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**Staff Judge Advocate
to the Commandant of the
United States Marine Corps**



**QUANTICO
5-6 DEC 2012**

Breaks
Classroom

Victim Witness Assistance Program

Presented by
Marine Corps VWAP

DAY 1: WEDNESDAY, DECEMBER 5	
0 7 3 0 - 0 8 0 0	CHECK-IN and Distribution of Materials
0 8 0 0 - 0 8 1 5	Welcoming Remarks LtCol Schotemeyer, VWAP, Judge Advocate Division
0 8 1 5 - 0 9 0 0	USMC VWAP Overview and New USMC VWAP Order LtCol Schotemeyer, VWAP, Judge Advocate Division
0 9 0 0 - 0 9 1 0	Break
0 9 1 0 - 1 0 1 0	VWLO and VWAC Responsibilities LtCol Schotemeyer, VWAP, Judge Advocate Division
1 0 1 0 - 1 1 0 0	USMC SAPR Program Overview Melissa Cohen, SAPR Branch, HQMC
1 1 0 0 - 1 2 3 0	Lunch
1 2 3 0 - 1 3 3 0	Family Advocacy Program Overview and The Role of the Victim Advocate MCB Quantico Family Advocacy Office
1 3 3 0 - 1 4 1 5	Transitional Compensation and Other Available Assistance MCB Quantico Family Advocacy Office
1 4 1 5 - 1 5 0 0	Legal Assistance Attorney VWAP Roles Mary Hostetter, Branch Head, JAL, Judge Advocate Division
1 5 0 0 - 1 5 1 0	Break
1 5 1 0 - 1 6 0 0	Court-Martial Process Overview and MRE 514 Victim Advocate - Victim Privilege Capt Ferriter, TCAP, Judge Advocate Division
1 6 0 0 - 1 6 3 0	PSL Corrections GySgt Fuller, HQMC, PPO Security Division



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DAY 2: THURSDAY, DECEMBER 6	
0 7 3 0 - 0 9 4 5	Impact of Crime on Victims Survivors Stephanie Frogge, University of Texas
0 9 4 5 - 1 0 0 0	Break
1 0 0 0 - 1 1 4 5	Communicating with Victim Survivors Stephanie Frogge, University of Texas
1 1 4 5 - 1 3 0 0	Lunch
1 3 0 0 - 1 4 0 0	Sex Offender Registration and Notification Act (SORNA) Allison Turkel, US Department of Justice
1 4 0 0 - 1 4 4 5	Naval Clemency and Parole Board / BCNR Randall Lamoureux, President, Naval Clemency and Parole Board
1 4 4 5 - 1 5 0 0	Break
1 5 0 0 - 1 5 4 5	Commanding General Inspection Process and 092 Checklist CWO5 Hall and GySgt Sears, Judge Advocate Division
1 5 4 5 - 1 6 1 5	VWAP Best Practices, Questions, & Answer Sessions LtCol Schotemeyer, VWAP, Judge Advocate Division



USMC VWAP CONFERENCE 5-6 DECEMBER 2012

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ANNEX A:

USMC VWAP Overview and New USMC VWAP Order



VWAP Overview

LtCol Schotemeyer
HOMC, VWAP
703 693 8955

GOALS of the Training

1. Refresher/Basic Training for VWLO and VWAP representatives
2. Understand impact of crime and the justice system upon victims, especially victims of violent crime such as sexual assault
3. Improve Marine Corps Installation programs to provide best support to our victims and witnesses
4. Focus on best practices to accomplish #3

VWAP 101

VWAP: PURPOSE & GOALS

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

VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

- 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 of 5 Jan 2006 "Victim and Witness Assistance Program"
- MCO 5814 VWAP

Victims Eligible for VWAP Services

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

VWAP: VICTIMS' RIGHTS

- The right
 - to be reasonably protected from the accused.
 - to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
 - not to be excluded from any such public court proceeding, unless the court, 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.

VWAP: VICTIMS' RIGHTS

- The right
 - to be reasonably heard at any public proceeding involving release, plea, sentencing, or any parole proceeding.
 - to full and timely restitution as provided in law.
 - to proceedings free from unreasonable delay.
 - to be treated with fairness and with respect for the victim's dignity and privacy.
 - The reasonable right to confer with the attorney for the Government in the case.

VWAP: VICTIMS' RIGHTS

- *Victim's rights do not provide authority for a legal "cause of action" against the Government.*

VWAP: Witnesses eligible for services

- A person who has information or evidence about a crime, and provides that knowledge to a DOD Component about an offense in the investigative jurisdiction of a DOD component.
- When the witness is a minor, a witness includes a family member or legal guardian.
- The term witness does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.

VWAP: WITNESS' RIGHTS

- To be treated with fairness and respect for the witness's dignity and privacy.
- To be reasonably protected from the accused.
- To be notified of any scheduling changes which will affect their appearance at court-martial.
- To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of guilty pleas and sentencing).
- To receive information about the conviction, sentence, confinement, and release of the accused.

VWAP: WITNESS' RIGHTS

- *Witness' rights do not provide authority for a legal "cause of action" against the Government.*

VWAP: DOD POLICY

- Role of victims/witnesses should be enhanced/protected
- Do all that is possible to assist victims/witnesses without infringing on the rights of the accused
- *Particular attention should be paid to victims of serious, violent crime, including sexual assault, child abuse, and domestic violence.*

VWAP: HOW IT WORKS

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

VWAP OFFICIALS

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

VWAP Definitions

- **RVWLO** – MCI Region/MCICOM/MFR CG’s primary representative on all VWAP matters.
- **VWLO** - The installation commander’s representative responsible for the coordination of victim and witness assistance efforts aboard the installation.
- **VWAC** - The command’s primary point of contact for victim and witness assistance matters.
- **Victim** – suffered a direct physical, mental or pecuniary harm from the commission of a crime (UCMJ or local)
- **Witness** – someone who has information about a crime
- **Law Enforcement** – NCIS/CID/PMO – does not include IO for JAGMAN invest

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
- **Legal Assistance Attorney** – provides limited LA
- **Corrections personnel** - manage post-trial confinement forms, reports and notifications and coordinate with other offices

INSTALLATION LEVEL: WHO DOES WHAT

- Sexual Assault Prevention and Response Program/ SARCs, UVAs – victims of sexual assault
- Family Advocacy Program – Victim Advocates
- Transitional Compensation – HQMC via commanders
- Unit Commanders – Security, military protective orders, notifications
- Chaplain – counseling, comfort
- Medical - services
- Civilian advocacy services, social services, medical

VWAP: COORDINATION IS KEY

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

RVWLO REQUIREMENTS

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

VWLO REQUIREMENTS

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

VWLO REQUIREMENTS

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

VWAP vs SAPR

- VWAP is an overarching assistance program for victims and witnesses of any crime, regardless of type and criminal proceeding. SAPR is a specialized victim assistance program for sexual assault cases.
- The main requirements of VWAP are for the necessary personnel to inform victims of their rights, fill out the appropriate forms, and track the status of a confined individual if requested. Under SAPR, the obligations are much more labor intensive and require constant coordination of all parties.

VWAP vs SAPR Purpose

- VWAP
To uniformly notify victims/witnesses of their rights throughout the criminal justice process.
- SAPR
To eliminate sexual assaults within the Marine Corps and to assist those Marines affected by sexual assault; to provide standardized requirements, guidelines, protocols, and instructional materials on awareness and prevention of sexual assault; to provide an immediate, trained response capability for each report of sexual assault in all locations; and to ensure support of effective command programs and criminal justice procedures for persons to be held accountable

VWAP vs SAPR Applicability

VWAP

- Applies to all victims of crimes committed in violation of the UCMJ, or in violation of the law of another jurisdiction

SAPR

- Applies to all victims of sexual assault

VWAP vs SAPR Implementation

VWAP

- All Marine Corps personnel, and Navy personnel attached to Marine units, engaged in detecting, investigation, or prosecuting crime, and all personnel assisting crime victims and witnesses are responsible for the implementation of the VWAP requirements

SAPR

- Report to command by 3rd Party
- Victims may report sexual assaults in one of two manners:
 - Unrestricted Reporting –
 - Restricted Reporting –
- VAs & UVAs are responsible for upholding the rights of the victim

VWAP vs SAPR Personnel Involved

SAPR

- Uniform Victims Advocates

VWAP

- Victim Witness Assistance Coordinators

- Can they be the same person?
- Look at the job title – different roles and responsibilities evident

VWAP FORMS

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

VWAP: Pretrial & DD Form 2701

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

VWAP: Military Trial Process & DD Form 2702

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

VWAP: Post Trial & DD Form 2703

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

VWAP: Post Trial & DD Form 2704

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

- The 2700s are never included in the ROT – these have personal info of victims and witnesses and should not be shared

VWAP: Post Trial Notifications & DD Form 2705

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

MCO 5800.14 VWAP

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

Functional Area Checklist

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

VWAP: RESOURCES AND FORMS

- CMC – LtCol Dutch Schotemeyer (703) 614-4250; louis.schotemeyer@usmc.mil / Capt John Ferriter john.ferriter@usmc.mil / GySgt Daniel Sears daniel.w.sears@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)
- <http://www.defenselink.mil/vwac/dodprograms.html> (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- <http://www.ncvc.org/ncvc/Main.aspx> (National Center for Victims of Crime)
- <http://www.ojp.usdoj.gov/programs/victims.htm> (DOJ Office for Victims of Crime)
- <http://vwac.defense.gov/> (DoD Victim Witness Assistance Council)

SUMMARY

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

ANNEX B:

VWLO and VWAC Responsibilities



VWAP Roles and Responsibilities

LtCol Schotemeyer
HOMC, VWAP
703 693 8955

Parties involved in the VWAP

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

SJA to CMC

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

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
- Report data to HQMC wrt DD form 27XX

Installation Commanders

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

Unit Commanders

- Appoint a VWAC in writing
- Protect victims to the extent possible
- Provide annual training to their personnel

SJA

- Advise the Commander on the VWAP

LSST OIC

- Appoint a VWAC to the Victim Witness Council
- Supervise TCs
- Ensure CMS data wrt VWAP is entered correctly and completely

Law Enforcement

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

RVWLO

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

VWLO

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

VWLO

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

Trial Counsel

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

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TC - Notification Requirements

- When a victim has requested notification, must advise of:
 - Pretrial confinement status of suspected offender
 - Date charges are preferred and / or referred and the nature of the charges
 - Acceptance of a pretrial agreement
 - Scheduling of court proceedings
 - Findings of a court-martial
 - Sentence adjudged
 - Convening authority's action regarding findings and sentence
- TC must notify all victims who have been scheduled to attend any MJ proceedings of scheduling changes that affect their appearance

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TC - Notification Requirements

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

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TC - Consultation Requirement

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

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TC - Other Assistance

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

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TC - Sentencing

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

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Legal Assistance Attorney

- Advise on rights and benefits of the VWAP
- Advise on different types of reporting
- Advise on the nature of the military justice system
- Advise on the services available to victims
- Advise that there is no victim right to have legal assistance attorney representation or presence at a related criminal proceeding.

