matters in submitting motions, appearance and Art. 32 (Grand Jury) hearings, and more.
- ▶ VLC is an advocate in the actual Courts-Martial proceeding by ensuring the Victim's rights are being upheld

**BOTH YOU AND I MUST INFORM VICTIMS ABOUT VLC AVAILABILITY**

# Victim Services Overview – Military / Civilian Protective Orders

- ▶ Inform the victim about the process for establishing a Protective Order, either Civilian (CPO) or Military (MPO)
- ▶ CPO – initiated at the General District Court of the district or, if involving a family member, at the Juvenile and Family Relations District Court.
  - ▶ Emergency – 72 hours
  - ▶ Temporary – 14 days
  - ▶ Permanent – 2 years
- ▶ MPO – between the Marine's Commanding Officer and Security Battalion (Provost Marshalls Office)

# Victim Services Overview – Expedited Transfers

- ▶ Victims who have made an Unrestricted Report have the option to ask for an expedited transfer.
- ▶ Although the accused may be can convicted and gone, the environment is often a bad reminder.
- ▶ As a legal assistance attorney, we simply advise of the possibility of doing this.
- ▶ A VLC or VA is more suited to advocate on behalf of their client to the Command in getting a request for an expedited transfer approved.

# Victim Services Overview – Transitional Compensation

- ▶ 10 U.S.C. §1059 and DoDI 1342.24 – provide eligible clients the ability to receive temporary financial assistance to eligible victims.
- ▶ Upon adjudication of a Courts-Martial, Pre-Trial Agreement, or administrative separation, eligible victims can receive compensation for a period of 12 to 36 months.
  - ▶ Payments **generally** are \$1,154/month, which increases \$286 for each additional dependent
  - ▶ Medical/TRICARE coverage and Exchange and Commissary privileges extend for this time
- ▶ Eligibility: Legally married or dependent of a Marine who is convicted or separated as a result of a dependent-abuse act.
- ▶ DD Form 2698 Application

If a VLC sent a Victim to Legal Assistance, these are the rest of the services we provide.....



# Family Law Services – Separation & Divorce

## General

- ▶ Separation and Divorces
  - ▶ Separation Agreement and Court Pleadings
  - ▶ Family Mediation Program
  - ▶ Civilian Attorney Referrals
- ▶ Grounds
  - ▶ ***Living Separate and Apart*** only
- ▶ Time Limits
  - ▶ 6 months if no children
  - ▶ 1 year if there are children

## Victims

- ▶ Form a relationship with just one party and draft the Separation Agreement and Court Pleadings
- ▶ We do not institute Fault and Grounds Based divorce
  - ▶ No Cruelty, Adultery, Desertion, etc...
- ▶ Only uncontested divorces

# Family Law – Monetary Support

- ▶ **MCO P5800.16A, Chapter 15** states, “the Marine Corps will not serve as a safe haven for those who fail to provide adequate and continuous support to their family members.”
- ▶ Upon a complaint of non-support, a Marine’s Commanding Officer can order the Marine to provide sufficient financial support to his or her family.
  - ▶ Court Order
  - ▶ Written Agreement
  - ▶ Chapter’s own “Interim Support” Guidelines
- ▶ Any violation or failure to do so is punitive in nature

# Family Law – Monetary Support, Interim Support Guidelines

## Set Amount, Per Family Member

- ▶ 1 Family Member - \$350/month
- ▶ 2 Family Members - \$286/month
- ▶ 3 Family Members - \$233/month
- ▶ 4 Family Members - \$200/month
- ▶ 5 Family Members - \$174/month
- ▶ 6 or more - \$152/month

## Percentage of BAH, Per Family Member

- ▶ 1 Family Member – 1/2 BAH/month
- ▶ 2 Family Members – 1/3 BAH/month
- ▶ 3 Family Members – 1/4 BAH/month
- ▶ 4 Family Members – 1/5 BAH/month
- ▶ 5 Family Members – 1/6 BAH/month
- ▶ 6 or More – 1/7 BAH/month and so on

***WHICHEVER IS THE HIGHER OF THESE FIGURES WINS***

# Family Law – Miscellaneous

- ▶ Name Changes
  - ▶ Most often seen in the case of a divorce
  - ▶ After effectuating a divorce from an accused, victims will often want this.
- ▶ Custody, Visitation, and Support Agreements
  - ▶ Short of a divorce, is seen when a victim does want to stay with an accused but set up an agreement for Child Custody, Visitation, and Support
- ▶ Adoptions
  - ▶ A victim with a child from an accused who remarries may want to have the new spouse adopt the stepchild.
- ▶ Legitimations
- ▶ Guardianship

# Landlord Tenant Services

- ▶ We help Clients deal with problems arising from their homes/apartments, leases, landlords or tenants, and a variety of other matters.
- ▶ What we look to:
  - ▶ VRLTA (Virginia Residential Landlord Tenant Act)
  - ▶ SCRA (Servicemember Civil Relief Act)
  - ▶ Lease Agreements
  - ▶ Common Law
- ▶ We can help a victim break a lease or at least get removed from a lease if they are living with the accused, if the accused is a landlord/tenant, and/or if they are getting an expedited transfer.

# Estate Planning – Wills and Trusts

- ▶ Clients have the ability to do Estate Planning with us. This includes:
  - ▶ Last Will & Testament
  - ▶ Testamentary Trusts
  - ▶ Advance Medical Directives and Appointment of Agents for Healthcare
  - ▶ Powers of Attorney – Special, General, Springing, and/or Durable
- ▶ Victims may have their Estate set up already. We can assist them in creating new ones or modify them as needed.
  - ▶ For example, creating a new will after we do their divorce, or disinheriting certain individuals.



# Conclusion

- ▶ When a Client comes into Legal Assistance first, we provide them guidance on the system at large and get them in contact with you all, to include VLCs and Victim Advocates
  - ▶ General guidance and point them in the right direction
- ▶ When a Victim is already in the system and being provided the resources, send them to Legal Assistance when you identify one of our core competencies that we can provide them, tailored to their situation.
  - ▶ We get in the weeds for them

**EVERYTHING WE DO IS CONFIDENTIAL AND PROTECTED BY PRIVILEGE**

# Time on Deck is .... are there any questions?

- ▶ Questions?
- ▶ Comments?
- ▶ Concerns?



# An Overview of The Court-Martial Process & MRE 514

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**Marine Corps TCAP**



# Class Agenda

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- 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

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- 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

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- Once the law center receives an RLS, the trial counsel processes the case and, if warranted, prefers 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

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- **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

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

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

# Pre-trial 39a Sessions

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- 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)

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- “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

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- 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.

# Role of the Trial Counsel

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- 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

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- 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

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- 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)

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- 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

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# Background

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

# The Privilege

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“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.”

# Who Claims Privilege?

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- **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)

# Who Claims Privilege?

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- **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

# What Info is Protected?

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- 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

# Exceptions – 514(d)

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

# Exceptions – 514(d)

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- 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**

# MRE 514 – Judicial Process

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- 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

# MRE 514 – Judicial Process

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- 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

# MRE 514 – Reporting

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- 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

# MRE 514 – Takeaways

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- 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)

# MRE 514 – Takeaways

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- 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))

# MRE 514 – Takeaways

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

# MRE 514 – Hypothetical #1

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- 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.”

# MRE 514 – Hypothetical #2

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- 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.”

# QUESTIONS?

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# Transitional Compensation for Abused Family Members

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Fe Villegas, Victim Advocate Program Specialist, HQMC Family Advocacy Program

# Overview

- MCO 1754.11 VA Responsibilities
- Program overview
- Eligibility criteria
- Program benefits
- Application process

# Overview

- Federal Law per 10 USC 1059
- Mandated program per DoDI 1342.24, 23 May 1995\*
- DoD Financial Management Regulation Vol 7B Chapter 60\*

# Purpose

- To provide temporary financial assistance to eligible family members and when applicable, service members
- Financial assistance aids eligible family members ease the burden of financial hardship presented after the Marine offender is separated from the Marine Corps for a dependent-abuse offense

# Dependent Abuse Offenses

- Any domestic- abuse offense acted out by a service member upon eligible spouse and children
- Must be a criminal offense as specified under UCMJ Federal, criminal law, criminal laws of the States and other jurisdictions of the U.S., and/or laws of other nations

# Dependent Abuse Offenses

Some examples of dependent- abuse offenses include:

- Sexual assault, rape, sodomy
- Assault, battery
- Child abuse and child neglect
- Murder and manslaughter
- Stalking

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

# Victim Advocate Responsibilities

- Educate commands at their respective installation and other relevant personnel on:
  - **The Transitional Compensation Program**
  - **Eligibility criterion**
  - **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, SJA, and other appropriate entities

# Eligibility Criteria

- Beneficiaries must have been residing with **OR** married to service member at time of the offense
- 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)

# 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

# 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

# Eligibility Criteria –Spouse

- Must have been legally married at the time of offense
- Can be divorced as of SM's separation
- If SM is separated for an offense relating to child abuse, spouse must **NOT** have participated in the abuse

# Not Eligible

- Intimate Partner (even if residing with service member)
- Dependents when SM was not separated
  - Service member dies by suicide after offense
  - Service member NJPed 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 abuses new wife while biological child from previous marriage is visiting

# 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 DFAS and DEERS

# 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
  - On the date the Marine's command notifies Marine of Board of Inquiry

# Benefits-Duration

- 36 months
- Cannot be extended

# Benefits

- Monthly monetary payments
- Military ID card
- Medical
- Dental (space available status), and
- Commissary and Exchange

# Benefits

- JTR provides for safety transfers in certain situations (MILPERSMAN 1300-1200 CH-40)
- Transportation is NOT a TCAFM benefit
- Medical expenses related to the abuse can be approved by SecNav on case by case basis for coverage after expiration of TCAFM (Designee Program) – includes mental health

# Payment

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

# Application Process

- Completion of application packet by victim with assistance from VA
  - ❖ DD Form 2698, Application for Transitional Compensation
  - ❖ Supporting legal documents
  - ❖ Direct Deposit Form
  - ❖ Cover Sheet
- Finance approval at HQMC
- HQMC notifies recipient, DFAS and DEERS

# 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 already be separated at the time of application for waiver

# Exceptional Eligibility

## Examples of Documentation

- IDC Letters showing met criteria for physical abuse
- Non-judicial punishment documentation (UPBs)
- SILT package (charge sheets, request letter, endorsements)
- Law enforcement reports including military blotters
- Court documents (ex parte, protective orders)
- FAP assessments

# Important Notes

- DFAS, DEERS, HQMC are not connected
- HQMC must wait for response from DFAS and DEERS
- Beneficiary maintains responsibility for follow up with DFAS/DEERS
  - VA can assist
  - HQMC can assist

# Case Examples: Who is eligible?

# Example 1

Staff Sergeant Shoebuckle and her spouse are found to have physically abused 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?

# 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 AdSep for the incident.

**Is spouse eligible?**

**Are the children eligible?**

# 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?**

# 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 AdSep. He is later convicted and sentenced to life in prison in the civilian judicial system.

Is child eligible?

# HQMC Point of Contact

Fe Villegas

Victim Advocacy Program Specialist

HQMC Family Advocacy Program

Commercial: (703) 432-9087

Email: [fe.villegas@usmc.mil](mailto:fe.villegas@usmc.mil)

# Civilian Victim Assistance in Virginia

Brienna Stammer  
Training and Outreach Coordinator  
The Criminal Injuries Compensation Fund

# Agenda

- How does Virginia help victims?
- Roles of Victim Assistance and Victim Compensation
- What is covered in Virginia?
- Who can apply?
- How does the claims process work?
- Special considerations for forensic exams
- Questions

# Office for Victims of Crime

- Disperses federal Victims of Crime Act funding
- Federal, state, and tribal victim assistance programs receive funding
- States receive two types of formula grants
  - State victim assistance grants
  - State compensation grants

<http://ojp.gov/ovc/grants/types.html>

# Role of Victim Assistance

- Court-based advocates vs. Community-based advocates

## Roles:

- Providing information on victimization, crime prevention, victims' legal rights and protections, and the criminal justice process;
- Providing emotional support to victims;
- Helping victims with safety planning, victim compensation applications, submitting comments to courts and parole boards, finding shelter and transportation, making arrangements for funerals,
- Intervening with creditors, landlords, and employers on behalf of victims;
- Providing referrals for other services for victims
- Notifying victims of inmates' release or escape

# Role of Victim Compensation

- Crime creates need – medical bills, lost wages, funerals, counseling, and other expenses
- Restitution is a lengthy process

Every state has a victim compensation program

# Virginia Specifics

- Virginia's Crime Victim and Witness Rights Act §19.2-11.01.
  - Protections
  - Financial assistance
  - Notifications
  - Victim input
  - Courtroom assistance

# Virginia Specifics (cont.)

- VA compensation program created in 1977 by the Virginia Compensating Victims of Crime Act § 19.2-368.1.
- Housed in the Worker's Compensation Commission
- Funded by fines and fees levied on convicted felons and federal grants under the Victims of Crime Act (VOCA)

\*\*\*\*\*NO TAX DOLLARS!!

