

# Welcome to USMC VWAP Annual Training FY16

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# 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>

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**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



# 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?