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Service Providers

- Varies depending on the service provider

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Brig and PTC Facility CO/OIC

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

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ANNEX C:

USMC SAPR Program Overview





**Marine Corps
Sexual Assault Prevention and
Response Program (SAPR)**

Headquarters, U.S. Marine Corps
Marine and Family Programs Division

"Keeping Faith"

ANNEX D:

Family Advocacy Program Overview and The Role of the Victim Advocate



MCCS Behavioral Health Services
COUNSELING SERVICES & FAMILY ADVOCACY PROGRAM



Presented by:
Mary Skinner-Vance Clinical Supervisor LCSW, LMHC
Rebecca Childress, Prevention and Education Specialist
Counseling Services & Family Advocacy Program
Little Hall, Room 104
MCB Quantico VA, 22134
(703)784-2570
Victim Advocate Hotline (703)350-1688

Training Objectives

- ✓ Mission Statement
- ✓ Restricted & Unrestricted Reporting
- ✓ Types of Abuse
- ✓ Triggers and Lethality Indicators
- ✓ Role of VA
- ✓ Prevention & Education Program
- ✓ Transitional Compensation

Family Advocacy Program

Mission Statement

1. **PREVENT** abuse, family violence, rape and sexual assault using education and accountability.
2. **PROTECT** victims by intervening and implementing safety measures.
3. **ASSIST** Commanders in supporting their Marines and families for mission readiness by encouraging them to obtain appropriate family services.



Command Sponsored and Congressionally Mandated

DoD-sanctioned and governed by:
SECNAVINST 1752.3B
MCO P1700.24B
MCBO P1752.2B
MCO 1754.11
DoDI 6400.06

All policies are available upon request via email or hardcopy.

Reporting Options

- Restricted Report
- Unrestricted Report

You are a mandated reporter.



Restricted Reporting

- Adult Victims ONLY
- Specified Individuals
- Confidential



Unrestricted Reporting

- Triggers the 'investigative' process
- Provides full layers of services, support and safety



What is Spouse/Intimate Partner Abuse?

- Physical Abuse
- Sexual Abuse
- Emotional Abuse
- Neglect



DoD Definition of Domestic Violence

An offense under the United States Codes, the Uniform Code of Military Justice, or State law that involves the use, attempted use, or threatened use of force or violence against a person of the opposite sex, who is

- A current or former spouse;
- A person with whom the abuser shares a child in common, or
- A current or former intimate partner or former intimate partner with whom the abuser shares or has shared a common domicile

DoD Definition of Domestic Abuse

Domestic Abuse is (1) domestic violence or (2) a pattern of behavior resulting in emotional/psychological abuse, economic control, and/or interference with personal liberty that is directed toward a person of the opposite sex who is:

- a current or former spouse
- a person with whom the abuser shares a child in common
- a current or former intimate partner with whom the abuser shares or has shared a common domicile.

Family Abuse Myths and Misconceptions



DV Statistics

Domestic Violence is the leading cause of death for women ages 15-44.

(Center for Disease Control and Prevention)

In 2006, DV related homicides climbed to 1181 annually (for women) and 329 (for men).

(Most recent stats published by the Bureau of Justice)

Common Triggers for Domestic Violence

A trigger is situational stressor related to the current instance of domestic violence.

- Suspected Infidelity
- Alcohol and drug problems
- Relationship Ending
- Children/Custody
- Financial Crisis

Lethality Indicators

- Job loss/Threat of Job Loss/Financial Crisis
- Victim Recently Left – 75% Domestic Homicides Occur After the Victim Leaves
- Pending Divorce, Child Custody Battles
- Substance Abuse
- Access to Weapons/Threats of Same
- Violations of Protection Orders
- Stalking
- Depression
- Obsessive about Partner
- Sexual Abuse
- Strangulation

Why Issue an MPO?

- Stabilizes the situation
- Provides additional time for investigation
- Administrative, NOT Punitive
- Attempt to ensure safety of designated person(s)
- Attempt to protect subject from additional allegations concerning child/spouse abuse while order in effect
- As crisis abates, and facts determined via investigation, final decision regarding decision to extend MPO should be made by CO, with input from FAR/LE, if possible

Role of Victim Advocate

- 24 Hour On-Call Response
- Support Adult Victims of DV and Sexual Assault
- Support Non-Offending Parents
- Support Victims Throughout the Process
- Risk Assessment, Safety Planning, Resources
- Manages the Restricted Reporting Cases
- WAKE Class
- Transitional Compensation
- Liaison for Victim with FAP Case Managers (Occasionally Command)

What is Child Abuse?

- Physical Abuse
- Sexual Abuse
- Emotional Abuse
- Neglect



A Word on Spanking



FAP Case Management

- Receives case and makes notifications
- Conducts psychosocial assessments
- Collaborates with Victim Advocate (VA) to ensure safety planning
- Collaborates with Command
- Communicates with CPS
- IDC and CCSM
- "Met Criteria" cases remain open for a year.

Prevention and Education

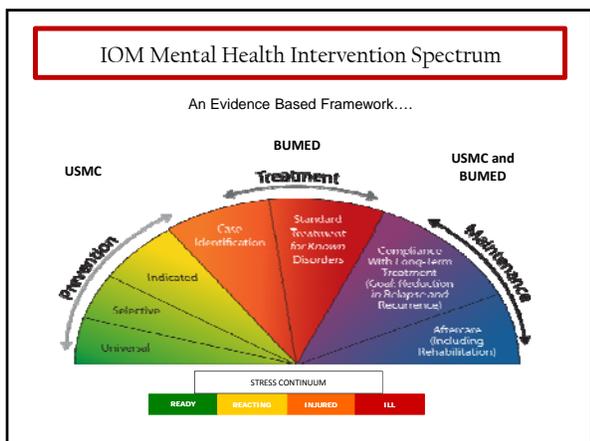
"Left of the Boom"

2011 - Behavioral Health Program (BHP) and Structure Begins for Marine Corps

The Marine Corps BHP and structure will be created to serve as a single point of advocacy to meet the dynamically changing and complex needs of Marines and their families.

The Way-Forward

- Adopt, Implement, and Sustain Evidence Based Practices
- Implement the Institute of Medicine (IOM) Mental Health Intervention Spectrum



Evidence-Based

- Rigorous evaluations with positive results
- Comparison groups
- Expert evaluation
- Program endorsed by federal agency or respected research agency

MARRIED AND Loving It!

- Evidence-Based
- 5 Weeks (2 Hour Sessions)
- Offered once a quarter

Real Colors Real Stress



- Evidence-based
- 1 Session (4 hours) or 2 Sessions (2 hour sessions)
- Instructor must be certified as a Cognitive Training Facilitator
- Offered monthly

Century Anger Management



- Evidence-based
- 8 Weeks (2 Hour Sessions)
- Can refer clients to Henderson Hall
- Scheduled to Debut Spring 2013

Adult Crossroads (Parenting)

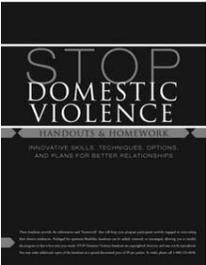


- Evidence-based
- 6 Weeks (2 hour sessions)
- Instructor must be certified as a Cognitive Training Facilitator
- Will offer 1stQ and 3rdQ FY13



- Evidence-based
- 3 Weeks (2 hour sessions)
- Will offer 2ndQ and 4thQ FY13

STOP – Skills Techniques Options Plans



- Evidence-based
- 16 Weeks (2-3 hour sessions)
- Should be instructed by licensed clinician
- Pilot site for HQ

Other Educational Opportunities

- WAKE (Women's Awareness Knowledge and Education) (12 weeks)
- Co-Parenting and Divorce
- SAFE (Stop Abuse with Family Education)
- Window Between Two Worlds (Children)



Stay Connected

- Monthly Newsletters via email or webpage
- www.quantico.usmc-mccs.org/FAP/index.cfm
- www.facebook.com/QuanticoFAP
- 2034 Barnett Avenue/Little Hall
- 703.784.2570

QUESTIONS?

ANNEX E:

Transitional Compensation and Other Available Assistance



TRANSITIONAL COMPENSATION FOR ABUSED FAMILY MEMBERS

Mary Skinner-Vance, LCSW, LMHC
Family Advocacy Program Manager

TRANSITIONAL COMPENSATION FOR ABUSED FAMILY MEMBERS (TCAFM)

- Congressionally mandated program
- Benefits for 12 to 36 mos
- For family members that have experienced abuse
- Meant to ease the unexpected transition from military to civilian life



TRANSITIONAL COMPENSATION

Eligibility Requirements:

- Service member was separated from service for DV either by Court-Martial sentence or Administrative Board.
- Service member must have served at least 30 days on active duty.
- Criminal offense is against either the spouse or the dependent child.

TRANSITIONAL COMPENSATION

Eligibility Requirements:

- The dependent (spouse/child) must have either been living in the home or married to the service member when the incident occurred.
- The spouse and/or child(ren) are no longer residing with the service member.
- For child only cases, the spouse was not an active participant in the child abuse
- The spouse has not remarried.

TRANSITIONAL COMPENSATION

Benefits include:

- Medical Care (dental is on space available basis)
- Commissary and Exchange privileges
- New ID cards
- Direct Deposit through DFAS (required)
- Payment on the first of each month

APPLICATION PROCESS

- Victim Advocate is responsible for assisting clients in applying for Transitional Compensation and coordinating with HQ
- The Victim Advocate portion of the FAP case remains open during the application, regardless of the status of the FAP case

APPLICATION PROCESS

Forms to be completed:

- DD Form 2698, Application for Transitional Compensation
- SF 1199A, Application for Direct Deposit
- Acknowledgement of Actions Form
- Headquarters Cover Letter
- Proof of administrative separation or results of a court martial
- Any additional documentation to support claim

APPLICATION PROCESS

- Can take btwn 4-6 wks to get HQ approval
 - May take another 4 weeks for DFAS/DEERS to be updated and 1st payment to be received
 - Payments are back dated to the date of separation for the SM
- Exception packages take much longer. Those packages must be forwarded to SECNAV for approval after approval from HQMC

ANNEX F:

Legal Assistance Attorney VWAP Roles





LEGAL ASSISTANCE FOR VICTIMS OF CRIME

Mary Hostetter
Head, Legal Assistance
Judge Advocate Division
Headquarters Marine Corps
December 2012



REQUIREMENT TO PROVIDE LEGAL ASSISTANCE TO VICTIMS OF SEXUAL ASSAULT

NDAF FY12, sec. 581 amended Title 10 by adding sec. 1565b

- A member of the armed forces, or a dependent of a member, who is the victim of a sexual assault will be provided Legal Assistance(LA) by LA Counsel pursuant to 10 U.S.C. sec. 1044.
- Victim must be informed of availability of assistance as soon as he/she 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 available regardless of restricted/unrestricted nature of report.