# What's in a name?



**Criminal Injuries  
Compensation Fund**

Easing the Burden for Crime Victims



**VIRGINIA VICTIMS FUND**

*Helping Innocent Victims of Crime*

OFFICIALLY CRIMINAL INJURIES COMPENSATION FUND

# Protections for victims

- No collection activity while a claim is open per §19.2-368.5:2.
- Payment from CICF is payment in full  
§ 19.2-368.3:1
- Ensures victim's expenses are covered without continued contact with the offender

# What does VVF cover?

- Medical expenses
- Funeral expenses
- Lost Wages
- Prescriptions
- Crime Scene Clean-up
- Moving
- Temporary Housing
- Replacement of prosthetics
- Loss of support
  - Offender
  - Homicide
- Mileage (court and medical care)
- Counseling
  - Direct victims
  - Children who witness DV
  - Grief counseling
- Other “reasonable and necessary” expenses

# What can't we cover?

- Medical care not related to the crime
- Pain and suffering
- Attorney's fees
- Missed appointments
- Replacing stolen items
- Automobile accidents (except DUI, hit-and-run, vehicle as a weapon)

# Who can apply?

A person who has suffered a physical injury as the result of any crime

OR

an emotional injury as the result of a violent felony

and meets all the following criteria:

- Innocent (not engaged in criminal activity that leads to their injury)
- Cooperates with law enforcement and Commonwealth's Attorney
- Crime occurred in Virginia (or to Virginia resident somewhere without a victim's compensation program)
- Reported to law enforcement within 5 days (unless good cause)
- Files with CICF within 1 year of the incident (unless good cause)

# Applying

- Application must be notarized to be valid
- Claim forms can be obtained by:
  - Contacting us
  - Downloading from our website
  - Contacting your local Victim Witness Assistance Program

# Decisions: Step 1

- Review documents for eligibility from:
  - Law Enforcement
  - Commonwealth Attorney
- The police report is our primary source of information

# Decisions: Step 2

- Gather documents to substantiate payment
  - Medical records
  - Itemized, detailed bills
  - Receipts
- We send letters to medical providers asking for these items
- Some documents must be provided by the claimant

# Decisions: Step 3

- Examine collateral resources to determine claimant responsibility
- VVF is the payer of last resort
- *Claimants are required by law to exhaust applicable collateral resources.*

# Collateral Resources

- Which ones depend on the crime type...
  - Health insurance
  - Hospital financial assistance
  - Medicaid/Medicare
  - Social security
  - Life insurance
  - Homeowners/renters insurance
  - Auto insurance (hit-and-run, DUIs, vehicle as weapon)
  - Short term disability
  - Annual/sick leave
  - Civil litigation
  - Etc.

*Claimants are required by law to exhaust applicable collateral resources.*

# Rendering Payment

- Providers are paid directly
- Claimant's out-of-pocket reimbursed
- Cannot pre-pay for services
- Can pay in installments
- Maximum award= \$25,000
  - We negotiate to avoid maxing out the claim.

# Things to Know for Sexual Assault Victims

- The Violence Against Women Act (VAWA) says victims **shall not** pay for their forensic exam, and they can have a physical evidence recovery kit (PERK) collected without reporting to or cooperating with law enforcement
- How does VA handle that?

# Special Considerations for

## Forensic Medical Exams

Supreme Court of Virginia

The SAFE Payment Program

- Suspect PERKs\*
- Child/Elder physical abuse/assault\*
- Domestic assault\*
- Gun shot wounds\*
- Any other forensic exam for any other purpose\*
- Sexual Assault VICTIM Forensic medical Exams (SAFE)
  - Acute (exam done within 120 hours of crime; PERK completed)
  - non-acute (exam done more than 120 hours after crime)\*

\*Require authorization by law enforcement or prosecutor.  
NOTE: CPS, physicians, parents/guardians not allowed by law to authorize an exam that will be paid by the state.

# Stay in touch!

For further training:

- 804-482-7051
- [brienna.stammer@cicf.virginia.gov](mailto:brienna.stammer@cicf.virginia.gov)

For claims assistance or filing:

- 804-367-1018
- [info@virginiavictimsfund.org](mailto:info@virginiavictimsfund.org)



# Victim Witness Assistance Program

*"Compassion, Dignity, Respect"*



## BUILDING AN EFFECTIVE VWAP PROGRAM

**William Yables Jr.**  
**Installation Victim Witness Liaison Officer**  
**(910) 449-7159**  
**[william.yables@usmc.mil](mailto:william.yables@usmc.mil)**



# 10 Steps to Success



Good, better, best. Never let it rest.  
'Til your good is better and  
your better is best.

*St. Jerome*



# Step 1: Appointment Letter



- Required to be an Officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank.
- Letter needs to have the following: Name, title (Legal Officer), duty address (include building), and telephone number.
- Forward a copy of the signed appointment letter and the receiving endorsement to the VWLO or RVWLO within 5 days.
- Maintain appointment letter for current year plus two years with your SOP / files.
- Remember that you can't be a UVA!



## Step 2: VWAP Council



- Hold quarterly meetings and setup your meetings for an entire year in advance
- Conduct training with your council meeting
- Update VWAP Council roster as needed
- Publish roster on your website
- Ensure all members of command and service providers have access to this roster
- Provide a copy of your annual training
- Main focus of the council is on services and the manner in which they are provided



# Step 3: Training



- Annually train on the following:
  - What are victim and witnesses rights
  - State compensation program
  - Article 139 complaints
  - Personal Claims Act
  - Transitional Compensation for Abused Family Members
  - What each service provider offers
- At council meetings:
  - VWAC 101
  - Military Justice 101
  - Military Protection Order
  - Inspection
  - Service providers brief





# WHO DOES WHAT:



- **RVWLO** – Manages VWAP throughout the Commander’s area of responsibility
- **VWLO** - Manages base programs for Commander
- **NCIS/CID/PMO** – Normally first responsibility is 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 a continuing responsibility to ensure rights and services afforded victims and witnesses
- **Corrections personnel** - Manage post-trial confinement forms, reports & notifications



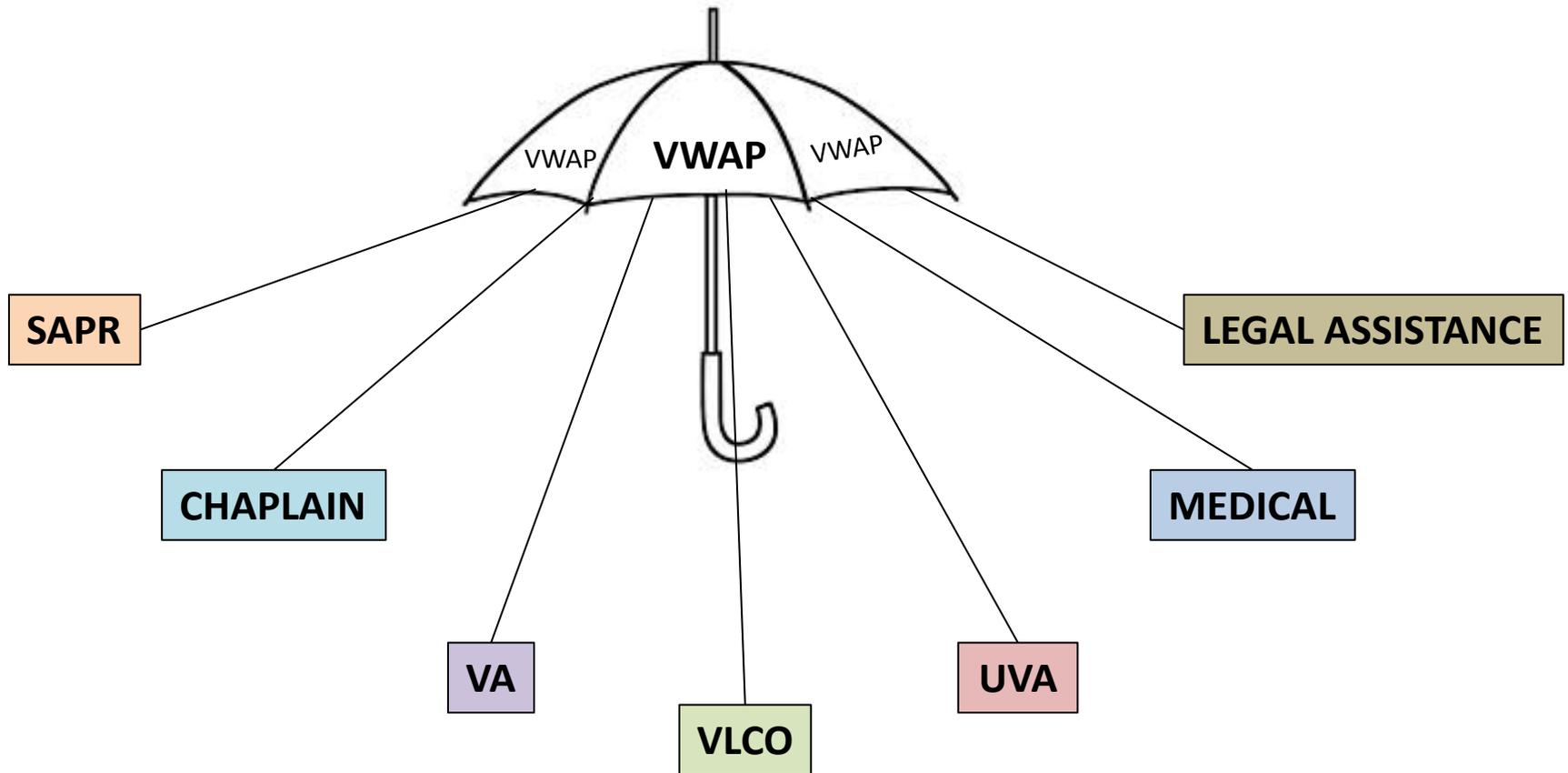
# WHO DOES WHAT cont.



- **Sexual Assault Prevention and Response Program/ SARC** – Education and training
- **Victim Legal Counsel** – Represents eligible victims
- **Family Advocacy Program** – Victim advocates
- **Transitional Compensation** – HQMC via commanders
- **Unit Commanders** – Security, military protective orders, and notifications
- **UVAs** – Victim advocates
- **Chaplain** – Counseling and comfort
- **Medical** - Services
- **Civilian advocacy services** - Social services & Medical



# Service Providers





# Step 4: Website



- Ensure you have all required documents
  - at a minimum, a current directory of installation VWAP personnel, military and civilian programs and services providing counseling, treatment, crime victim compensation funds and other victim support services within the geographic area of the installation
- Update as needed
- Encourage everyone to use it
- SharePoint is another great option as well





# Step 5: Reports



- Prepare DD Form 2706 and submit within 5 days after the end of the quarter.
- Maintain tracker, report and email for current year plus two years with your SOP or files.
- R/VWLO's – maintain your tracker, plus all reports submitted to you.





# Step 6: Tracker



- Have a written process on how you are going to track who received DD Forms 2701-2703 and elect notification via DD Form 2704.
- *Key for 2701: “...if one has not already been provided.”*

**VICTIM AND WITNESS ASSISTANCE PROGRAM TRACKER SHEET**  
**1 Jan - 31 Jan 2016**

Week ending	2701		2702		2703		2704	
	Crime Victims	Witnesses						
7/8/16								
7/15/16								
7/22/16								
7/29/16								
8/5/16								
8/12/16								
8/19/16								
8/26/16								
9/2/16								
9/9/16								
9/16/16								
9/23/16								
9/30/16								
Submit 3d Qtr report to VWLO by 5 Oct 2016								



# Step 7: FORMS



- Forms need to be completely filled out and ready to be handed out at any moment.
- Forms do not replace genuine service and support.

**DEPARTMENT OF DEFENSE**

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

DD FORM 2701, MAR 2016 Previous edition is obsolete. Addre Professional X

**DEPARTMENT OF DEFENSE**

**COURT-MARTIAL INFORMATION FOR VICTIMS AND WITNESSES OF CRIME**

DD FORM 2702, MAR 2016 Previous edition is obsolete. Addre Professional X

**DEPARTMENT OF DEFENSE**

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

DD FORM 2704, MAR 2013 Previous edition is obsolete. Addre Professional X

**VICTIMWITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS**

**PRIVACY ACT STATEMENT**

AUTHORITY: 42 U.S.C. 10007 et seq.; 18 U.S.C. 1812 et seq.; DoD 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 wishes 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: Military/Naval Reserve: Future use to provide identifying information will prevent the coronal facility from notifying victim or witness of changes in a criminal offender's status.

**SECTION 1 - ADMINISTRATIVE INFORMATION**

Incident Number: \_\_\_\_\_  
 Installation: MCAS NEW RIVER City: JACKSONVILLE State: NC ZIP Code: 28545  
 Court-martial case of United States v. \_\_\_\_\_ Plaintiff 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. 10007 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. 10007 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 from 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 Center 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 explaining 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 CMC BQ USMC 2 NAVY ANNEX (PSL CORRECTIONS BX 3113) WASHINGTON, DC 20380-1775 COMDC (703) 614-1480	2. LAW ENFORCEMENT/SPECIAL INVESTIGATION BREG COMPANY (SC1PTEN) PSC BOX 20140 CAMP LEJEUNE, NC 28543 COMDM (910) 451-1300	3. CORRECTIONAL FACILITY CORRECTIONAL FACILITIES CUMULATIVE REPORT OF TOTAL SERVICE PRISONERS THAT REQUIRE VICTIM AND WITNESS NOTIFICATIONS:
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DD FORM 2704, MAR 2013 PREVIOUS EDITION IS OBSOLETE. Page 1 of 3 Pages Addre Professional X

**ANNUAL REPORT ON VICTIM AND WITNESS ASSISTANCE**

REPORT CONTROL SYMBOL  
DD-R&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 10051-10057). It is submitted annually in accordance with DoD Instruction 1030.2.