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EXPANDED TO VICTIMS OF ALL CRIMES

- OSD (P&R) memo 17 Oct 11
 - Expanded to victims of all crimes who are otherwise eligible for legal assistance
 - Directed Services to do it
 - Listed topics LA attorneys address with victims (which were already authorized under LA Program)
- JAGINST 5800.7F (JAGMAN), para. 0707
 - Categorized as Tier I LA Service = high priority

3



TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

1. Victim/Witness Programs.

- Rights and benefits afforded the victim of sexual assault, domestic abuse, or other crimes
- Extent of privileged/confidential communications between victim, Victim Advocate (VA), LAA, and others
- Difference between restricted and unrestricted reports

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

- Restricted Reporting
 - 10 USC sec 1565b - Sexual Assaults - Pursuant to DoD regs, to whom the victim may confide and still get support services w/o initiating official investigation:
 - A Sexual Assault Response Coordinator (SARC)
 - A Sexual Assault Victim Advocate (VA)
 - Healthcare personnel specifically identified in the regulations

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

- Military Regulations (there are exceptions):
 - SAPR Program - Victim of sexual assault by someone other than spouse or intimate partner, adult victim may confide in:
 - SARC
 - SAPR VA
 - Healthcare Personnel
 - FAP - Child and Domestic Abuse (includes sexual and non-sexual abuse), adult victim may confide in:
 - FAP Clinician
 - VA or VA Supervisor
 - DoD Healthcare Provider

NOTE: LA Attorneys are NOT in this group, but attorney/client privilege and confidentiality apply - LA personnel will not inform others that a victim asked for legal assistance services.

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

2. The military justice system, including the roles and responsibilities of the trial counsel, defense counsel, and investigators. Include the ability of the government to compel cooperation and testimony:

- MRE 504 – Person has privilege to refuse to testify against spouse; ... except when one spouse charged with crime against other spouse (or child of either)

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

- MRE 514 – Victim Advocate/Victim Privilege – Victim has right to refuse to disclose and to prevent any other person from disclosing a confidential communication made between victim and victim advocate in case arising under UCMJ if communication made for purpose of facilitating advice or supportive assistance to the victim (there are exceptions)
 - “Victim” is person who suffered direct physical or emotional harm as result of sexual or violent offense
 - “Victim Advocate” is person who is designated in writing as a VA; authorized to perform VA duties IAW service regs and is acting in performance of those duties; or certified as a VA pursuant to federal or state requirements

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

3. Services available from appropriate agencies or offices for emotional and mental health counseling and other medical services.
4. The availability of and protections offered by civilian and military restraining orders.
5. Transitional compensation benefits established in 10 U.S.C. sec. 1059/other state and federal victims' comp. programs.

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TOPICS LA ATTORNEYS ADDRESS WITH VICTIMS

6. Traditional forms of legal assistance involving subjects such as leases, taxes, consumer affairs, wills, and powers of attorney.
7. Other additional rights/benefits per military regulations.

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VICTIM INTAKE AT LA OFFICES

- Judge Advocate Division, Legal Assistance Branch (JAL), Memo of 27 Sep 12 – to all LA offices:
 - LA office personnel DO NOT make the determination whether a person is a “victim”
 - The person’s assertion that they are a victim is controlling
 - EVERY victim coming to LA office will be given a standardized, JAL-approved, Victim of Crime Acknowledgement of Limited Legal Assistance Services and Scope of Services form on LA office letterhead
 - To inform victims of limited services that LA offices provide
 - To ensure they understand LA attorneys do not represent them for purposes of military justice and/or civilian criminal proceedings

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VICTIM INTAKE AT LA OFFICES

- The LA office will also have a general information handout to give victims that includes installation support agency contact information and names of points of contact
- If the victim wants to speak to a LA attorney:
 - He/she fills out standardized LA Client Intake Questionnaire
 - Under list of issues to discuss with attorney, victim checks “crime victim assistance”
 - Does not have to discuss specifics with intake personnel
- Intake personnel conduct conflicts of interest check

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VICTIM INTAKE AT LA OFFICES

- If the office has already provided LA to an opposing party on the same or substantially the same matter ("conflict"), the LA office staff will
 - Inform the Head of LA office
 - Use maximum efforts to locate another LA office that can accommodate the victim
 - Annotate to whom victim is referred or if victim declined referral
- Many times, LA clients first identify themselves as a "victim" when talking with a LA attorney about other legal issues (i.e. separation and divorce)
 - The LA attorney ensures the victim gets the Acknowledgement and Scope of Services form and general information handout

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VICTIM INTAKE AT LA OFFICES

- Active duty Marine Corps victims charged with a violation of the UCMJ will be referred to the nearest USMC Defense Services Organization (DSO) branch office for legal advice
 - LA attorney may provide legal advice on other LA issues but will not advise on this criminal matter

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INFORMING VICTIMS OF LA COUNSEL AVAILABILITY

- VA's/SARC's/ other support services providers
 - Inform victims of LA availability at your installation
 - Reinforce with them that LA services are confidential, but that victims may not make "restricted reports" to a LA attorney

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ANNEX G:

Court-Martial Process Overview and MRE 514 Victim Advocate – Victim Privilege



An Overview of
The Court-Martial Process

Marine Corps TCAP



Class Agenda

- Overview of Court Martial Process
 - Types/anatomy/process of courts-martial
 - Role of the prosecutor (trial counsel), defense counsel, and military judge
 - Court-martial members (the jury)
 - Verdict and sentence
- MRE 514

Legal References

- UCMJ
- JAGMAN
- LEGALADMINMAN

Types of Courts-Martial



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

Getting Started



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

From RLS to Referral



- Once the law center receives an RLS, the trial counsel will prefer charges.
 - Trial Counsel should contact victim for interview. Victim Advocate involved and may be present if victim requests.
- Article 32 Investigation (req for GCM only)
 - In most cases victim will testify.
 - Investigating officer makes report and recommendation
- Convening Authority may refer charges to GCM .

Trial Process / Anatomy

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

* Victim may be excluded from the court-room

Role of the Trial Counsel

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

Role of the Defense Counsel

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

Role of the Military Judge

- The military judge will be an officer (Major – Col) with trial experience.
- The Military Judge does not take sides.
- 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.

Pre-trial 39a Sessions

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

Members (a.k.a. The Jury)

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

Verdict and Sentence



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

Pretrial Agreements



- “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 - examples:
 - Right to a trial
 - Right to confront witnesses
 - Right to sentencing by members
 - Other administrative processes (AdSep, Appellate Leave)
 - Convening Authority agrees to limit accused’s exposure to types of punishment and other miscellaneous protections as negotiated – examples:
 - Cap on confinement or reduction in rank
 - Plea not-guilty to certain charges, dismiss with prejudice (eventually)
- Victims have the right to be consulted with prior to a Convening Authority agreeing to terms (new JAGMAN provision in 2012).

MRE 514 Victim Advocate – Victim Privilege

Background

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

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The Privilege

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

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Who Claims Privilege?

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

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Who Claims Privilege?

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

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What Info is Protected?

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

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Exceptions

- 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**

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Exceptions

- 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, or accomplishment of a military mission
- **Necessary to ensure safety of any other person** (including the victim) when a VA believes that **victim's mental or emotional** condition makes the victim a danger
- Admission or disclosure is **constitutionally required**

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MRE 514 – Practical Effects

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

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MRE 514 – Practical Effects

- Inform victim of privilege, but clearly discuss the potential that their records could get released
- Privilege will operate similarly to MRE 513 (Psychotherapist-Patient Privilege)
- Affects **admissibility** of records and statements made prior to 12 January 2012

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MRE 514 and Reporting

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

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MRE 514 and other matters

- 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**, but victim and LA attorney have attorney-client privilege (MRE 514 (b)(3))
- VA-V privilege **does not protect all communication**, such as: exculpatory information, information about future crimes or for the safety of victim, military personnel, dependents, or property (MRE 514 (d) (2), (3) and (4))

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QUESTIONS?



ANNEX H:

PSL Corrections



 **VICTIM / WITNESS ASSISTANCE PROGRAM** 

**Corrections Section (PSL Corrections)
Law Enforcement and Corrections Branch
Security Division, PP&O
Headquarters, U.S. Marine Corps
2 Navy Annex Room 3310
Washington, DC 20380-1775
Commercial: (703) 614-1480/2095**

 **AGENDA** 

- References
- VWAP Mission Statement
- CMC PSL Corrections Responsibilities
- Proposed Changes to DD 2704 (Victim/Witness Certification and Election Concerning Prisoner Status)
- 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."



**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.



PROPOSED CHANGES TO DD 2704



- DoD Corrections Council has established a sub working group to revise all Corrections related DoD forms in order to standardize and update them.
- The updated DD 2704 will provide the trial counsel the ability and right to initial for those victims and witnesses that depart immediately after testifying



PROPOSED CHANGES TO DD 2704



NEEDS DD 67

NEEDS DD 67 is a form used to document the needs of victims and witnesses in military criminal cases. It is used to identify the needs of victims and witnesses and to ensure that they are provided with the necessary support and services. The form is used by the trial counsel to document the needs of victims and witnesses and to ensure that they are provided with the necessary support and services.

NEEDS DD 67

NEEDS DD 67 is a form used to document the needs of victims and witnesses in military criminal cases. It is used to identify the needs of victims and witnesses and to ensure that they are provided with the necessary support and services. The form is used by the trial counsel to document the needs of victims and witnesses and to ensure that they are provided with the necessary support and services.



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BRIG RESPONSIBILITIES



➤ VVAP file shall be maintained separately by the appointed VVAP 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



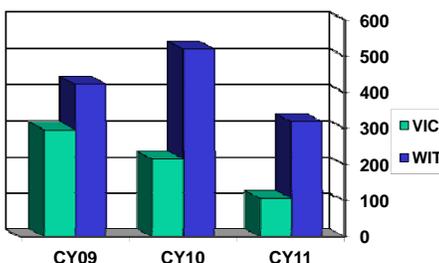
VICTIMS/WITNESSES ENROLLED IN PROGRAM



CY 2009
Victims = 296
Witnesses = 422

CY 2010
Victims = 215
Witnesses = 519

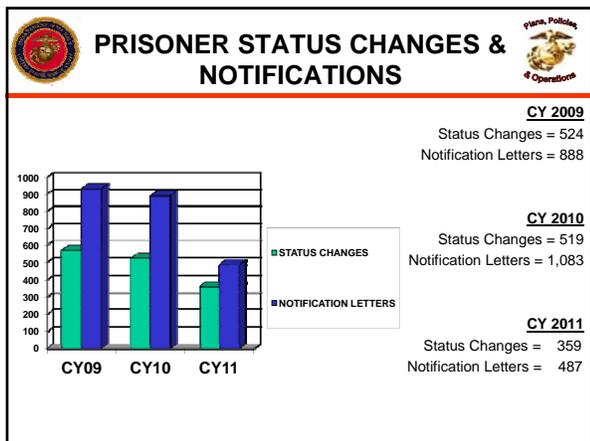
CY 2011
Victims = 106
Witnesses = 319

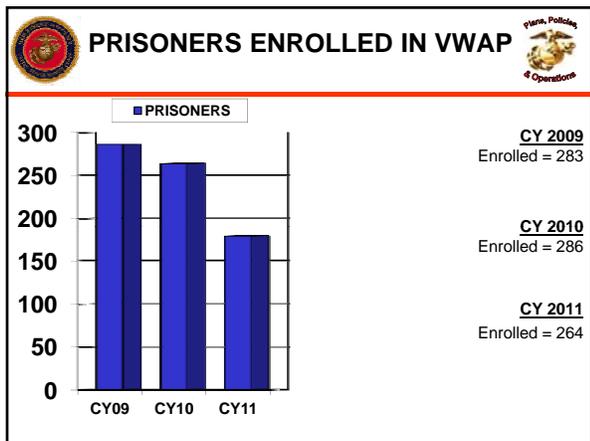


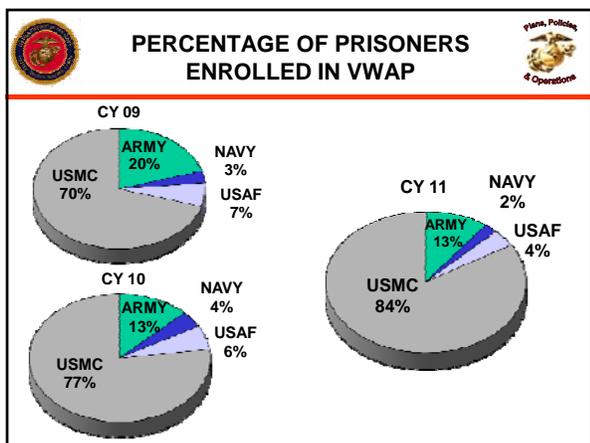
Year	VIC (Victims)	WIT (Witnesses)
CY09	296	422
CY10	215	519
CY11	106	319