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

DD FORM 2706, MAR 2013 PREVIOUS EDITION IS OBSOLETE. Addre Professional X



# Victim Witness Program

## Four Phases of Assistance



<i>Initial Contact</i>	<i>Investigation</i>	<i>Prosecution</i>	<i>Incarceration</i>
Identify victim	Keep victim informed	Consult & provide notice proceedings	Provide confinement information
Provide information on rights	Protect from harassment	Secure waiting areas if desired	Provide notice of parole hearings/release

**DD Form 2701**

**Ensure that V/W have received and, if not, issue it!**

**DD Forms 2702/2703**

**TC will pass out 2702-4**

**DD Forms 2704/2705**

**Brig does the 2705**



# Pretrial / DD Form 2701



- DD Form 2701 provides initial rights advisement, discusses impact of various crimes, explains basic services and notifies V/W where to get further assistance.
- PMO, CID, or NCIS normally provide V/Ws with DD Form 2701.
  - Always double check and ensure they received it!
  - Trial Counsel, Victim Advocates, UVAs, VLC, Medical, Chaplain, VWACs and VWLO also issue 2701's.
  - Have to ask who gave it to them and when (VWAP Intake Form and for LSSS's Case Management System)
- Add to VWAP tracker if necessary.





# Military Trial Process / DD Form 2702



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



# Post Trial / DD Form 2703



- Prosecution provides victim or witness with DD Form 2703 upon the finding of guilty at a Special or General court-martial or VWAC/Summary court-martial officer for Summary court-martials.
  - 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 this point on the V/Ws POC will be the confinement facility or the Service Central Repository listed on the back of this page.*



# Post Trial / DD Form 2704



- At the conclusion of **every** court-martial in where confinement is adjudged and approved—including SCM—the trial counsel shall complete a DD Form 2704 and provide copies to the confinement facility, victim and witnesses if requested, and responsible VWAC
  - Requires election by each V/W whether to receive information on confinement status.
  - Provided to victims and witnesses upon request (**redacted**)
- These forms (2701-4's) are **never included** in the ROT!
- The DD Form 2704 has personal info of victims and witnesses and **should not be shared!**

Incident number:

This is the blotter number, CID or NCIS case number.

Victim(s) or Witnesses certification

If CID or NCIS were involved in the case then you will need to add their address and phone number.

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING PRISONER STATUS		
<b>PRIVACY ACT STATEMENT</b> <b>AUTHORITY:</b> 42 U.S.C. 10607 et seq.; 18 U.S.C. 1512 et seq.; DoDI 1325.07; DoDI 1030.2; and DoDD 1030.1. <b>PRINCIPAL PURPOSES:</b> 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. <b>ROUTINE USES:</b> None. <b>DISCLOSURE:</b> 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.		
<b>SECTION 1 - ADMINISTRATIVE INFORMATION</b>		
Incident Number _____		
Installation <u>MCAS NEW RIVER</u> City <u>JACKSONVILLE</u> State <u>NC</u> ZIP Code <u>28545</u>		
Court-martial case of United States v. _____ <i>Print Name of Accused (Last, First, Middle Initial)</i> <i>Social Security Number (last 4 only)</i>		
Convened by _____ <i>Court-Martial Convening Order Number, Date, and Issuing Command</i>		
<b>SECTION 2 - CERTIFICATION OF NO VICTIM(S) OR WITNESS(ES)</b>		
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) _____		
<b>IF THERE ARE NO VICTIM(S) OR WITNESS(ES), STOP HERE AND SKIP TO SECTION 4.</b>		
<b>SECTION 3 - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)</b>		
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 <b>MUST PROVIDE THE INFORMATION REQUIRED ON PAGE 2 OF THIS FORM</b> . 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) _____		
<b>SECTION 4 - DISTRIBUTION</b>		
1. MILITARY SERVICE CENTRAL REPOSITORY CMC HQ USMC 2 NAVY ANNEX (PSL CORRECTIONS RM 3312) WASHINGTON, DC 20380-1775 COMM: (703) 604-1480	2. LAW ENFORCEMENT/SPECIAL INVESTIGATION	3. CORRECTIONAL FACILITY BRIG COMPANY HQSPTBN PSC BOX 20140 CAMP LEJEUNE, NC 28542 COMM (910) 451-1308





# Post Trial Notifications & DD Form 2705



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





# Reporting / DD Form 2706



- DoD has an annual reporting; however, USMC requires a quarterly reporting
- Due by the 20<sup>th</sup> day following the end of quarter





# Step 8: Materials



Obtain and distribute relevant information?

- Information you receive from R/VWLO
- Sidebar Code 20
- Create your own
  - VWAP Pamphlet

<http://www.newriver.marines.mil/Portals/17/Documents/VWAP%20Pamphlet%20FOR%20Installation.pptx>

- Keep the email and attachments for inspections



# Step 9: Inspections



- R/VWLO inspect your units and service providers yearly (unofficial)
- VWAC and service providers should request to be inspected from your VWLO (unofficial)
- Write processes for each and every question you are responsible for
- Maintain your inspection results for current year plus two years

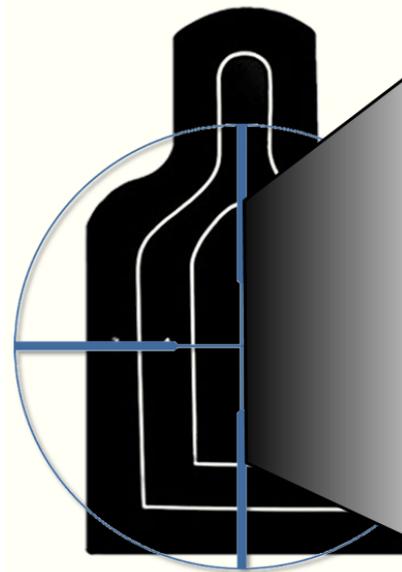


# Inspections



- MCO 5800.14 Functional Area Checklist for VWAP
- The Marine Corps Standard for VWAP

## The "Core"



Career Planning  
Enlisted Promotion Process  
Martial Arts Program  
Performance Evaluation System  
Military Awards  
Request Mast  
Hazing Prevention Response  
Suicide Prevention Program  
Voter Assistance Program  
Sexual Assault Prevention & Response Program  
Unit, Personal & Family Readiness Program  
Separation and Retirement  
Limited Duty  
Unit Readiness  
Casualty Affairs  
Operations Security  
Antiterrorism  
Intel Oversight  
Consumer Level Supply  
Government Travel Charge Card Program  
Defense Travel System  
Marine Corps Safety Program  
Postal Affairs  
Records, Reports & Directives Management  
Substance Abuse Program  
Equal Opportunity Program  
Information & Personal Security  
Physical Security  
Historical Program  
**Victim & Witness Assistance Program**  
Legal Administration  
Health Service Support  
Physical Fitness Program  
Body Composition & Military Appearance Program



# FILE MAINTAINS



- Recommendation:

- 6 Part folder:

1. VWAP Tracker
2. Quarterly Reports (DD Form 2706)
3. Appointment letter
4. Annual Training with slide , rosters, emails and any materials that you obtain and distributed.
5. Copy of training certificates you have received
6. Inspection results



SSIC 5800 LAW AND LEGAL MATTERS  
RECORDS  
VWAP

OPEN 20160101  
CLOSE 20161231

TEMP – 20190101 – DESTROY  
SECNAV M-5210.1, PART III,  
CHAP. 5, PARA 5800.2 – 2 YRS



# Step 10: Requirements



- Read the MCO 5800.14 and know your responsibilities
- Know how to process an Article 139 claim and Personnel Claims Act (PCA)
- Know what your state Compensation Program offers
- Know how or who to process a Transitional Compensation For Abused Family Members application



# VWLO *REQUIREMENTS*



- ✓ Maintains list of all VWACs, service providers and SJAs aboard the installation.
- ✓ Conducts annual training.
- ✓ Maintains copy of all appointment letters.
- ✓ Ensures VWACs have relevant information, including VWAC roster and directory of local services/programs.
- ✓ Chairs VWAP Council and conduct quarterly meetings.
- ✓ Ensures victims and witness are notified of their rights via services providers, PMO, NCIS, TC and command VWACs.
- ✓ Assists Installation CO in reporting requirements





# VWLO *REQUIREMENTS*



- ✓ Maintain a directory of military and civilian programs and services within geographic area.
- ✓ Coordinate with PMO, NCIS, and Brig with VWACs information.
- ✓ Ensure deploying unit have VWAP training prior to deploying.
- ✓ Ensure that CMC and RVWLO are informed when a new VWLO is appointed.
- ✓ Assist victims in exercising their rights and obtaining support, when appropriate.
- ✓ Maintain an installation VWAP website.



# VWAC



- ✓ Be an Officer/SNCO/Civilian Equivalent
- ✓ Maintains list of all VWACs, service providers and SJAs aboard the installation.
- ✓ Conducts annual training.
- ✓ Maintains copy of all appointment letters.
- ✓ Obtain and distribute materials.
- ✓ Attend VWAP Council quarterly meetings.

## When working with Victims and witnesses

- ✓ Ensure victim understands rights
  - Provided 2701
- ✓ Find out if victim feels in danger/needs MPO
- ✓ Ensure victim is in touch with MFS, VLC, & SAPR if appropriate
- ✓ Assist in obtaining counseling as necessary
- ✓ Discuss availability of transitional comp and other civilian resources
- ✓ Determine how to be contacted
  - ✓ Do they want to be informed and how?
  - ✓ Do they want to be informed about pretrial confinement?



# Victim Rights



a. To be reasonably protected from the accused.

**Military Protection Order (MPO)**

b. To receive reasonable, accurate, and timely notice of any of the following:

(1) A public hearing concerning the continuation of confinement before the trial of the accused.

**i.e. IRO hearing**

(2) A preliminary hearing pursuant to Article 32, UCMJ, relating to the offense.

(3) A court-martial relating to the offense.

(4) A public proceeding of the Military Department Clemency and Parole Board hearing relating to the offense.

(5) The release or escape of the accused, unless such notice may endanger the safety of any person.



# Victim Rights cont.



- c. To be present at:
- Article 32 hearings,
  - courts-martial, and
  - ADSEP proceedings,



*unless the military judge, preliminary hearing officer, 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, except in accordance with JAGMAN § 0145



# Victim Rights cont.



d. To be reasonably heard at:

(1) A public hearing concerning the continuation of confinement before the trial of the accused.

**IRO HEARING**

(2) A preliminary hearing proceeding or court-martial proceeding relating to the Military Rules of Evidence (M.R.E) 412, 513, or 514 of the Manual for Courts-Martial (MCM), or other rights provided by statute, regulation, or case law.

(3) A public sentencing hearing relating to the offense.



(4) A public Military Department Clemency and Parole Board hearing relating to the offense. A victim may make a personal appearance before the Military Department Clemency and Parole Board or submit an audio, video, or written statement.



# Victim Rights cont.



e. To confer with the representative for the government in any proceeding listed in paragraph 1.c above, and, if eligible, to consult with a Victim Legal Counsel or a legal assistance attorney. All victims may also seek the advice of a private attorney at their own expense.

f. To receive restitution as provided in law.



**Personnel Claims Act or  
Article 139 complaints**

g. The right to proceedings free from unreasonable delay.

h. To be treated with fairness and in a manner that respects the victim's dignity and privacy.

i. To express views regarding the disposition of the case to the commander or convening authority.

j. To receive information about the NJP results, ADSEP results, conviction, sentence, confinement, or appellate proceedings relevant to the accused.



# Witnesses eligible for services



- 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



- a. To be treated with fairness and in a manner that respects 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 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, the time and location of any trial, NJP, or ADSEP proceedings (including entry of guilty pleas and sentencing), and the post-trial confinement status of the accused.

**Military Protection Order (MPO)**



# NC Compensation Program



--- ALL STATES ARE DIFFERENT ---

- The program does NOT compensate victims for damaged or stolen property OR for pain and suffering.
- A maximum of \$30,000 may be paid for medical expenses related to treatment of injuries as a result of the crime.
- A maximum of \$5,000 may be paid for funeral expenses when the victim dies as a result of the crime.



**Benefits for approved claims are paid directly to a service provider!**

<https://www.ncdps.gov/index2.cfm?a=000003,002144,000016>



# ARTICLE 139 CLAIMS



Commanders have the authority to deduct money from one military member's pay and give it to another military member or civilian for property damage.





# Article 139 Claims



- Reference:
  - 10 U.S.C. § 939
  - MCM, Article 139 UCMJ
  - JAGMAN, Chapter 4: **ARTICLE 139 CLAIMS -- REDRESS OF DAMAGE TO PROPERTY**

“This chapter provides for assessments against the pay of members of the Naval service in satisfaction of claims for damage or wrongful taking of privately owned property under Article 139, Uniform Code of Military Justice (UCMJ). Under Article 139, UCMJ, pay may be assessed if the damage, destruction, or loss is caused by willful, wrongful, reckless, riotous, or disorderly conduct by the servicemember. Charges against pay under these regulations shall be made only against the pay of persons shown to have been principal offenders or accessories.”



# PERSONNEL CLAIMS ACT



NAVY.MIL NAVY.COM NKO.NAVY.MIL

U.S. NAVY JUDGE ADVOCATE GENERAL'S CORPS

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ABOUT NAVY JAG

HOME > ABOUT US > ORGANIZATION > CLAIMS & TORT LITIGATION (CODE 15)

## 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 claims each year, 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 convened 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 convened after December 1995 nor investigations involving breaches of classified information or information security regulations maintained by the Chief of Naval Operations (N09N).

**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

You can also contact the MCAS New River Claims Officer (910) 449-7159 for assistance.



# Transitional Compensation For Abused Family Members (TransComp)

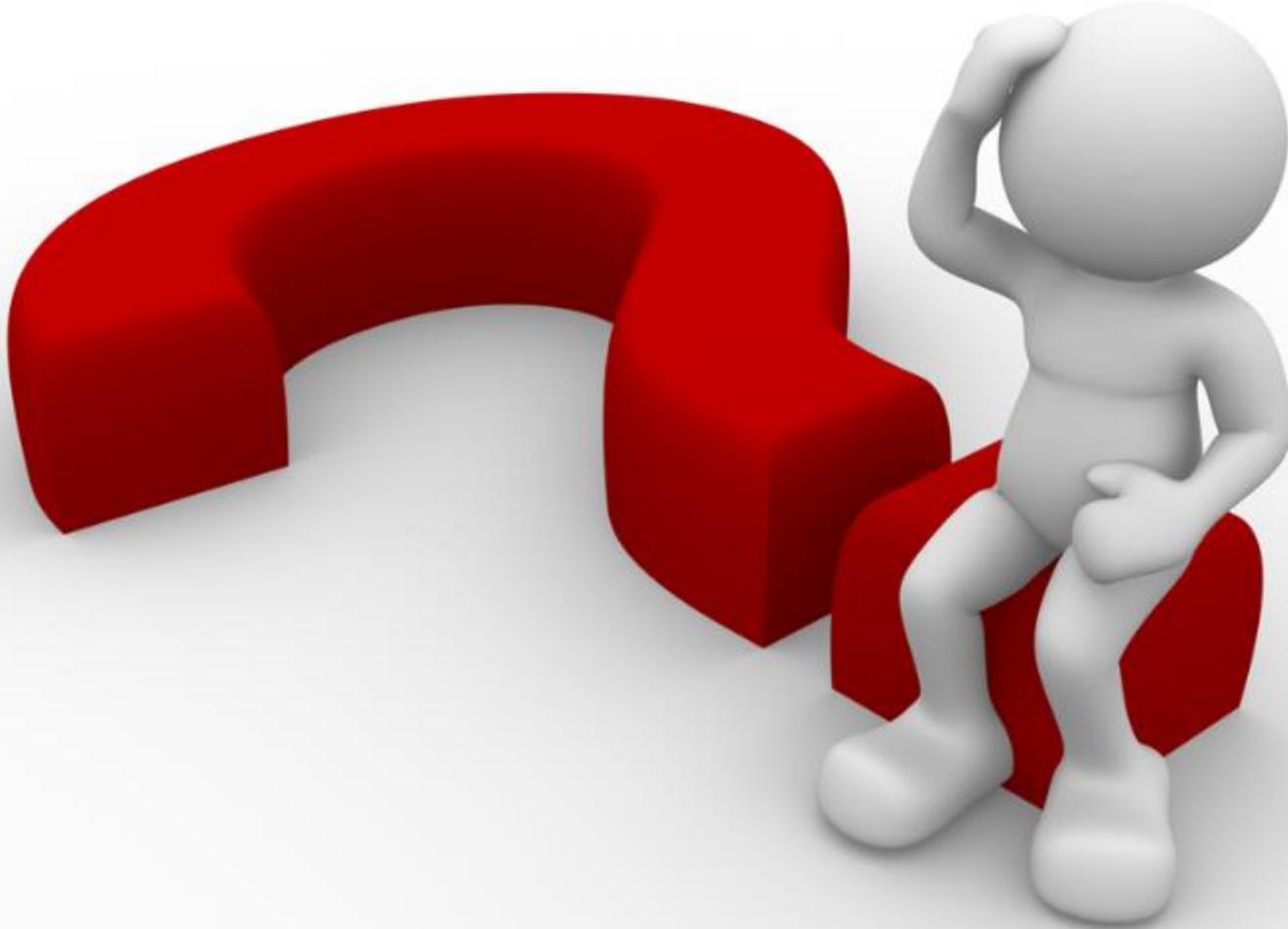


- Federal Law per 10 USC 1059
- DoDI 1342.24 of 23 May 1995 w/ Ch 1\*
- DoD Financial Management Regulation Vol 7B  
Chapter 60
- Transitional Compensation for Abused Dependents  
memorandum of 2 Apr 15

\* presently under revision



# Questions



# Commanding General Inspection Process

Functional Area MCO 5800.14

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...



*Is uncomfortable, but  
for only a short time...*

*Might hurt, if you are  
not prepared*

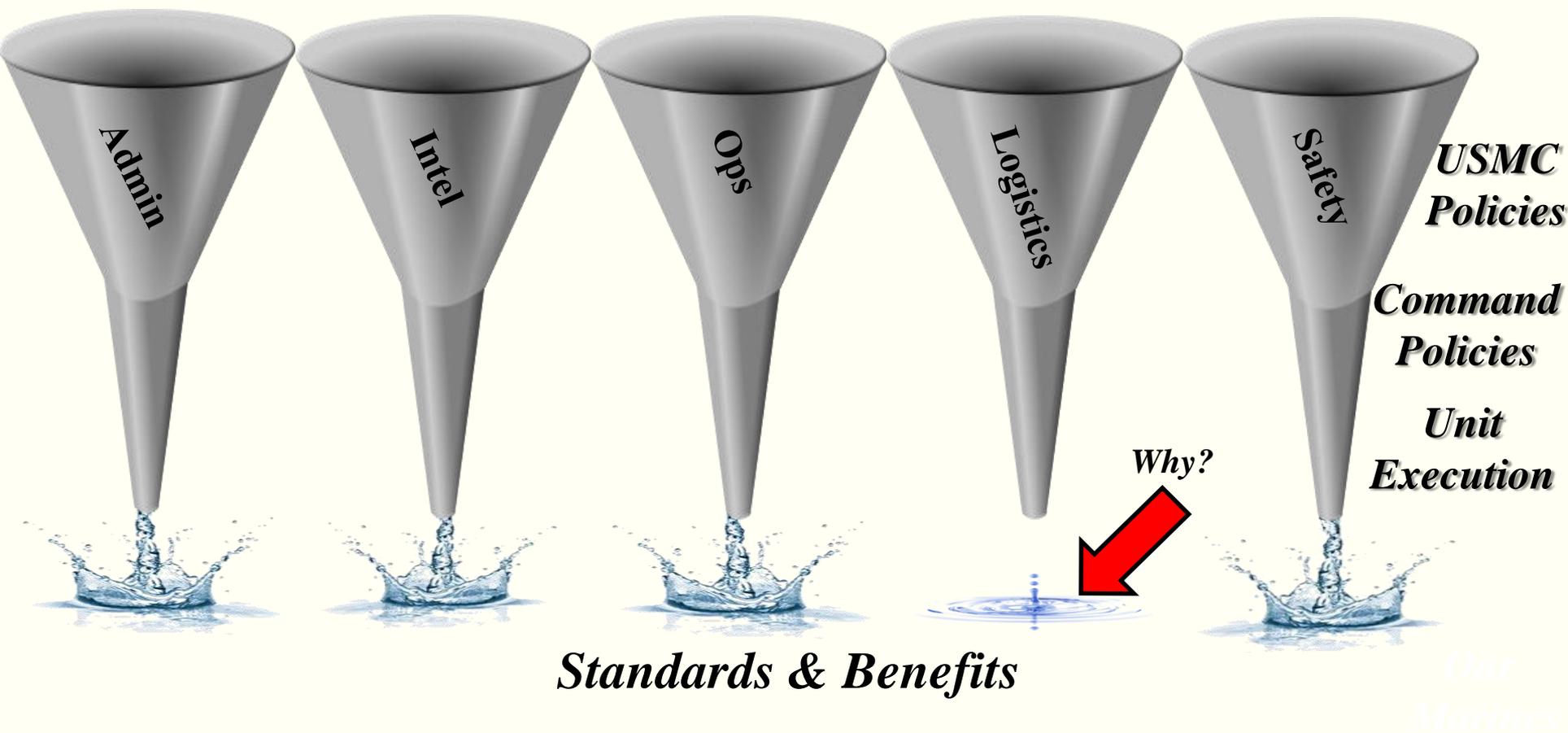
*Looks at everything...*

*Finds the cavities*

*Will leave you in  
better shape*

# Department of Defense

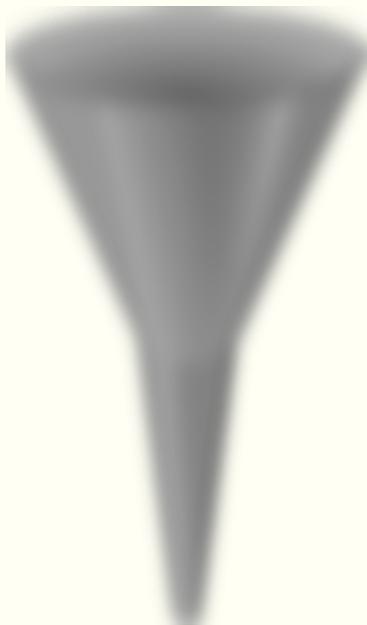
## *Resources & Concerns*



# Finding the Root Cause...

**Don't**

**Know/Forgot**



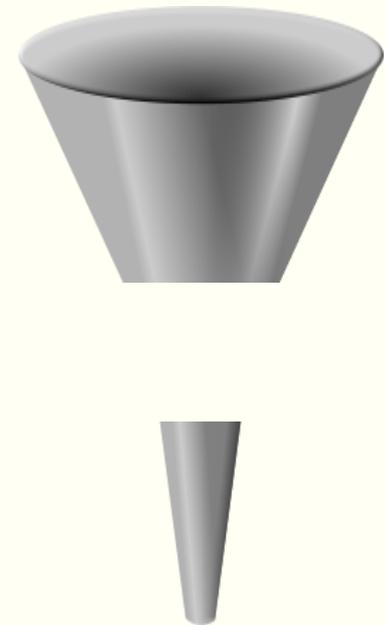
**Won't**

**Poor Attitude**



**Can't**

**Resources/Policy**



# 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



**IGMC MEMBERS:**  
DoD IG Trained & Sworn  
Credentialed Naval Investigators

# INSPECTOR GENERAL OF THE MARINE CORPS



Secretary of the NAVY

NAVY Inspector General

Commandant of  
The Marine Corps

IGMC  
MajGen Vincent A. Coglianese

Counsel  
Ms. Danielle Bianchi

IGMC SgtMaj  
SgtMaj Vira Lanpolsaen

Deputy IGMC  
Mr. Carl Shelton

Executive Assist  
Mr. James Hill

Inspections  
Division



Col Damien Marsh

Vacant

CWO5 S. D. Easton

Readiness  
Division



Col Abisellan

Assistance &  
Investigations  
Division

Ms. Cindy Edwards

Senior Officials

Hotline

Intelligence  
Oversight  
Division

Mr. Ed Vogt

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

# Mission

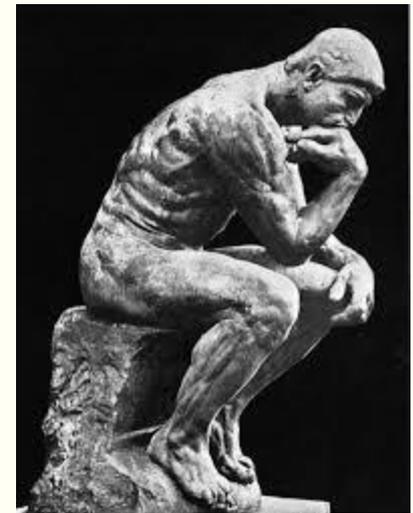
“Serve as the Eyes, Ears, and Voice of the Commandant”

“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. 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.



## 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

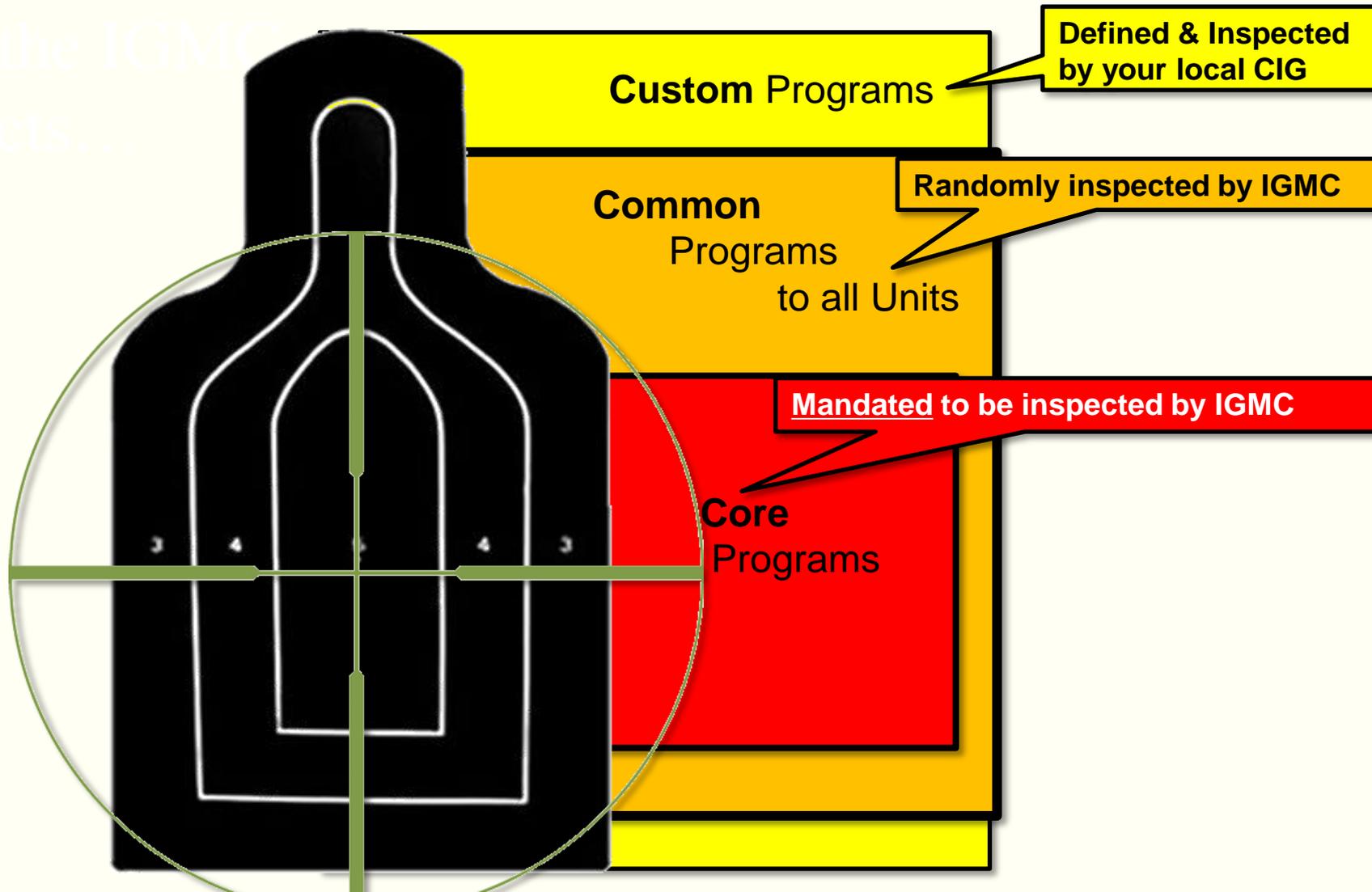
NO MORE  
PAINTING ROCKS!