SSGT LEE, HQMC, PSL CORRECTIONS

5







 **HOW CAN YOU HELP?** 

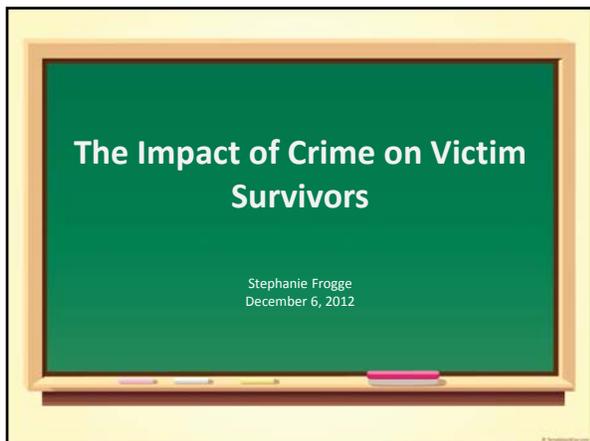
- Continue to ensure complete and accurate DD Form 2704's:
 - Enables timely notifications to be made to victims and witnesses
 - Fulfills the purpose of the VWAP program
- Process for incomplete, incorrect, or undelivered DD 2704's:
 - Brig attempts to rectify discrepancies through trial counsel
 -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

ANNEX I:
**Impact of Crime on Victim
Survivors**





Learning Objectives

- Identify the immediate-, short- and long-term psychological impact of criminal victimization
- Describe key aspects of the physical, spiritual, social and financial impact of crime on victim survivors
- Describe measures that can empower victim survivors to participate
- Identify the role of military service providers



Things to Think About

- More than half of victim survivors *know* their offenders
- Not *all* victim survivors report crimes to law enforcement
- Many non-reporting victim survivors still seek support and services
- Many reporting victim survivors may have prior victimizations / trauma history

And the System Asks Them To:

- Purposefully think about the criminal act
- Discuss what happened in intimate detail
- Confide in people they do not know / in a public setting
- Face the alleged or convicted perpetrator
- Participate in a process they may not understand, and in which they may be unwilling participants



By Recognizing and Addressing Victim Trauma We Can Potentially:

- Increase capacity to report crimes and cooperate.
- Enhance ability to effectively participate as witnesses.
- Affect overall perception of the DoD & MJS.
- Increase input into plea agreements, VIS, and seeking services.
- Enhance capacity to provide information critical to offender management.
- Avoid secondary trauma.

Considerations for Helpers

- Every *victim* is unique.
- Every *case* is unique.
- Helpful responses must be:
 - Tailored to individual needs
 - Culturally competent
 - Collaborative – likely involving both military and civilian agencies and organizations.





Just World Theory

- Bad things won't happen to us
- The world is orderly and meaningful
- We see ourselves and our actions in a positive light



Janoff-Bulman & Frieze

Expectations of Victim Survivors

- To be treated with respect / as an adult
- That their harm be acknowledged
- To receive information



Predictors of Trauma-related Stress

- Degree of life threat
- Bereavement
- Speed on onset
- Duration of trauma/injury
- Displacement from home community
- Potential for recurrence
- Exposure to death, dying, destruction

But...My Trauma Isn't Necessarily Your Trauma

- Any situation for which a person doesn't have adequate coping skills
- An event that requires a person to adjust and adapt to an unpredicted situation
- An event outside the range of normal human experience

Basic Survival Needs

- Safety
- Food
- Shelter
- Minimal resources (clothing, personal hygiene, etc.)
- Transportation
- Social support
- Income



Immediate and Short-term Reactions

- Shock, surprise and terror that the crime happened.
- Feelings of unreality.
- High levels of physiological anxiety.
- Continued symptoms of anxiety.
- People who have been victimized in the past are at greater risk of developing emotional problems than the first-time victimized.

Immediate and Short-term Trauma Reaction - Examples

- Preoccupation with the crime.
- Concerned about their safety and that of their loved ones.
- Concerned that they will not be believed, and be blamed.
- Negative changes in belief systems.
- Hyper-vigilance (especially in chronic trauma)



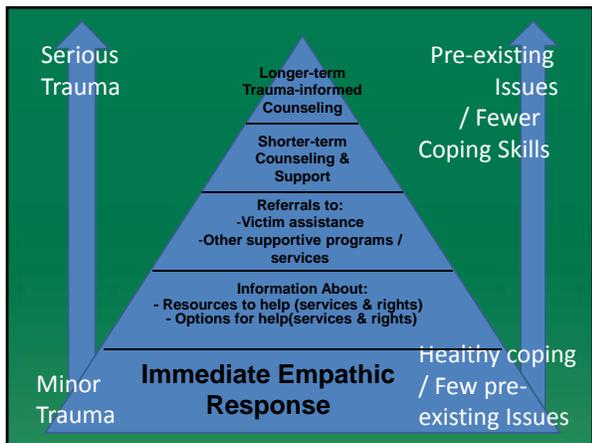
Long-term Trauma Reactions

- Major depression.
- Thoughts of suicide and suicide attempts.
- Use/abuse of alcohol and other drugs.
- Ongoing problems with relationships.
- Anxiety disorders.
- Changing view of the world as "a safe place."
- Increased risk of further victimization.
- Post-traumatic Stress Disorder (PTSD).

Keep in Mind

- Not *all* victim survivors endure significant trauma in the aftermath of crime.
- The range of reactions often depends upon pre- and post-victimization factors, and factors related to the crime.
- An *immediate* and *ongoing* sensitive response always benefits victim survivors!
- *Ask* what would be most helpful.





Potential Challenges

- Pre-existing relationship between victim and perpetrator
- Feelings of not being believed
- Correlating factors in many sexual assault cases
- Much case work takes place over the phone
- Difficulties in trial preparation and participation



Complicating Factors in Homicide

- Sexual assault either before or after
- Torture / mutilation of the body
- Multiple offenders
- Multiple victims
- Survivor witnesses

Usefulness of Counseling

Pre-victimization Factors:

- No consistent finding with respect to demographic characteristics.
- Prior victimization history increases trauma following a new crime.
- History of prior mental health problems increases trauma following a new crime, particularly history of PTSD or major depression.



Usefulness of Counseling

- **Crime Factors:**
 - Life threat and injury increases risk.
 - Violent crimes vs. property crimes.
- **Post victimization Factors:**
 - Poor social support.
 - Degree of exposure to the justice system.

Other Impacts of Trauma

- Physical
- Financial
- Spiritual
- Social



Empowering Victim Survivors

- Put yourself in a victim survivor's shoes:
 - What might they think about the MJS?
 - What "word out" might they have heard?
 - Why might they not want to participate?
- Start at the beginning:
 - First response
 - Coordination between MJS and community-based victim assistance programs
- How are victim survivors viewed and treated as a whole?

Empowering Victim Survivors

- Review your victim information:
 - Sensitive?
 - Clear?
 - Easy to understand?
- Collaborate with allied agencies:
 - CJS agencies (X-jurisdiction cases)
 - Victim services
 - Other community-based services
- Evaluate and seek feedback

Empowering Victim Survivors

- Learn about victim services:
- Get trained!:
 - Victim survivor trauma
 - Victim survivors' major needs
- Over 10,000 system- and community-based victim assistance programs
- The role of victim advocates
- Office for Victims of Crime portal: www.ovc.gov



TAKE CARE OF YOURSELF!

- Secondary traumatic stress has significant repercussions when left unaddressed.

ANNEX J:
**Communicating with Victim
Survivors**



**COMMUNICATING WITH
VICTIM SURVIVORS**

Stephanie Frogge
December 6, 2012

SESSION GOALS

- ◉ Identify challenges to talking with victims
- ◉ Identify how to encourage effective communication
- ◉ Learn practical tips about talking to victims

D&D 2011 2

**"Victims remember
two things: those who
help, and those who
hurt."**

- Cheryl Ward Kaiser

D&D 2011 3

COMMUNICATING WITH VICTIM SURVIVORS

- ◉ Difficult interviews with victim survivors:
 - Who are angry, confused, highly traumatized or don't want to talk to you
- ◉ Limited information:
 - On what you can tell the victim
 - On what the victim can tell you
- ◉ Stressful to you:
 - Vicarious trauma

Du0 2011

4

NON-VERBAL COMMUNICATION

- ◉ Setting
- ◉ Attending Behaviors
- ◉ Body Language



THE SETTING

- ◉ Comfort
- ◉ Quiet
- ◉ Minimizing Distractions

ATTENDING BEHAVIORS

- ◎ Specific gestures
- ◎ Your presence

NON-VERBAL COMMUNICATION

WORDS VS. BEHAVIOR

LAST FEBRUARY AT THE CANADIAN BAR ASSOCIATION'S THREE-DAY MEETING CALLED TO DISCUSS THE SPECIAL PROBLEM OF SEXISM WITHIN THE LEGAL PROFESSION, THE SPONSORS' MAIN SOCIAL EVENT WAS A TOGA PARTY. THE PRESIDENT OF THE BAR CALLED ON "EVERY ADONIS AND APHRODITE TO SLIP ON THAT FAVORITE BED SHEET."

BODY LANGUAGE

SOLER

- ◉ Squarely
- ◉ Open stance
- ◉ Lean forward
- ◉ Eye contact
- ◉ Relaxed

VERBAL COMMUNICATION

- ◉ Reflection
- ◉ The accent
- ◉ Minimal prompts
- ◉ Silence

REFLECTION

◉ Just saying what you think you heard!

- Verbal feedback*
- Reflective / Active listening*
- Summarizing*
- Paraphrasing*

☞ *Take notes. Demonstrates your professionalism and concern, as well as preserves essential information.*

REFLECTION

- “It sounds like...”
- “What I’m hearing you say...”
- “I can see that...”
- “Let me make sure that I’ve...”
- “So what you’re saying is...”

☞ *...and your cell phone is where?*

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ACCENT

Simply repeating one or two words of what was said that seemed significant. May or may not sound like a question.

- “Never?”
- “Two weeks”
- “Both?”
- “A flash”

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MINIMAL PROMPTS

Those little signs that signal “I’m still here and keep going.”