*Want to see*  
Ordinary Operations

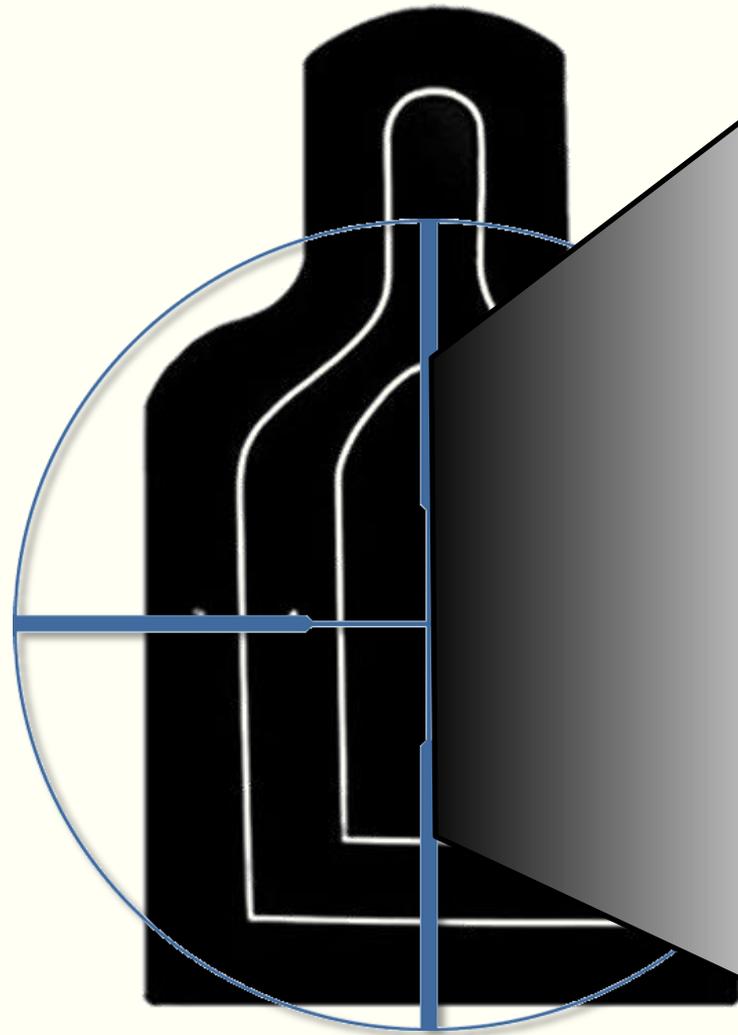
*Expect to see*  
Normal Wear & Tear



# What the IGMC inspects...



# The “Core”



Career Planning  
Enlisted Promotion Process  
Martial Arts Program  
Performance Evaluation System  
Military Awards  
Request Mast  
Hazing Prevention Response  
Suicide Prevention Program  
Voter Assistance Program  
Sexual Assault Prevention & Response Program  
Unit, Personal & Family Readiness Program  
Separation and Retirement  
Limited Duty  
Unit Readiness  
Casualty Affairs  
Operations Security  
Antiterrorism  
Intel Oversight  
Consumer Level Supply  
Government Travel Charge Card Program  
Defense Travel System  
Marine Corps Safety Program  
Postal Affairs  
Records, Reports & Directives Management  
Substance Abuse Program  
Equal Opportunity Program  
Information & Personal Security  
Physical Security  
Historical Program  
**Victim & Witness Assistance Program**  
Legal Administration  
Health Service Support  
Physical Fitness Program  
Body Composition & Military Appearance 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:

**Discrepancies**

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

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

**Mission  
Capable**



# 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.

0801 Has the Unit Commander appointed in writing, by name, title, duty address, and telephone number, a VWAC?

- Missing required information (title: Legal Officer)

0802: 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?

- “Haven’t had any and when I do I will call the TC.” but don’t know why/what they are calling about.

# Inspection Trends cont.

0803: 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)



0901: 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.

0902: 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.

0903: Are the total number of victims and witnesses provided DD Form 2701 being reported to the installation VWLO quarterly?

- “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.
- Keep your e-mails you send to the VWLO



# Inspection Trends cont.

0904: 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?

- “We haven’t had anyone in pretrial confinement.” But you still need to know what to do if you do.

0905: 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 0803.

# Questions



# Article 139 and the PCA

MAJ JESSE SCHWEIG  
HQMC, TCAP  
[jesse.schweig@usmc.mil](mailto:jesse.schweig@usmc.mil)  
571-256-4716

# GOALS

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

---

- 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."





Example



What kind of **damage**?

Private property damage, destruction, or loss





What kind of **conduct**?

### Willful damage

- Reckless, riotous, or disorderly conduct
- Not involving simple negligence or inadvertent
- Intentionally, knowingly, and purposefully without justifiable excuse

## Who can make a claim?

Any individual, either civilian or military, business, charity, or a state or local government that lawfully owns 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
    - The claim is then routed to the CO that has SPCMA over damager
    - This is the CO that 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



## 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



# JA Review



# 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
- Forwards to GCMCA for final review

## Chapter 9 Article 139, Uniform Code of Military Justice

### 9-1. Statutory authority

Article 139 of the Uniform Code of Military Justice (UCMJ), entitled "Redress of Injuries to Property" (10 U.S.C. §939) states that:

*a.* Whenever complaint is made to any commanding officer that willful damage has been done to the property of any person or that a person's 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 one to three commissioned officers and, for the purpose of that investigation, it has 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.

*b.* If the offenders cannot be ascertained, but the organization or detachment to which they belong is known, charges totaling the amount of damages assessed and approved may be made in such proportion as may be considered just upon the individual members thereof who are shown to have been present at the scene at the time the damages complained of were inflicted, as determined by the approved findings of the board.

### 9-2. Purpose

*a. Scope.* Article 139, UCMJ, provides an administrative mechanism for assessing and paying restitution to the victims of certain types of criminal offenses committed by military personnel subject to the UCMJ (see para 9-5). Victims of these offenses often have no other adequate means of obtaining restitution. Article 139 ensures that a victim is compensated directly from the wrongdoer's military pay rather than from the United States Treasury. This serves both to implement the goals embodied in the Victim and Witness Protection Act of 1982 and to promote military discipline and protect the civilian or military community from these types of disorders. Article 139 provides, however, an extraordinary administrative claims settlement authority. In essence, commanders are granted special powers normally reserved to the civil judicial authority. This authority must not be expanded beyond its strict limits; doing so could raise serious constitutional issues.

*b. Historical background.* Throughout its history, Article 139 has provided redress for the offenses of wasting, spoiling, or destroying nonmilitary property, presently proscribed by Article 109, UCMJ. Because disorderly Soldiers often commit acts of depredation in groups, the Article contains a unique provision allowing a commander to levy against the pay of all members of a unit who were present when damages were inflicted if an individual offender cannot be identified.

### 9-3. Proper claimants

*a.* AR 27-20, paragraph 9-3 lists the categories of proper claimants under Article 139.

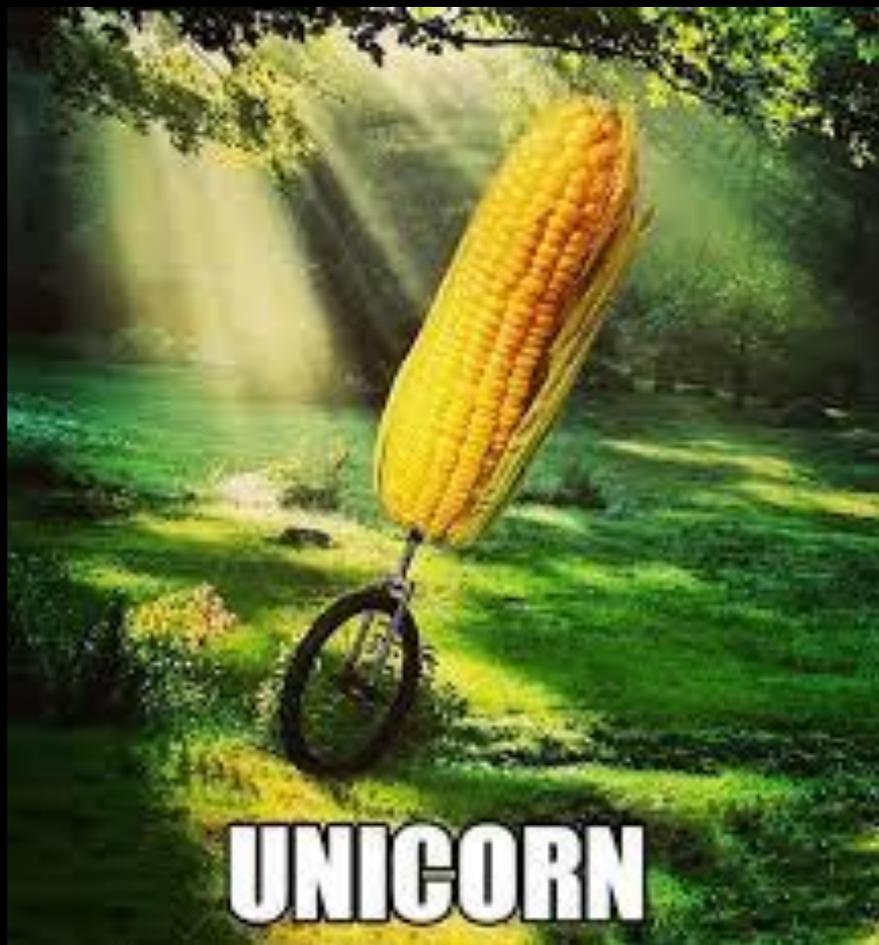
*b.* Essentially, any person, business, organization, or other legally recognized entity is a proper claimant. Only the United States and its nonappropriated fund instrumentalities (NAFIs) are ineligible.

### 9-4. Effect of disciplinary action, voluntary restitution, or contributory negligence

*a. Disciplinary action.* Disciplinary action taken against an offender is entirely separate from action taken under Article 139. Under no circumstances should the approval authority or anyone acting for, or appointed by, the approval authority to act on the claim delay action under Article 139 pending resolution of disciplinary action. Because different evidence is admissible and a different standard of proof is applied, acquittal on the charges underlying an Article 139 claim is not in itself a basis for dismissal of the claim or for modification on reconsideration. Action under Article 139 requires an independent inquiry. Furthermore, once disciplinary action is imposed, the claimant may be left with no effective remedy due to the discharge, reduction in rank or forfeitures of pay of the Soldier responsible.

*b. Voluntary restitution.* The approval authority may terminate Article 139 proceedings without findings if the