Verbal

- “Uh huh”
- “Yeah?”

Non-verbal

- head nod
- facial expressions

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SILENCE

Just zip it! And practice staying quiet even when the other person has stopped talking.

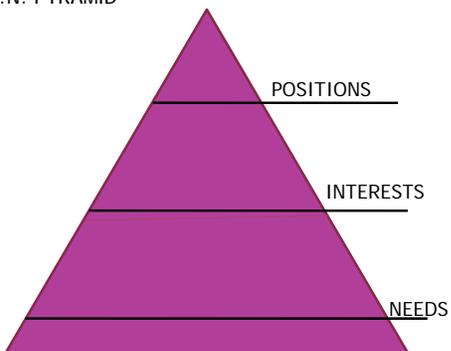
16

VICTIM SURVIVOR COMMUNICATION

- ◎FIRST: Listen
- ◎SECOND: Gather information
- ◎THIRD: Solve problems

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P.I.N. PYRAMID



VICTIM SURVIVOR TRAUMA COMMUNICATION

- ◎ SAFETY AND SECURITY
- ◎ PREDICT AND PREPARE
- ◎ VENTILATE AND VALIDATE

SAFETY AND SECURITY

- ◎ CRISIS “FIRST AID”
 - YOU'RE SAFE NOW
 - IT'S NOT YOUR FAULT
 - I'M SORRY IT HAPPENED
- ◎ CALM, REASSURING AUTHORITY
- ◎ RESTORATION OF CONTROL

SAFETY AND SECURITY

- ◎ Victim survivor safety must be *first priority* of the MJS and service providers
 - Immediate
 - Long-term
- ◎ Victim survivors will not always tell you that they do not feel safe -- it is crucial to ask if they have any safety concerns!
- ◎ Allow the victim survivor to *define the harm*, which contributes to safety/ security responses

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SAFETY AND SECURITY VICTIM PROTECTION MEASURES

- ◉ Immediate, sensitive response by MJS
- ◉ Confidentiality of victim services and requests for MJS interventions
- ◉ Protective orders
- ◉ Cross-agency collaboration
- ◉ Safety plans
- ◉ Offender accountability

USMC FY 11 VICTIM WITNESS ASSISTANCE PROGRAM

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PREDICT AND PREPARE

- ◉ Let them know what's likely going to happen
- ◉ Put things in writing
- ◉ Answer questions honestly
- ◉ "Predictions" versus "Prescriptions"

PREDICT AND PREPARE

- ◉ Recognize most victims *do not* understand the MJS.
- ◉ Provide information about the system:
 - Different agencies and how they interact (if they interact)
 - Key players
 - Respective responsibilities for implementing victims' rights
 - Victim compensation

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PREDICT AND PREPARE

- ◉ A “glossary of terms” is helpful
- ◉ Know all applicable victims’ rights
- ◉ Be willing/able to provide information about and referrals to victim services
- ◉ Explain what you *can* and *will* do. Never assume the victim knows this!
- ◉ Ask how they’ve coped with crises in the past

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VENTILATE AND VALIDATE

- ◉ Allow them to tell their story as needed
- ◉ Accept all feelings without judgment
- ◉ Understand crisis response / reaction
- ◉ “Being” versus “Doing”

VENTILATE AND VALIDATE

- ◉ Understand that the more victims speak about their crimes, the more (and more clearly) they remember details.
- ◉ Validate that *the victim is your client!*
- ◉ Always allow victims to talk, ventilate and express their opinions
- ◉ If you need to set time limits for victim interactions, *help victims make the best use of your limited time together.*

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VENTILATE AND VALIDATE

Questions to aid in ventilation:

- ◉ “How has this crime/ offense affected you and your family?”
- ◉ “Who else have you talked to? Was that helpful?”
- ◉ “What do *you* want to happen?” (*this helps set parameters*)
- ◉ What have you found that helps so far?”
- ◉ Validate victims’ anger directed at the offender, the MJS, and society

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WHAT HELPS

- ◉ Talking about what happened
- ◉ Having our feelings accepted
- ◉ Being with others who have been through something similar

WHAT DOESN'T HELP

- ◉ Cliches
- ◉ Minimization
- ◉ Advice

LIMITS: SURVIVORS WHO MONOPOLIZE

- ◉ “It’ll help both of us if we can identify and focus on your major needs/concerns.”
- ◉ “Thanks for calling. Let’s see if we can identify ways I can assist you.”
- ◉ “I’d like to help you, or figure out who is the best person to help you.”

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LIMITS: SURVIVORS WHO MONOPOLIZE

- ◉ “I only have # minutes. I wish I had more time, but let’s see what we can do to meet your needs in this timeframe.”
- ◉ “I am not a counselor, but can offer you referrals if you need more help.”
- ◉ “My job is to _____. It sounds like you need to talk to someone with the experience to help you. Can I offer you’re a referral?”

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LIMITS: SURVIVORS WHO MONOPOLIZE

- ◉ Search for a “break” in the victim’s conversation with you.
- ◉ Express appreciation for their call:
 - “I’m glad you called....”
 - “The information you’ve given me is helpful.”
 - “Thanks for taking time to share your concerns/issues....”

DoD 2011

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LIMITS: SURVIVORS WHO MONOPOLIZE

- ◉ “As I said earlier, I wish I had more time to speak with you. Since I don’t, is there any final information I should have about.....?”
- ◉ Offer “action steps” that you and/or the victim survivor should take, and/or referrals.
- ◉ If possible, provide a time line for the action steps.
- ◉ Thank the victim survivor for calling.

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LIMITS: SURVIVORS WHO ARE ANGRY

- ◉ Remember how *victim trauma* affects victim reactions and interactions!
- ◉ Focus not just on *that* the victim is angry, but on *what may be causing the anger*.
- ◉ Try not to take it personally – it *isn't!*
- ◉ It just is...you may not have to do anything.

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LIMITS: SURVIVORS WHO ARE ANGRY

- ◉ Validate the victim survivor's anger:
 - “I can tell by your voice that you're pretty upset.”
 - “Let's see if we can *identify* and *address* the issues/concerns that are making you upset.”
- ◉ If you feel you are being verbally abused, seek help from a supervisor.

DvD 2011

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ONE FINAL THOUGHT.....

You may be the *first* person
the victim has spoken to,
or you may be *the most
important person* the victim
needs to talk to!

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ANNEX K:

Sex Offender Registration and Notification Act (SORNA)



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Apprehending, Registering and Tracking

SORNA and the Military

Allison Turkel
Senior Policy Advisor
USDOJ-OJP-SMART Office
202-305-2117
allison.turkel@usdoj.gov
Presented Dec 6, 2012-Quantico, VA

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SORNA

- Sex Offender Registration and Notification Act
- Title I of the Adam Walsh Child Protection and Safety Act
- Passed July 27, 2006
- 42 U.S.C. § 16901 et seq.
- 18 U.S.C. § 2250
- Created the SMART Office

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Office of Sex Offender Sentencing, Monitoring,
Apprehending, Registering and Tracking

The SMART Office

- The Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking
- U.S. Department of Justice, Office of Justice Programs

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Participating Agencies Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking

SMART

- **DOJ**
 - SMART
 - USMS
 - Interpol (USNCB)
 - CEOS
 - FBI/CJIS
- **Defense**
 - Pentagon
 - Army
 - Navy
- **DHS**
 - CBP
 - ICE
 - USCIS
- **State**
 - DSS
 - Visa Services
 - Passport Services
 - BCA

Department of Justice • Federal Bureau of Investigation • State Department

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National Sex Offender 'Registries' Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking

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- National Sex Offender Public Website (NSOPW)
 - Operated and maintained by the SMART Office
 - www.nsopr.gov or www.nsopw.gov
 - Search Engine
- National Sex Offender Registry (NSOR)
 - Operated and maintained by the FBI
 - Law Enforcement Only
 - Actual Database
- There is no Federal Sex Offender Registry

Department of Justice • Federal Bureau of Investigation • State Department

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SMART Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking

Department of Justice • Federal Bureau of Investigation • State Department

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Significant Changes in SORNA

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- "Jurisdiction"
 - States
 - D.C.
 - Territories
 - Indian Tribes**
- "Convictions"
 - All "jurisdictions"
 - Military
 - Federal
 - Foreign

42 USC 16911

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Significant Changes in SORNA

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- Offender must register where
 - Resides
 - Employed
 - Attends School
 - Retroactive
 - Currently incarcerated
 - Supervision of some sort
 - Currently registered
 - Or back into justice system and convicted of any offense (Option to limit to Felony)

42 USC 16911

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Three Tiers of Sex Offenders

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- Conviction Based
- Tier I: Lowest Level. Catch-all covering all convictions for a "sex offense" not covered in Tiers II or III. Registration for 15 years
- Tier II: Mid-Level Registration for 25 years
- Tier III: Highest-Level-Life Time Registration

42 USC 16911

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In Person Verification

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§ 16916. Periodic in person verification

A sex offender shall appear in person, allow the jurisdiction to take a current photograph, and verify the information in each registry in which that offender is required to be registered not less frequently than--

- (1) each year, if the offender is a tier I sex offender;
- (2) every 6 months, if the offender is a tier II sex offender; and
- (3) every 3 months, if the offender is a tier III sex offender.

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§ 2250. Failure to Register

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(a) In General.— Whoever— (1) is required to register under the Sex Offender Registration and Notification Act;

(A) is a sex offender as defined for the purposes of the Sex Offender Registration and Notification Act by reason of a conviction under Federal law (including the Uniform Code of Military Justice), the law of the District of Columbia, Indian tribal law, or the law of any territory or possession of the United States; or

(B) travels in interstate or foreign commerce, or enters or leaves, or resides in, Indian country; and

(3) knowingly fails to register or update a registration as required by the Sex Offender Registration and Notification Act;

shall be fined under this title or imprisoned not more than 10 years, or both.

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Juveniles

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- SORNA will require registration for juveniles at least 14 years old at the time of the offense who are adjudicated delinquent for committing (or attempting or conspiring to commit) offenses under laws that cover:
- Engaging in a sexual act with another by force or the threat of serious violence (see 18 U.S.C. 2241(a)); or engaging in a sexual act with another by rendering unconscious or involuntarily drugging the victim (see 18 U.S.C. 2241(b)).
- “Sexual act” for this purpose should be understood to include any degree of genital or anal penetration, and any oral-genital or oral-anal contact

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Juveniles

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- The only 'exception' is the so-called "Romeo and Juliet" clause, whereby the Act makes clear that SORNA will not apply to offenses involving consensual sexual activity between a victim who is at least 13 years old and an offender not more than 4 years older than the victim
- Sexting?