	YES	NO	N/A
<b>2 Exhibits (para 3-16, AR 15-5)</b>			
a. Are all items offered (whether or not received) or considered as evidence individually numbered or lettered as exhibits and attached to this report?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Is an index of all exhibits offered to or considered by investigating officer or board attached before the first exhibit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Has the testimony/statement of each witness been recorded verbatim or been reduced to written form and attached as an exhibit?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Are copies, descriptions, or depictions (if substituted for real or documentary evidence) properly authenticated and is the location of the original evidence indicated?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Are descriptions or diagrams included of locations visited by the investigating officer or board (para 3-6b, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Is each written stipulation attached as an exhibit and is each oral stipulation either reduced to writing and made an exhibit or recorded in a verbatim record?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g. If official notice of any matter was taken over the objection of a respondent or counsel, is a statement of the matter of which official notice was taken attached as an exhibit (para 3-10d, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
3 Was a quorum present when the board voted on findings and recommendations (paras 4-1 and 5-2b, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>B. COMPLETE ONLY FOR FORMAL BOARD PROCEEDINGS (Chapter 5, AR 15-6)</b>			
4 At the initial session, did the recorder read, or determine that all participants had read, the letter of appointment (para 5-3b, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5 Was a quorum present at every session of the board (para 5-2b, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
6 Was each absence of any member properly excused (para 5-2a, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7 Were members, witnesses, reporter, and interpreter sworn, if required (para 3-1, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8 If any members who voted on findings or recommendations were not present when the board received some evidence, does the inclosure describe how they familiarized themselves with that evidence (para 5-2d, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>C. COMPLETE ONLY IF RESPONDENT WAS DESIGNATED (Section II, Chapter 5, AR 15-6)</b>			
<b>9 Notice to respondents (para 5-5, AR 15-5):</b>			
a. Is the method and date of delivery to the respondent indicated on each letter of notification?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Was the date of delivery at least five working days prior to the first session of the board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Does each letter of notification indicate —	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(1) the date, hour, and place of the first session of the board concerning that respondent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) the matter to be investigated, including specific allegations against the respondent, if any?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) the respondent's rights with regard to counsel?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) the name and address of each witness expected to be called by the recorder?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(5) the respondent's rights to be present, present evidence, and call witnesses?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Was the respondent provided a copy of all unclassified documents in the case file?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. If there were relevant classified materials, were the respondent and his counsel given access and an opportunity to examine them?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>10 If any respondent was designated after the proceedings began (or otherwise was absent during part of the proceedings):</b>			
a. Was he properly notified (para 5-5, AR 15-5)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Was record of proceedings and evidence received in his absence made available for examination by him and his counsel (para 5-4c, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>11 Counsel (para 5-6, AR 15-6):</b>			
a. Was each respondent represented by counsel?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Name and business address of counsel:			
(If counsel is a lawyer, check here <input type="checkbox"/> )			
b. Was respondent's counsel present at all open sessions of the board relating to that respondent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. If military counsel was requested but not made available, is a copy (or, if oral, a summary) of the request and the action taken on it included in the report (para 5-6b, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>12 If the respondent challenged the legal advisor or any voting member for lack of impartiality (para 5-7, AR 15-6):</b>			
a. Was the challenge properly denied and by the appropriate officer?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Did each member successfully challenged cease to participate in the proceedings?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>13 Was the respondent given an opportunity to (para 5-8a, AR 15-6):</b>			
a. Be present with his counsel at all open sessions of the board which deal with any matter which concerns that respondent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Examine and object to the introduction of real and documentary evidence, including written statements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Object to the testimony of witnesses and cross-examine witnesses other than his own?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Call witnesses and otherwise introduce evidence?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Testify as a witness?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. Make or have his counsel make a final statement or argument (para 5-9, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
14 If requested, did the recorder assist the respondent in obtaining evidence in possession of the Government and in arranging for the presence of witnesses (para 5-8b, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
15 Are all of the respondent's requests and objections which were denied indicated in the report of proceedings or in an inclosure or exhibit to it (para 5-11, AR 15-6)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>FOOTNOTES:</b> 1. Explain all negative answers on an attached sheet. 2. Use of the N/A column constitutes a positive representation that the circumstances described in the question did not occur in this investigation or board.			



# Personnel Claims Act

Applies if property is damaged or if  
there is a loss of use for 60 days or  
more



# NCIS

NAVAL CRIMINAL INVESTIGATIVE SERVICE

# Personnel Claims Act



## U.S. NAVY JUDGE ADVOCATE GENERAL'S CORPS

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HOME > ABOUT US > ORGANIZATION > CLAIMS & TORT LITIGATION (CODE 15)

### 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 claims annually, 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 convened 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 convened 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), 2671-2680 – Limited waiver of U.S. sovereign immunity for damages for personal injury, death or property damage caused by negligence of Federal employees acting within the scope of their official duties.

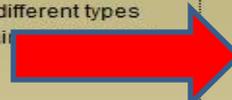
#### DO YOU WANT TO FILE A CLAIM?

These links have all the information and documents you will need:

[Camp Lejeune Claims](#)

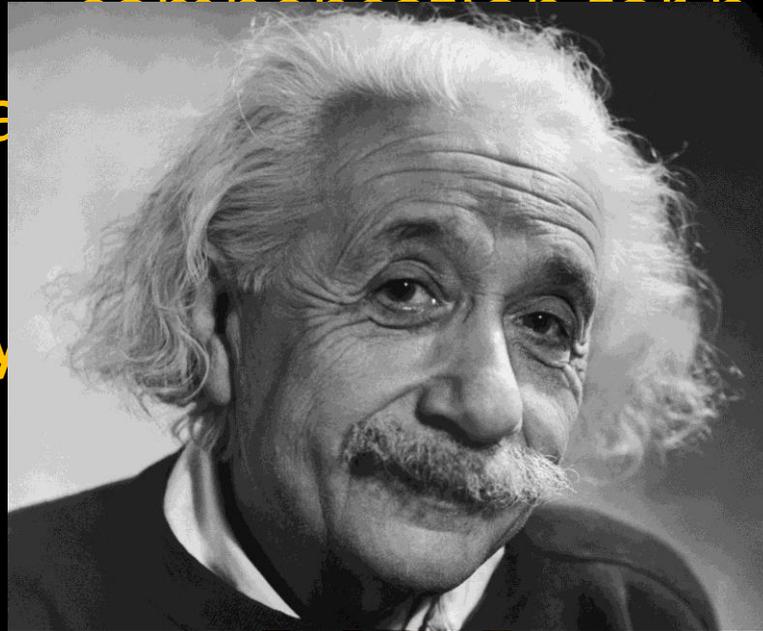
[Packets & Forms](#)

[Claims POCs/Addresses](#)



# SUMMARY

- You are now the smartest person in the room.
- Article 139 – compensation for personal property damage
- PCA – NCIS for greater than 60 days



## *National Association of Crime Victim Compensation Boards*

# Crime Victim Compensation: Resources for Recovery

***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.***

Crime victim compensation programs administered by state governments promote the recovery of nearly 200,000 victims and their families every year, paying out close to \$500 million annually. Each state operates its program under its own state law, determining who and what to pay. The vast majority of the money to fund these programs comes from offender fees and fines, rather than taxpayer dollars, with about a third coming 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 compensation.***

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. Property crimes, such as 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 by state compensation programs, regardless of the criminal jurisdiction, or who is investigating or prosecuting the crime. Apprehension and conviction of the offender are not requirements for eligibility. While substantial federal resources fund state programs, there is no national crime victim compensation program, except for victims of international terrorism committed 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.***

A victim of a crime in the U.S. should apply in the state where the crime occurred, regardless of the state of residency. So, for example, a Texan victimized in Florida should apply in Florida for compensation. 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 of the state of residency to see whether victim compensation is available.

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

These are the major expense categories covered by the programs, but there are a host of miscellaneous expenses that also may be paid for. Property losses generally 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 have lower and higher maximums. In addition, there 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.***

While every state operates under its own law, the requirements are broadly similar. Victims must:

1. Report the crime promptly
2. Cooperate with law enforcement
3. File a timely application
4. Be innocent of criminal activity or misconduct that caused the crime
5. Have an expense or loss not covered by insurance or another public benefit program, like the Tricare, Medicaid, and other federal programs.

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

Without information about compensation programs, victims will never be able to access the financial help 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!***

***More information about each state is accessible in the Program Directory at [www.nacvcb.org](http://www.nacvcb.org).***

***The National Association of Crime Victim Compensation Boards***

***P.O. Box 16003, Alexandria, VA 22302***

***(703) 780-3200***

***Dan.eddy@nacvcb.org***



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# Victims' Legal Counsel Organization (VLCO)

## Overview to Victim Witness Assistance Program Course

### Marine Corps National Capital Region Office

Major Jess Martz, Regional Victims' Legal Counsel

Captain Brad Brecher, Deputy Victims' Legal Counsel

Captain Matt Sinnott, Assistant Victims' Legal Counsel

Mrs. Kristin Stanley, Paralegal, Victims' Legal Counsel

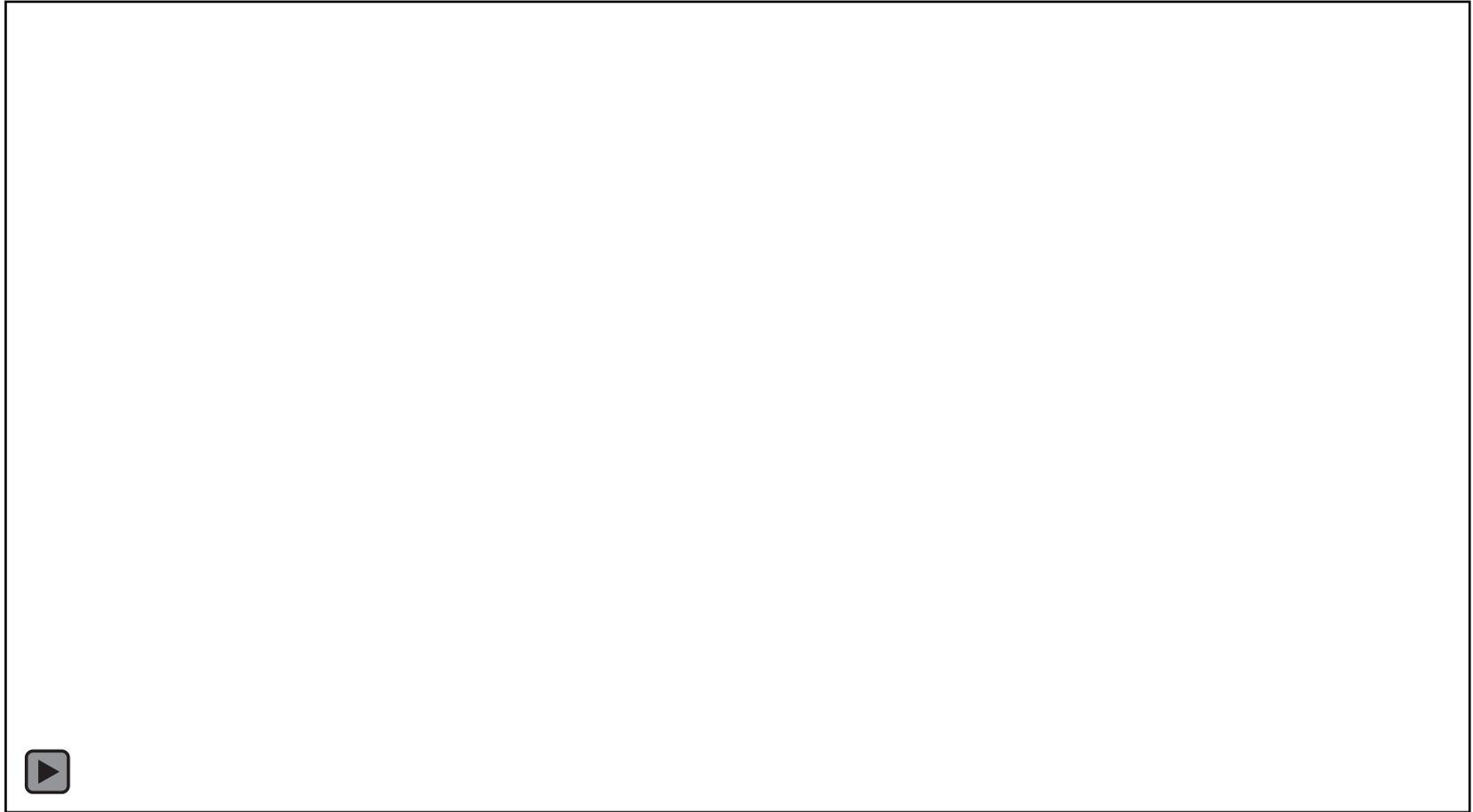
**(703) 784-4514**

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# Agenda

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1. Who we are?
2. Why do we exist?
3. Who qualifies for our services?
4. What do we do?
5. What services do we provide?



# Victims' Legal Counsel

---

Who are we?

- Judge advocates with military justice experience who have been screened and approved by VLCO OIC and completed a certified SVC/VLC course.
- Functionally independent of CAs, TCs, and DCs, and will report to SJA to CMC.



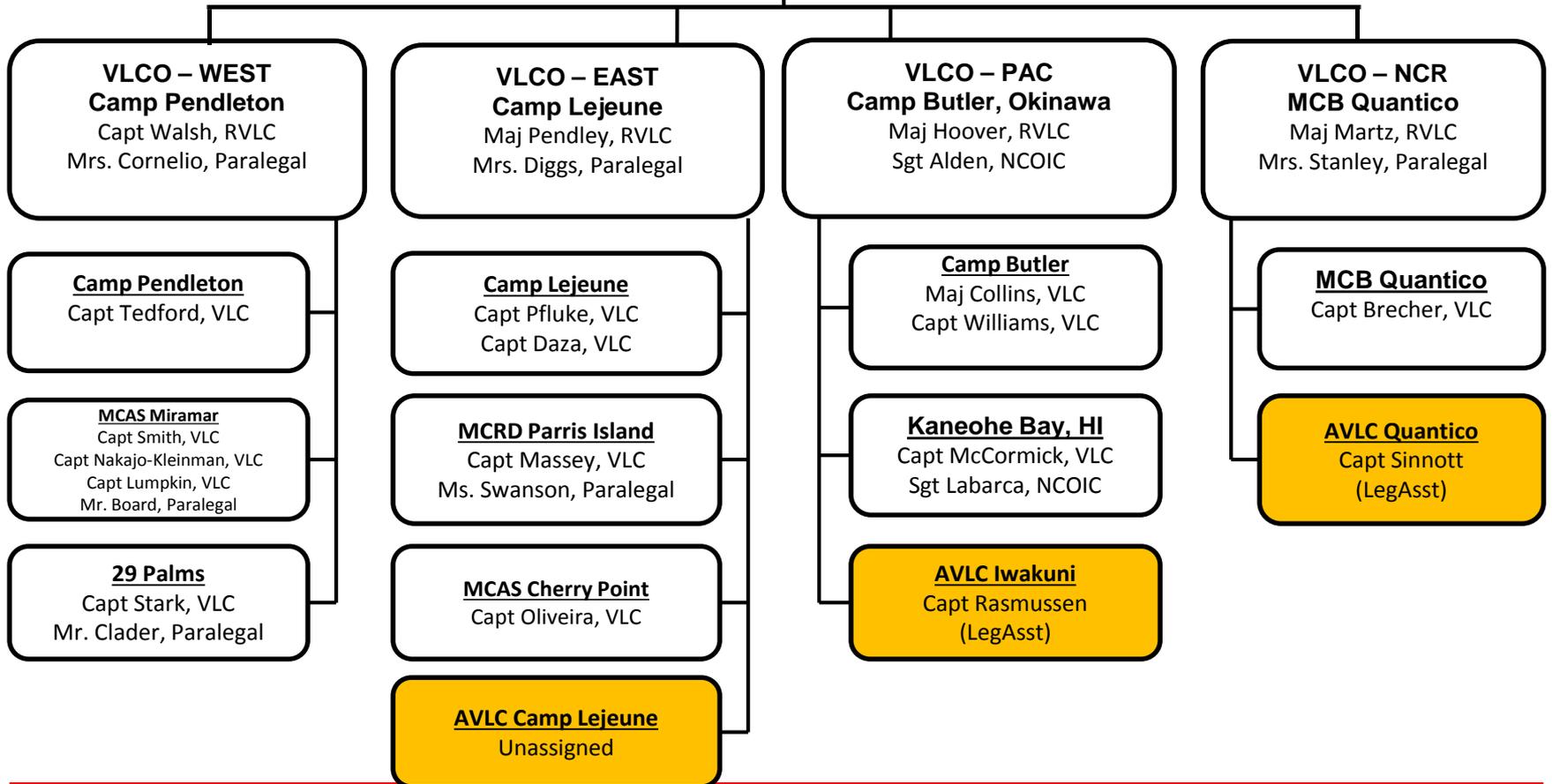
# VLCO Organization

## HQMC

Col McDonald, OIC  
LtCol Wissman, Deputy OIC  
Ms. White, Paralegal

## Reserve Support- IMA Det

LtCol Hines, Branch Head  
Capt Kennon, VLC





# VLCO Caseload

- **Snapshot week of 15-19 August 2016**

<b>New Intakes</b>	<b>8</b>
<b>Total Active Cases to Date</b>	<b>337</b>
<b>Total Detailed Cases to Date</b>	<b>398</b>
<b>Average Caseload NCR (24/2)</b>	<b>12</b>
<b>Average Caseload East (137/5)</b>	<b>27</b>
<b>Average Caseload West (130/5)</b>	<b>27</b>
<b>Average Caseload PAC (46/4)</b>	<b>12</b>
<b>Average Caseload Organization (337/16)</b>	<b>21</b>



# DoD Sexual Assault Overview

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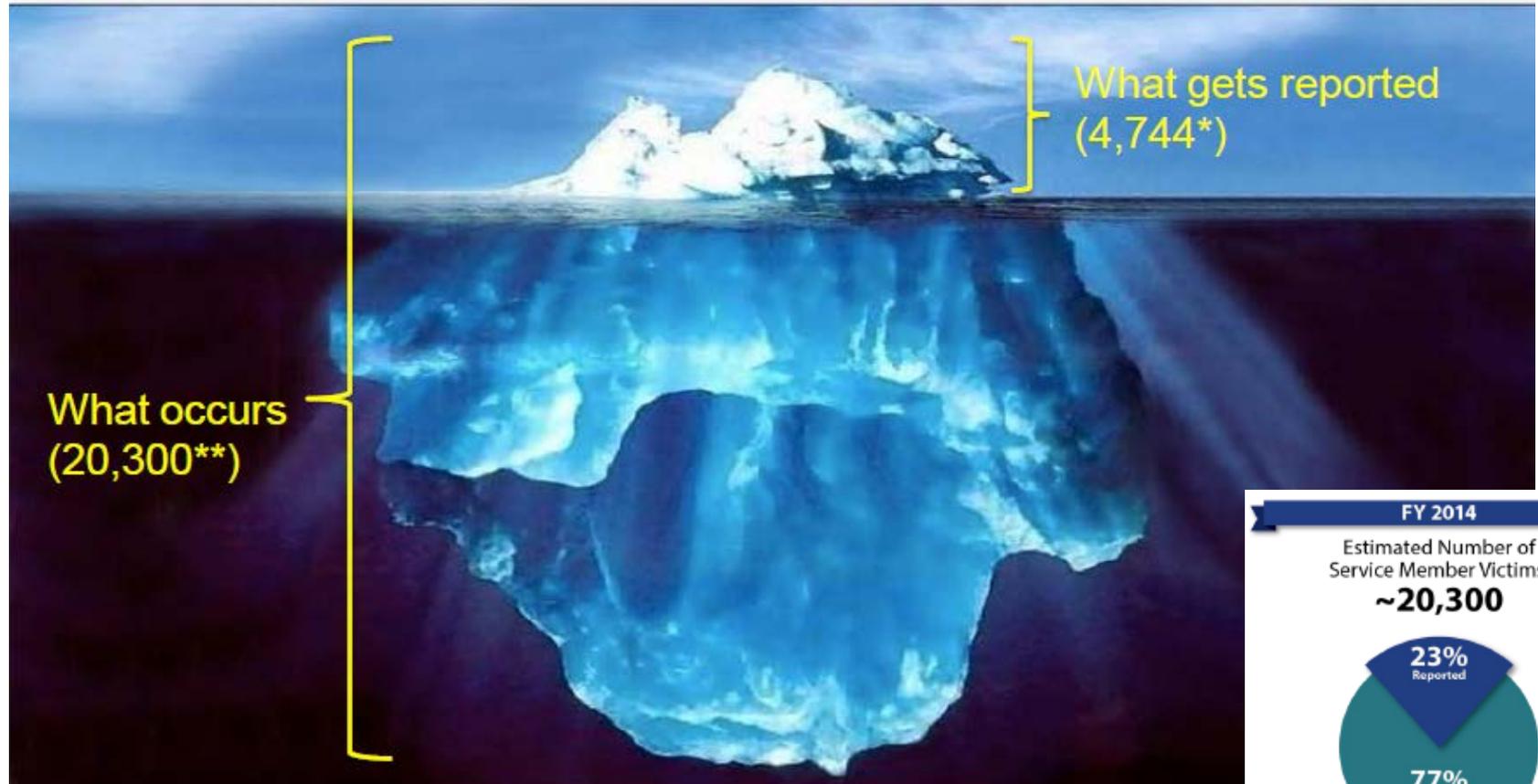
## DoD Statistic Snapshot:

- 54 Secretary of Defense-directed SAPR initiatives enacted to improve prevention and response since 2012
- 71 sections of law and over 100 unique requirements legislated by Congress – most sweeping military justice reforms since 1968
- **185 specially-trained attorneys in place to help victims exercise their rights and understand the justice system**
- [http://sapr.mil/public/docs/press/SAPROOverviewSlickSheet\\_20160725.pdf](http://sapr.mil/public/docs/press/SAPROOverviewSlickSheet_20160725.pdf)





# Underreported Crime



\*Service member victims reporting sexual assault for 2014

\*\*Estimated Service member prevalence statistics for 2014



# Victims' Legal Counsel

---

Why do we exist?

- MARADMIN 583/13 directed the establishment of an organization to provide legal advice and representation to victims of sexual assault and other crimes, ..., in order to help protect victims' rights at all stages of the military justice process.”
- Done in response to a series of high visibility cases and reports about sexual assault in the military.
- Created to advocate for victims' rights as set forth in Article 6b, UCMJ



# Article 6b, UCMJ

- Victims' "Bill of Rights"
- 8 Rights, set forth in federal law, designed to protect victims' interests in court proceedings

## VICTIMS' RIGHTS

<b>PROTECTION</b> To be reasonably protected from the accused	<b>COUNSEL (CHOICE)</b> To confer with trial counsel for case input
<b>NOTICE</b> To reasonable, accurate, and timely notice of specified hearings	<b>RESTITUTION</b> To receive restitution
<b>INCLUSION</b> To not be excluded from any public hearing	<b>PROMPTNESS</b> To proceedings free from unreasonable delay
<b>VOICE</b> To be reasonably heard	<b>PRIVACY</b> To be treated with fairness and with respect for dignity and privacy



# Eligibility

---

Victims' legal services are provided to:

1. eligible service members,
2. dependents, and
3. DoD civilian employees

Services are provided for:

- Victims of sexual assault, domestic violence, child abuse, and other crimes punishable under the Uniform Code of Military Justice.



# Mission Statement

---

Provide:

- Legal advice
- Legal counseling
- Representation

To victims of qualifying crimes.

- Ensure that victims' rights are protected at all stages of the investigation and military justice process.
- **We educate, advocate for, and represent victims**



# 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 (let VLCO decide)

- All victims of sexual assault and domestic violence 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, preferral and referral of charges, Preliminary Hearing, trial convening authority role, and post-trial role.
  - Discovery issues: social media, email, text messages, journals, and other evidence.
- Explain roles and responsibilities of the trial counsel, defense counsel, and investigators (PMO, CID, NCIS, etc).
- Explain civilian restraining orders and military protective orders (**MPOs**).
- 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 and Article 6b rights.



# VLC Advice & Counseling (Cont'd)

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- 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.
- Explain privacy right and **Article 6b rights**.
- Provide limited legal assistance or legal assistance referrals.
- Address issues and concerns regarding **retaliation**.



# How Services Are Provided

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- **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.
- **NOTE: We do not seek out clients!**
- **Clients must come to us.**



# VLCO Common Trends

- Retaliation
  - restriction, reprisal, ostracism, or acts of maltreatment
- Collateral Misconduct
- Mental Health Records
- Medical Records
- Victims' Prior Acts
  - Sexual history, etc



DoD Annual Report on Sexual Assault in the Military, FY 2015



# VLCO Impact

## Positive victim responses to legal services

- Confidence to report crimes
- Increased satisfaction with military justice process
- Rehabilitation
- Success protecting victims' privacy rights
  - Mental health records
  - Sexual history
- Legal services provided are based on individual client goals
  - Right to be heard
  - Expedited transfer
  - Transitional compensation
  - Declination to participate in court-martial
  - Some legal assistance and legal assistance referral

### Military Investigation and Justice Experience Survey: Overall Experience



of survivors said they would recommend others to report



of survivors who interacted with a SVC/MLC were satisfied



# References

---

- 10 USC §1044 – Legal Assistance
- 10 USC §1044e – Special Victims' Counsel
- 10 USC §1565b – Legal Assistance to Sexual Assault Victims
- JAGINST 5800.7F (JAGMAN)
- SECDEF Memo – 14 Aug 2013
- MARADMIN 583/13 – 31 Oct 2013
- MCO P5800.16A – Marine Corps Manual for Legal Administration
- DODI 6495.02 – SAPR Program
- MCO 1752.5B – SAPR Program
- MCO 5800.14 – VWAP
- MCO 1754.11 – Family Advocacy Program
- 18 USC §3771 – Crime Victims' Rights Act
- Article 6b, UCMJ – Victim Rights under the UCMJ
- MARADMIN 285/16 – Retaliation and Reporting



# Questions?



## **Marine Corps National Capital Region Office**

Major Jess Martz, Regional Victims' Legal Counsel

Captain Brad Brecher, Deputy Victims' Legal Counsel

Captain Matt Sinnott, Assistant Victims' Legal Counsel

Mrs. Kristin Stanley, Paralegal, Victims' Legal Counsel

**(703) 784-4514**

# VICTIM / WITNESS ASSISTANCE PROGRAM



A collage of images related to corrections and aviation security. At the top left is the American Correctional Association (ACA) logo with "FOUNDED 1874". At the top right is the National Curriculum &amp; Training Institute (NCTI) logo with "FOR SUCCESS". The central image is a large photograph of a brick building with a plane flying above it. Below this are smaller images: a white van labeled "Prisoner Transport Vehicle" and a jail cell labeled "Jail Cell". At the bottom left is the Transportation Security Administration (TSA) logo. At the bottom right is the Federal Aviation Administration (FAA) logo. In the center bottom, three people (two men and one woman) are standing in front of a plain wall.

Corrections Section (PSL Corrections)  
Law Enforcement and Corrections Branch  
Security Division, PP&O  
Headquarters, U.S. Marine Corps  
755 S. Courthouse Rd, Suite 2000  
Arlington, VA 22204  
Commercial: (703) 604-4354/4350



# AGENDA



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



# 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



# PSL CORRECTIONS VWAP MISSION STATEMENT



***DODI 1030.2, June 4, 2004***

*“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.”*



# USMC Confinement Capabilities



<b><u>Brig</u></b>	<b>Confinement Capabilities</b>	
<b>Camp Lejeune</b>	<b>Level I: Post Trial 1 Year</b>	<b>75 beds</b>
<b>Camp Pendleton</b>	<b>Level I: Post Trial 1 Year</b>	<b>100 beds</b>
<b>Yuma</b>	<b>Level I: Post Trial 30 days</b>	<b>10 beds</b>
<b>Okinawa</b>	<b>Level I: Post Trial 1 Year</b>	<b>120 beds</b>
<b>Iwakuni</b>	<b>Level I: Post Trial 30 days</b>	<b>5 beds</b>



# CMC PSL CORRECTIONS RESPONSIBILITIES



- Ensure a **properly completed** DD Form 2704 is received for every post-trial prisoner.
- Ensure that a victim and witness notification program is established in each brig.
  - VWAP procedures will apply to all prisoners regardless of service.
- 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



- Review the notification program, and 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 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.



# BRIG RESPONSIBILITIES



- Establish a Victim Witness Assistance Program for persons entered into the program through receipt of a DD 2704.
- Submit a monthly report to PSL Corrections concerning the status of service members confined in Marine Corps Brigs.
- 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.