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Required Information—to Collect

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Acknowledgement Form
- Criminal History
- Date of Birth
- DNA Sample
- Driver's License or Identification Card
- Employer Address
- Fingerprints
- Internet Identifiers
- 21 day Notice Intr'l Travel
- Name
- Palm Prints
- Passport and Immigration Documents
- Phone Numbers
- Photograph
- Physical Description
- Professional Licensing Information
- Resident Address
- School Address
- Social Security Number
- Temporary Lodging Information
- Text of Registration Offense
- Vehicle Information

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Public Website Required Information

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Current Offense & Prior Sex Offenses
- Employer address
- Name
- Photograph
- Physical description
- Resident Address
- School address
- Vehicle(s) license plate number and description

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Mandatory Exemptions from Public Website

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- Victims Identity
- SS # of offender
- Arrests that did not result in conviction
- Passport and immigration identifiers
- Internet Identifiers (Kids Act)(Supplemental Guidelines)

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Residency Restrictions

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- Residency restrictions and safety zones are NOT part of the Adam Walsh Act. All such restrictions are the result of jurisdictional or local legislation, not federal law or the Adam Walsh Act.

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42 USC § 16925

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- (a) In general. For any fiscal year after the end of the period for implementation, a jurisdiction that fails, as determined by the Attorney General, to substantially implement this title shall not receive 10 percent of the funds that would otherwise be allocated for that fiscal year to the jurisdiction under [Byrne-JAG Grant Funds]

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Non-P.L. 280 Tribes

42 U.S.C. § 16927

- If the Attorney General determines that a tribe
 - Has not substantially implemented SORNA; and
 - Is not likely to become capable of doing so within a reasonable amount of time;
 - Then delegation to the state.

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Implementation Update

- 43 Jurisdictions have been found to have Substantially Implemented.
- 15 States
- 2 Territories
- 26 Indian Tribes

 Domestic Violence • Public Safety • Public Health WWW.SMART.GOV

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Military

- No Separate Federal sex offender registration program
- No Military sex offender program***
- Provisions contained in 18 U.S.C. 4042(c) and 1159(a)(8)(c) of Public Law 10-119. Direct Federal military and correctional personnel to inform offenders of obligation to register.

 Domestic Violence • Public Safety • Public Health WWW.SMART.GOV

Military

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Offenders must comply:
- Where reside, are employed or attend school
- Per 18 U.S.C. 3563(a)(8), 3583(d), 4209(a) and prosecuted under 18 U.S.C. 2250.
- . In addition, SORNA also indicates that qualifying "criminal offenses" include those "specified by the Secretary of Defense [SECDEF] under section 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C. 951 note) . . ." 42 U.S.C. § 16911(6). The SECDEF has identified qualifying offenses in Department of Defense Instruction (DODI) 1325.7, *Administration of Military Correctional Facilities and Clemency and Parole Authority* (17 Jul 2001)

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United States v. Taylor, 644 F.3d 573

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Taylor was serving in the Navy when he was charged with forcible sodomy in violation of the Uniform Code of Military Justice (UCMJ), [10 U.S.C. § 925](#). He pleaded guilty, and a general court-martial sentenced him to seven months in prison.
- Taylor registered as a sex offender in 2003 and listed an address in East St. Louis as his residence. In 2006, the Illinois State Police discovered that Taylor was no longer residing at his registered address and that he had not updated his registration to reflect this change. Despite many attempts, authorities did not locate Taylor until early 2010.

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United States v. Taylor, 644 F.3d 573

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- Taylor was convicted under [10 U.S.C. § 925](#), a statute that prohibits sodomy in all its forms.
- In April 2010, Taylor pleaded guilty to failing to register as a sex offender. While released on bond and awaiting sentencing, Taylor again changed residences without updating his sex offender registration or notifying the United States Probation Office

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United States v. Taylor, 644 F.3d 573 Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking **SMART**

- The Sex Offender Registration and Notification Act requires sex offenders to register in the jurisdictions in which they live, work, or go to school. [18 U.S.C.S. § 2250](#). The term "sex offender" is defined as an individual who was convicted of a sex offense. [42 U.S.C.S. § 16911](#). A sex offense is a criminal offense that has an element involving a sexual act or sexual contact with another, and a criminal offense is a State, local, tribal, foreign, or **military offense (to the extent specified by the Secretary of Defense under § 115(a)(8)(C)(i) of Public Law 105-119 (10 U.S.C.S. § 951 note))**.
- SORNA requires individuals who are convicted of certain sex offenses under the UCMJ—including forcible sodomy—to register as a sex offender

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United States v. Taylor, 644 F.3d 573 Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking **SMART**

- Courts-martial recognize the offense of "forcible sodomy." See, e.g., [United States v. Rangel, 64 MJ. 678, 684 \(AF. Ct. Crim. App. 2007\)](#) (explaining that force is an element of the offense of "forcible sodomy"). According to the Manual for Courts- Martial, "[t]hat the act was done by force and without the consent of the other person" may be added as an "element" under [UCMJ Article 125](#), as applicable. Manual For Courts- Martial United States, pt. IV, ¶ 51(b) (2008).

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United States v. Taylor, 644 F.3d 573 Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking **SMART**

- Issue raised on what material the Ct. could review to determine what offense specifically convicted of, so that could Tier per SORNA and to set sentence.
- Defendant challenged approach court utilized called "modified categorical approach"
- When a statute proscribes multiple types of conduct, some of which would constitute a violent felony and some of which would not, a judge may examine a "limited range of additional material" in order to determine whether the defendant pleaded guilty to the portion of the statute that constitutes a violent felony

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United States v. Taylor, 644 F.3d 573  Office of Sex Offender Sentencing, Monitoring, Apprehending, Restraining, and Tracking

- Given the facts that defendant committed a very serious sex offense and intentionally refused to register as a sex offender for seven years, then, while out on bond for failing to register as a sex offender, he again changed residences without updating his registration, the circuit court could not say that defendant had overcome the presumptive reasonableness of his sentence.



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United States v. Santana, 584 F. Supp. 2d 941, Oct 31, 2008  Office of Sex Offender Sentencing, Monitoring, Apprehending, Restraining, and Tracking

- Defendant was convicted of two (2) sexual offenses under the UCMJ. Defendant is therefore subject to the SORNA registration requirements due to his convictions for which he was afforded the procedural safeguards to contest. As such, his procedural due process rights have not been violated by requiring him to comply with the SORNA registration requirements in light of those convictions. Thus, the Court finds that SORNA's application to Defendant is constitutionally firm.
- SORNA explicitly applies to persons with convictions under the UCMJ. See [18 U.S.C.A. § 2250\(a\)\(1\),\(2\)\(A\)](#). Specifically, [§ 2250](#) states that a sex offender as defined by SORNA is one who was convicted under federal law, which includes the UCMJ. [18 U.S.C.A. § 2250\(a\)\(2\)\(A\)](#). Thus, SORNA's requirements turn on an offender's conviction alone. See [Conn. Dep't of Pub. Safety, 538 U.S. at 7](#).



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Constitutionality  Office of Sex Offender Sentencing, Monitoring, Apprehending, Restraining, and Tracking

- Furthermore, requiring sex offenders to comply with registration requirements serves the government interest by "protect[ing] the public from sex offenders," [42 U.S.C.A. § 16901](#), and it is not "intended to injure in some way unjustifiable by any government interest." [Coleman v. Dretke, 395 F.3d 216, 224-25 \(5th Cir. 2004\)](#).
- The Act, therefore, does not violate substantive due process. See *id.* (finding Texas's sex offender registration and therapy requirements do not violate substantive due process rights).



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State not Implemented Yet **SMART**
Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

- In his second due process challenge, Defendant argues that he cannot be prosecuted for failure to register in compliance with SORNA, because Texas has not yet implemented SORNA. The Government counters that Defendant's requirements are in no way dependent on Texas' implementation of SORNA. The Court agrees with the Government

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No Problem **SMART**
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- First, the Supreme Court has clarified that "absent a clear direction by Congress to the contrary, a law takes effect on the date of its enactment." [Gozlon-Peretz v. United States, 498 U.S. 395, 404, 111 S. Ct. 840, 112 L. Ed. 2d 919 \(1991\).](#)
- Congress enacted SORNA for the specific purpose of "establishing a comprehensive national system for the registration of [sex offenders]." [42 U.S.C.A. § 16901.](#) Delayed execution based on state implementation would frustrate the stated purpose. In fact, in no way does SORNA contemplate that individual requirements would be delayed in such a manner.

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Sex Offenders **SMART**
Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

- Furthermore, as SORNA pertains to sex offenders convicted under federal law--as is Defendant's case, "SORNA's direct federal law registration requirements for sex offenders are not subject to any deferral of effectiveness," regardless of a three-year grace period for jurisdictions implementing SORNA's requirements. [Applicability of SORNA, 72 Fed. Reg. at 8895](#)

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Where oh Where?

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Second, all states, including Texas, have sex offender registration programs in place.
- SORNA similarly requires that federal and military sex offenders be "integrated into the sex offender registration programs of the States." See [The National Guidelines for SORNA, 72 Fed. Reg. at 30229](#). Accordingly, offenders such as Defendant "are required to comply with the SORNA registration requirements in the jurisdictions in which they reside" and "may be prosecuted under [18 U.S.C. § 2250](#) if they fail to do so."

Wisconsin • Minnesota • Ohio • Michigan

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Released-Did He Get Notice?

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- To be convicted under [18 U.S.C. § 2250](#), a defendant must "knowingly fail[] to register or update a registration as required by [SORNA]." [18 U.S.C.A. § 2250\(a\)\(3\)](#).
- Here, Defendant signed **DD Form 2791** after SORNA's enactment and before he was released from prison. DD Form 2791 states, "I hereby acknowledge that I was informed that upon my release from confinement . . . , I am subject to registration requirements as a sex offender in any State . . . in which I will reside, be employed, carry on a vocation, or be a student." DD Form 2791 also specifies that an offender must change or update registration information as required under the state sex offender registration program or be subject to criminal prosecution.

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DD Form 2791

Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking

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- Most recent 2003?
- Being updated to include all jurisdictions and more explicit notice
- Provided

Wisconsin • Minnesota • Ohio • Michigan

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Who Has to Tell That a Conviction May Result in Registration Requirements?

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- *UNITED STATES, Appellee v. Timothy E. MILLER, Interior Communications Electrician Third Class U.S. Navy, Appellant 63 M.J. 452; 2006 CAAF LEXIS 1196*
- Defendant in a general court martial plead guilty to offenses related to downloading CP.
- Asserts he received ineffective assistance of counsel because not advised by trial counsel that he would have to register as a sex offender as a result of his guilty plea.

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- Appellant asserts that upon his final release from confinement, a brig transition counselor informed him for the first time that he would be required, under Texas law, to register as a classified sex offender for the remainder of his life
- Appellant asserts that he would not have pled guilty to child pornography if he had known that the mandatory sex offender requirement applied to him.

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- Appellant states that upon his release from military service and his return to Texas, he was required by Texas law to register as a sexual offender.
- Appellant was convicted of violating the Texas sex offense registration statute and was sentenced to three years incarceration in the Texas prison system.
- Appellant complained that no one in the military advised him of the time requirements for registration as a sexual offender or that failure to comply with the Texas law was a felony.

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- Issue was with trial counsel and with appellate counsel
- Appellate defense counsel must comply with the fundamental duty to communicate effectively with the client.