# BRIG RESPONSIBILITIES



- 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***



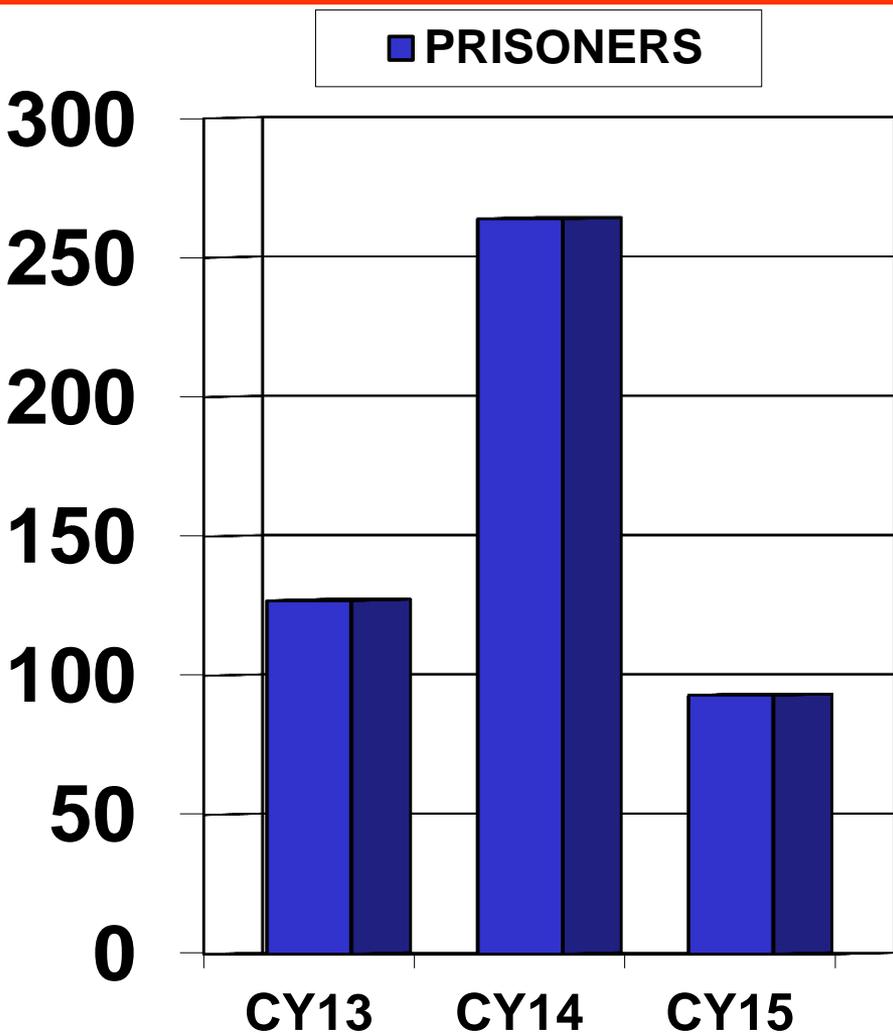
# QUALITY CONTROL



- How does PSL Corrections ensure victims / witnesses are enrolled in the program, notifications are being made in a timely manner, and the Corrections Management Information System (CORMIS) is accurate?
  - Monthly Reports
    - » Helps PSL Corrections produce an accurate annual report.
  - CORMIS
    - » Error Reports
    - » Notifications
    - » V/W types
    - » Documentation



# PRISONERS ENROLLED IN VWAP



CY 2013  
Enrolled = 127

CY 2014  
Enrolled = 97

CY 2015  
Enrolled = 93



# VICTIMS/WITNESSES ENROLLED IN PROGRAM



## CY 2013

Victims = 134

Witnesses = 237

## CY 2014

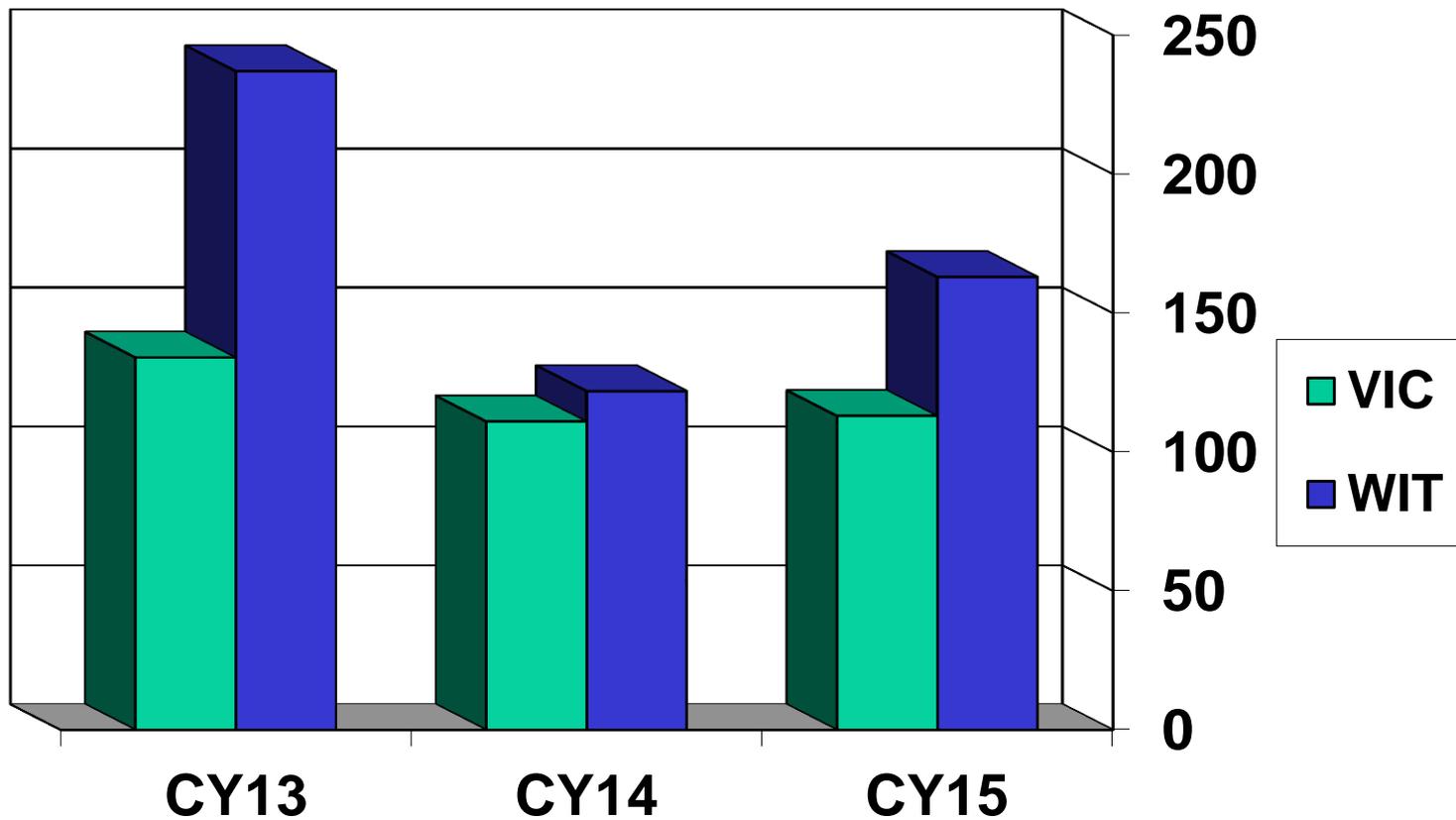
Victims = 111

Witnesses = 122

## CY 2015

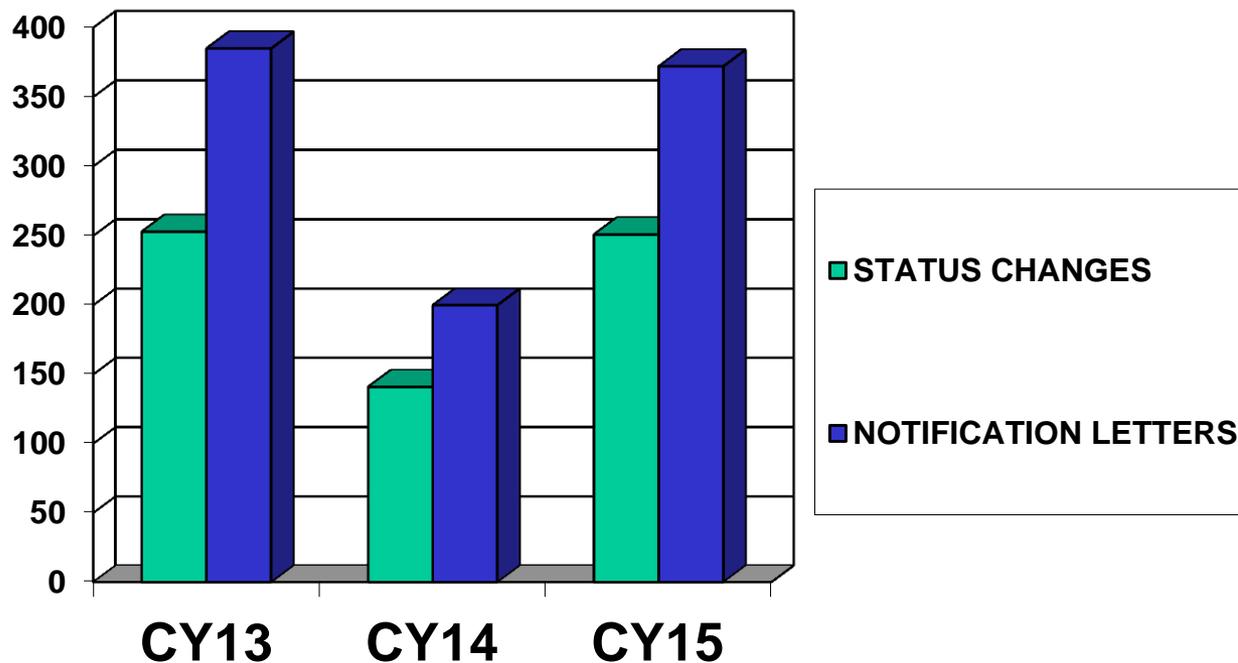
Victims = 113

Witnesses = 163





# PRISONER STATUS CHANGES & NOTIFICATIONS



## CY 2013

Status Changes = 253

Notification Letters = 385

## CY 2014

Status Changes = 141

Notification Letters = 200

## CY 2015

Status Changes = 251

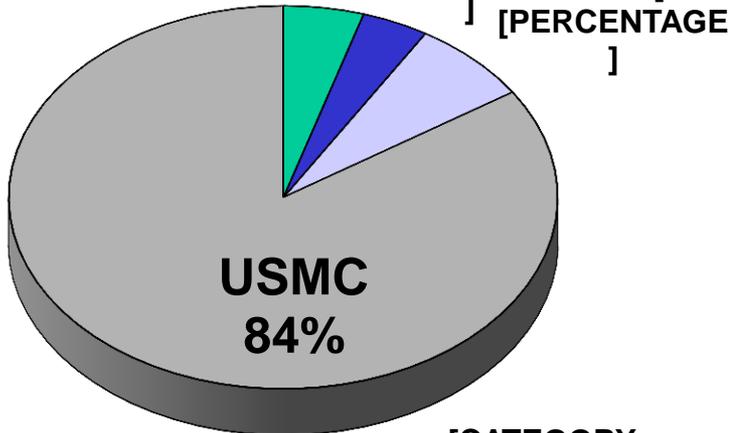
Notification Letters = 372



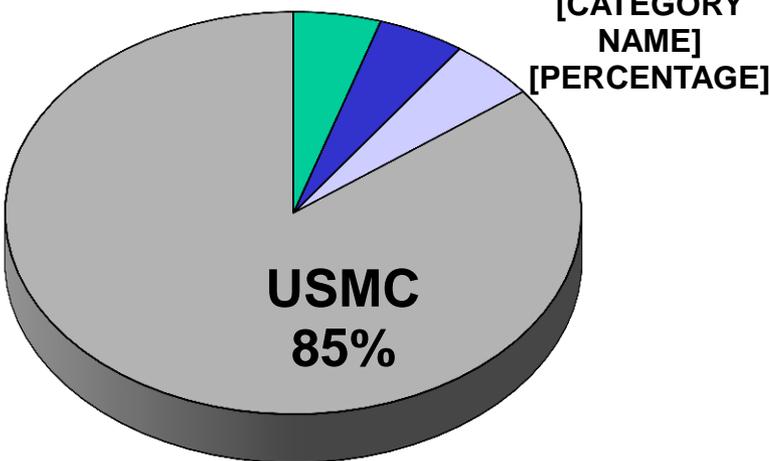
# PERCENTAGE OF PRISONERS ENROLLED IN VWAP



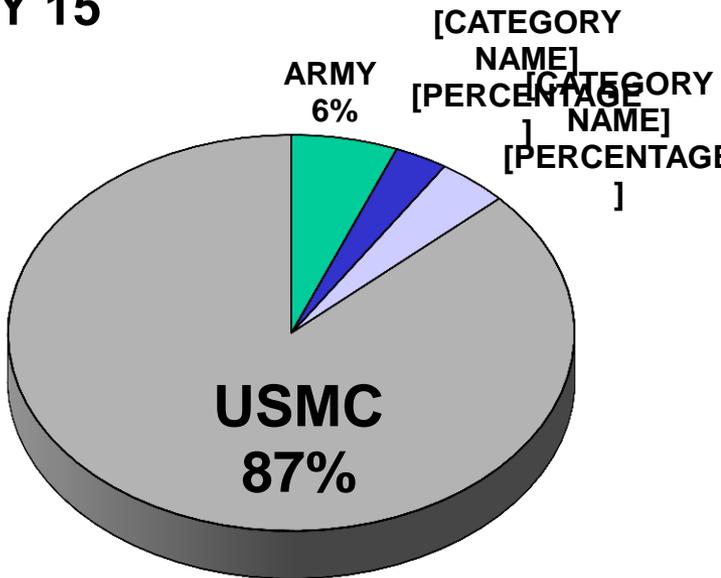
CY 13



CY 14



CY 15





# 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



# PSL CORRECTIONS



# QUESTIONS