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- However, in the military justice system, there is a special duty of the appellate defense counsel to afford an accused the opportunity to raise issues.
- In the present case, Appellant did not identify specific issues that he wished his appellant defense counsel to raise at the lower court.
- Appellate defense counsel notified Appellant in a letter dated July 16, 2004, that he had been assigned as Appellant's appellate defense counsel. In this letter, appellate defense counsel also explained that he would review the record of trial to determine if any prejudicial error occurred during the court-martial and that he intended to file a pleading with the lower court

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- A collateral consequence is "[a] penalty for committing a crime, in addition to the penalties included in the criminal sentence."
- In the present case, the requirement that Appellant register as a sexual offender is a consequence of his conviction that is separate and distinct from the court-martial process.
- Court found that Appellant's assertions in Issue I are without merit

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- Did the Appellant receive ineffective assistance of trial defense counsel
- There is no need to look further than the first prong of the *Polk* analysis above to determine that Appellant did not receive ineffective assistance of trial defense counsel.
- The requirement of registering as a sex offender is a serious consequence of a conviction, trial defense counsel's failure to advise Appellant of this consequence does not rise to the level of ineffective assistance of counsel.

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BUT WAIT>>>>

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- Given the plethora of sexual offender registration laws enacted in each state, it is not necessary for trial defense counsel to become knowledgeable about the sex offender registration statutes of every state.
- However, we do expect trial defense counsel to be aware of the federal statute addressing mandatory reporting and registration for those who are convicted of offenses within the scope of this statute

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- Also, we expect counsel to be aware of DoD Instr. 1325.7, which identifies offenses that trigger mandatory sex offender reporting. The operation of this statute and instruction may have an impact on an accused's decisions both before and at trial, and on an accused's legal obligations after conviction
- In light of the federal statute, DoD Instr. 1325.7, and state statutes requiring sex offender registration, we conclude that a prospective rule is appropriate to address the importance of trial defense counsel explaining the sex offender registration requirement to an accused. For

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THE RULE **SMART**
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- For all cases tried later than ninety days after the date of this opinion, trial defense counsel should inform an accused prior to trial as to any charged offense listed on the DoD Instr. 1325.7 Enclosure 27: Listing Of Offenses Requiring Sex Offender Processing.
- Trial defense counsel should also state on the record of the court-martial that counsel has complied with this advice requirement.
- While failure to so advise an accused is not per se ineffective assistance of counsel, it will be one circumstance this Court will carefully consider in evaluating allegations of ineffective assistance of counsel.

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DoD Instruction 1325.7 Enclosure 27: **SMART**
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- Newest issued November 16, 2009
- Being updated
- Offenses Listed Before October 1, 2007
- Offenses Listed After October 1, 2007

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United States v. Rose, 67 M.J. 630 and 68 M.J. 236, February and October 2009 **SMART**
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- In accordance with his pleas, Appellee was convicted at a general court-martial of one specification each of attempted larceny, violation of a lawful order, drunk driving, forgery, housebreaking, and obstructing justice, eleven specifications of larceny, and **three specifications of indecent assault**, in violation of Articles 80, 92, 111, 123, 130, 121, and 134, Uniform Code of Military Justice (UCMJ), [10 U.S.C. §§ 880, 892, 911, 923, 930, 921, and 934 \(2000\)](#), respectively. The adjudged and approved sentence included a dishonorable discharge and confinement for twenty months.

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Rose

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- The United States Air Force Court of Criminal Appeals set aside the three specifications of indecent assault after resolving the ineffective assistance of counsel claim in Appellee's favor, set aside the sentence, and authorized a rehearing on the indecent assault findings and the sentence. [United States v. Rose, 67 M.J. 630, 638 \(A.F. Ct. Crim. App. 2009\).](#)
- The service member would not have pled guilty to indecent assault if he had known that his convictions required him to register as a sex offender, and although he asked his counsel if he had to register, his counsel downplayed the seriousness of all three charges by telling the service member they were "fairly innocuous." **United States v. Rose, 67 M.J. 630**

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Lance Corporal Davenport v. United States, 2011 CCA LEXIS 78 , May 2011

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- The petitioner averred that his defense counsel was ineffective in his representation of petitioner at trial in that he failed to fully explain the collateral consequences of his guilty pleas and subsequent conviction for possession of child pornography.
- Petitioner alleged that he was never informed by his trial defense counsel that he would have to register as a sexual predator for the rest of his life for possession of child pornography and that his conviction at a special court-martial would be considered a felony conviction in the state of Illinois.

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Davenport (cont'd)

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- The petitioner contended that: (1) he specifically asked his trial defense counsel how long he would have to register as a sex offender in Illinois and was told only ten years because he was a first time offender (2) trial defense counsel advised him to plead guilty because his confinement would be capped at one year thus making his conviction a misdemeanor in civilian jurisdictions
- The petitioner claimed that had he known that he would have to register as a sexual predator for life and that his special court-martial conviction would be considered a felony in the state of Illinois, he would not have pleaded guilty.

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Davenport (cont'd)

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- A military accused is entitled under the Constitution and [Article 27\(b\)](#), UCMJ, to the effective assistance of counsel. [Denedo, 66 M.J. at 127](#) (citing [United States v. Scott, 24 M.J. 186, 187-88 \(C.M.A. 1987\)](#); see also [Art. 38](#), UCMJ. An individual making a claim of ineffective assistance "must surmount a very high hurdle."
- An attorney's failure to advise an accused of potential sex offender registration requirements is not *per se* deficient performance. See [United States v. Miller, 63 M.J. 452, 459 \(C.A.A.F. 2006\)](#).
- [Rather, it will be one factor considered when evaluating allegations of ineffective assistance](#)


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Davenport (cont'd)

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- There was no requirement for trial defense counsel to advise the petitioner about the specifics of a particular jurisdiction because of the peculiarities of the military justice system where cases are often tried in locations far away and separate from the state in which the accused may face collateral consequences


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Rules for the Marines

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- **Marine Corps prohibits sex offenders from occupying, accessing government housing**


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- OPNAV INSTRUCTION 1752.3 27 May 09, 3. Policy
- a. To the maximum extent permitted by law, unless waived by competent authority, sex offenders are to be identified and prohibited from accessing Navy facilities. This provision does not apply to prisoners within Navy confinement facilities who are separately controlled pursuant to reference (d).
- b. Except where prohibited by law, or otherwise waived by competent authority, sex offenders shall not occupy Navy owned or leased military housing or Public-Private Venture (PPV)housing.

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- c. Sex offenders shall not be allowed to enlist or be processed for commissioning into the Navy.
- d. Navy members who are convicted of a sex offense while on active duty, or in a reserve status, and who are not punitively discharged, shall be processed for administrative separation per Reference (e).
- e. Sex offenders on active duty shall not be assigned
- Outside Continental United States (OCONUS) or its territories. Navy personnel whose sponsored family members are sex offenders shall not be stationed OCONUS or its territories on accompanied orders, unless waived by competent authority.

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- f. Navy members who are convicted of qualifying sex offenses while on active duty and retire, or are transferred to the Fleet Reserve, shall have the sex offense conviction recorded in their permanent military record. Such sex offenders shall not be subject to recall for any purpose without express authority of the Secretary of the Navy (SECNAV) . Likewise, Navy members who are retired, or transferred to the Fleet Reserve, and who are later convicted of qualifying sex offense, shall not be subject to recall without express authority of SECNAV.
- SEE October 7, 2008 Memorandum for Commandants of the Marine Corps
- SEE June 11, 2008 Debarment Letter Memo

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ANNEX L:

Naval Clemency and Parole Board / BCNR



NAVAL CLEMENCY AND PAROLE BOARD

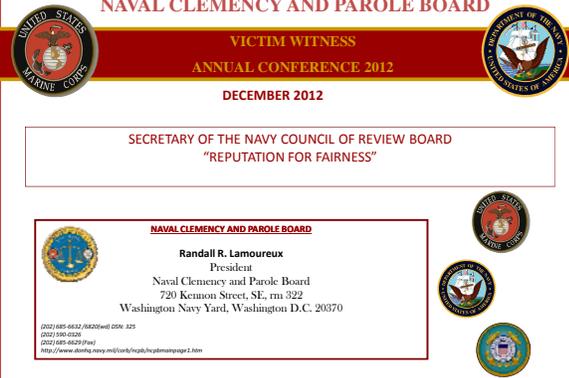
VICTIM WITNESS
ANNUAL CONFERENCE 2012

DECEMBER 2012

SECRETARY OF THE NAVY COUNCIL OF REVIEW BOARD
"REPUTATION FOR FAIRNESS"

NAVAL CLEMENCY AND PAROLE BOARD
Randall R. Lamoureux
President
Naval Clemency and Parole Board
720 Kemmon Street, SE, rm 322
Washington Navy Yard, Washington D.C. 20370

(202) 645-6632 / (800) 261-3225
(202) 540-0326
(202) 650-6529 (fax)
<http://www.donah.mil/ncpb/ncpb.htm>



ANNEX M:

Commanding General Inspection Process and 092 Checklist



**Victim Witness Assistance
Program Inspections**
Functional Area 092

Intent

- Promote Marine Corps combat readiness, integrity, efficiency, effectiveness, and credibility through impartial and independent inspections, assessments, inquiries, investigations, teaching and training.

Concept

- Conduct short and no-notice inspections in order to minimize wasted preparation time and provide an accurate assessment of day-to-day readiness.
- Inspections will: Respect and uphold the commander's authority and foster a climate of trust and confidence.
- Be positive and provide productive learning experiences for those personnel inspected.
- Attempt to identify the root cause of problems, particularly those which are beyond the ability of the commander to solve.
- Include follow-ups and resolution of problems that are beyond the ability of the inspected command/unit to solve.

Grading

- Mission Capable:

The command or unit possesses the requisite skills, equipment and understanding to accomplish its assigned mission, tasks, and functions; and uses these to accomplish its missions, tasks, and functions.

- Non-mission Capable:

The command or unit does not possess the required skills, equipment, personnel or understanding to accomplish its assigned mission, tasks, and functions; or does not use these to accomplish its assigned missions, tasks, and function.

- Problems noted in an inspection will be categorized as follows:

- Discrepancy: an error or failure to comply with guidance, direction or action as required in appropriate and applicable directives.

- Finding: a significant problem within the command that:

- Detracts from the command's readiness.
- Involves or could lead to fraud, waste, or abuse.
- Involves issues of health, more, or welfare of the unit's Marines or Sailors.

DETAILED INSPECTION CHECKLIST

FA SC STMT	TEXT
092	<p>VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) Functional Area Manager: LAO/JA-2 Point of Contact: CWO5 ROBERT HALL/GYSGT DANIEL SEARS ROBERT.M.HALL2@USMC.MIL/DANIEL.W.SEARS@USMC.MIL (DSN) 224-8661 (COML) 703 693-8661 Date last revised: 15 June 2012</p>
092 00	INSTALLATION COMMANDERS
092 00 001	<p>Did the installation commander appoint, in writing, by name, title, duty address, and telephone number, a Victim and Witness Liaison Officer (VWLO)? Reference MCO P5800.16A CHAP 6, PAR 6006.5(b)</p>
092 01 002	<p>How has the installation commander ensured that all VWAP representatives onboard the installation have been provided the VWLO's name and phone number? Reference MCO P5800.16A, CHAP 6, PAR 6006.5(b)</p>
092 01 003	<p>Has the installation commander ensured close coordination between local VWAP representatives from NCIS, LSSS or law center, military police, commanding officers, medical facilities, MFS, corrections facilities, and chaplains? Reference MCO P5800.16A, CHAP 6, PAR 6006.5(a)</p>
092 01 004	<p>Did the installation commander establish a local Victim and Witness Assistance Council with the VWLO designated as the chairperson? Reference MCO P5800.16A, CHAP 6, PAR 6006.5(c)</p>
092 01 005	<p>Does the Victim and Witness Assistance Council have, at minimum, a representative of each of the following sections: PMO, legal, chaplain, and MFS? Reference MCO P5800.16A, CHAP 6, PAR 6006.5(c)</p>

- 092 01 006 Has the installation commander ensured that processes are in place to accurately collect, maintain, and report data on the number of victims and witnesses who received DD Forms 2701-2704 under VWAP? What is the process?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.5(d), 6007.1(a)
- 092 01 007 With the assistance of the local MFS, has the installation commander constructed and maintained a directory, containing both military and civilian programs, services, and crime victim compensation funds available within their geographic area? How is it maintained?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.5(e)
- 092 01 008 Has the installation commander, if applicable, entered into any Memoranda of Agreement (MOA) with civilian agencies to ensure victims and witnesses are provided required services? Please provide copy of MOA.
Reference
MCO P5800.16A, CHAP 6, PAR 6006.5(e)
- 092 01 009 If a confinement facility is located onboard the installation, did the installation commander appoint, in writing, by name, title, duty address, and telephone number, a confinement facility representative to serve as the corrections Victim and Witness Assistance Coordinator (VWAC)?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.5(i)
- 092 01 010 In the cases where a Military Protective Order (MPO) is issued and any individual involved in the order does not reside on a military installation, are procedures in place to notify the appropriate civilian authorities of the issuance of the MPO and the individuals involved in the MPO?
Reference
10 USC § 1567A
- 092 01 011 Are there procedures in place to ensure that civilian authorities are notified when a change is made to the MPO or the MPO is terminated? What are the procedures?
Reference
10 USC § 1567A

- 092 02 VICTIM AND WITNESS LIAISON OFFICER (VWLO)
- 092 02 001 Has the VWLO ensured that each organization (battalion/squadron level and above) assigned to the installation, including tenant commands (battalion/squadron level and above) appointed, in writing and by name, a VWAC? Does the VWLO have a copy of all appointment letters for each VWAC as provided by each commander?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(a) & PAR 6006.6
- 092 02 002 Has the VWLO compiled a directory of all VWAP representatives from PMO, legal, MFS, and all VWACs aboard the installation and ensured that copies of this directory are made available to all VWACs and VWAP representatives? How is the directory maintained (e.g. electronic/hard copy) ?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(b)
- 092 02 003 Has the VWLO conducted and chaired a VWAP council meeting at least quarterly to discuss VWAP-related issues?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(c)
- 092 02 004 In conjunction with MFS, has the VWLO compiled and maintained a directory of military and civilian programs and services providing counseling, treatment, and other victim support within the geographic area to the installation? How is the directory maintained? (e.g. electronic/hard copy)
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(d)
- 092 02 005 Has the VWLO obtained and distributed relevant information to VWACs, including where appropriate, VWAP-related training materials and the directory of local programs and services?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(e)
- 092 02 006 In coordination with PMO, legal, and MFS, has the VWLO ensured that all victims and witnesses are notified of their rights and are provided the names, titles, duties, addresses, and telephone numbers of the appropriate VWAC involved in their case? How does the VWLO accomplish this?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(t) & PAR 6010.1(g)

- 092 02 007 Has the VWLO, when appropriate, assisted victims in exercising their rights and in obtaining support?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(h)
- 092 02 008 Has the VWLO assisted the installation commander in collecting and reporting the number of victims and witnesses contacted via 2701 – 2704 forms? How is this information collected and reported?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(i)
- 092 02 009 Does the VWLO address issues surrounding the sensitive needs of victims of sexual assault in local VWAP council meetings?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(j)
- 092 02 010 Has the VWLO ensured that deploying units receive appropriate VWAP training and VWAP material prior to deployment? What is the process in place for ensuring this training occurs?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(k)
- 092 02 011 Has the VWLO ensured that CMC (JAM) is notified when a new VWLO is appointed. Did the VWLO provide a copy of his/her appointment letter to CMC (JAM)?
Reference
MCO P5800.16A, CHAP 6, PAR 6010.1(1)
- 092 03 INVESTIGATIVE AND LAW ENFORCEMENT PERSONNEL
- 092 03 001 Are law enforcement personnel ensuring that an *Initial Information for Victims and Witnesses of Crime* form (DD Form 2701) was completed and provided to victims and witnesses?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a) (3)
- 092 03 002 Is law enforcement accurately tracking the number of victims and witnesses contacted via DD Form 2701 and if so, how is it tracked?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a) (3)

- 092 03 002 Does the DD Form 2701 include the name and telephone number of the investigator, the VWLO, the cognizant command VWAC, and, when appropriate, a number to contact a victim advocate?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a)(3)
- 092 03 003 When requested by a victim, did law enforcement personnel keep the victim apprised of the status of the investigation/inquiry to the extent possible?
Reference
MCO P5800.16A, CHAP 6, PAR. 6006.7 (a) (5); DODI 1030.2
- 092 03 004 Are law enforcement personnel promptly notifying the victim and/or witness when a suspect was apprehended when the victim/witness requests such notification?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a) (6)
- 092 03 005 What is the process for safeguarding the victim's property held as evidence and ensuring that it is returned as soon as possible?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a) (7);
- 092 03 006 Did law enforcement personnel report the total number victims and witnesses contacted using DD Form 2701s for the preceding calendar year to the Installation VWLO, no later than 15 January (A copy of the report should be provided)?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a) (9)
- 092 03 007 How are law enforcement personnel notifying unit VWACs of the identity of the victim and of the accused?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.7(a)(10)(a)
- 092 04 MARINE AND FAMILY SERVICES (MFS)
- 092 04 001 Has MFS appointed a representative to the local Victim and Witness Assistance Council in writing?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3(f)
- 092 04 002 Does MFS have a directory of the VWAP points of contact for their installation?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3(e)

- 092 04 003 Does MFS inform crime victims and witnesses about VWAP (via DD Form 2701) if such information has not already been provided and is MFS accurately tracking the number of victims and witnesses contacted via DD Form 2701. If so, how is it tracked?
- 092 04 004 Is MFS reporting the number of victims and witnesses contacted via DD Form 2701 to the Installation VWLO?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3(a)
- 092 04 005 Does MFS inform victims of spousal or interfamilial abuse by service members of the benefits provided under “Transitional Compensation for Abused Family Members”?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3(b)
- 092 04 006 Does MFS inform victims of spousal or interfamilial abuse by services members to contact the local legal assistance office for additional information on their rights and other benefits that they may be entitled to receive?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3(c)
- 092 04 007 Does MFS inform crime victims of the State crime compensation funds that may be available to reimburse victims for certain expenses incurred as a result of the crime?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.3 (ii)
- 092 05 UNIT COMMANDERS, COMMANDING OFFICERS, AND OFFICERS IN CHARGE
- 092 05 001 Did the unit commander (battalion/squadron level and above) appoint, in writing, by name, title, duty address, and duty telephone number, a representative to serve as a VWAC?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6
- 092 05 002 Did each commander provide a copy of the VWAC appointment letter to the VWLO?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6

- 092 05 003 In addition to the required reporting of all alleged sexual assaults to the Provost Marshal Office, did commanders, in appropriate cases, report all serious incidents of a criminal nature via OPREP-3SIR, with the SJA to CMC included as an addressee on these reports?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6(a), MCO 1752.5A;
MCO 5740.2F
- 092 05 004 Did commanders submit a Discrimination and Sexual Harassment (DASH) report in every instance where a formal complaint of sexual harassment has been filed and a Marine is the complainant or the alleged offender?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6(b); MCO P5354.1D
W/CH 1
- 092 05 005 For summary courts-martial, where confinement is adjudged and approved, did the commander coordinate with trial counsel for completion of DD Form 2704?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6(c)
- 092 05 006 Has the commander issued any MPOs? If so, did they do so on DD Form 2873?
Reference
MCO P5800.15A, CHAP 6, PAR 6006.6(d) (1)
- 092 05 007 How does the commander retain the original, completed MPO/DD Form 2873?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6(d) (2)
- 092 05 008 In each instance where an MPO has been issued, did the commander, after redacting the personal information of both the service member and the protected person (i.e., home address, home telephone number, social security number, date of birth), provide a signed copy of the DD Form 2873 to both the service member and the protected person in accordance with the distribution list contained on the form?
Reference
MCO P5800.16A, CHAP 6, PAR 6006, 6(d) (2)
- 092 05 009 Did the commander destroy each original DD Form 2873 maintained on file/record 6 months after the MPO expired?
Reference
MCO P5800.16A, CHAP 6, PAR 6006.6(d) (2)

- 092 05 010 In the cases where a MPO is issued and any individual involved in the MPO does not reside on a military installation, are procedures in place to notify the installation commander of the issuance of the MPO and the individuals involved in the MPO?
Reference
10 USC § 1567A
- 092 05 011 Are there procedures in place to ensure that the installation commander is notified when a change is made to the MPO or the MPO is terminated? What are the procedures?
Reference
10 USC § 1567A
- 092 06 COMMAND VICTIM AND WITNESS ASSISTANCE COORDINATORS (VWAC)
- 092 06 001 Has the command authorized VWAP training and distribution of VWAP materials within the unit? If so, has the VWAC distributed such materials? Is there a syllabus or Program of Instruction?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(a)
- 092 06 002 In cases involving victims, witnesses, or an accused from different commands, did the VWAC maintain contact with all VWACs, and other personnel, involved in the victim's or witness' case?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(a)
- 092 06 003 When the victim and/or witness is a member of the VWAC's command, did the VWAC ensure that the victim or witness has been advised of applicable rights and been provided DD Form 2701?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(b)
- 092 06 004 When the victim and/or witness is a member of the VWAC's command, did the VWAC coordinate with MFS to ensure that the victim or witness receives, when appropriate, information concerning the availability of resources, including information on compensation programs available to victims of intra-familial abuse offenses when the offender is a service member?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(b) (1)

- 092 06 005 When the victim and/or witness is a member of the VWAC's command, did the VWAC assist the victim in obtaining necessary counseling, if requested?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(b) (2)
- 092 06 006 When the victim and/or witness is a member of the VWAC's command, did the VWAC assist the victim or witness in the exercise of their rights, except in cases pending judicial action where this function is completed by the trial counsel?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(b) (4)
- 092 06 007 When the accused is a member of the VWAC's command, did the VWAC identify any victims or witnesses and notify the VWACs of their commands?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(c)
- 092 06 008 Does the VWAC understand the role of the trial counsel in advising the victim/witness of their rights under VWAP and has the VWAC ensured that this advise has been given to victims/witnesses in the command and that the victim/witness understands these rights?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(c)(1)
- 092 06 009 In instances of pretrial confinement where the victim or witness has requested notification; did the VWAC notify the victim(s) or witness(es) of changes in the accused's pretrial confinement status, if applicable?
Reference
MCO P5800.16A, CHAP 6, PAR 6011.1(t)

ANNEX N:
**VWAP Best Practices, Questions, &
Answer Sessions**



VWAP Best Practices, Q and A, Wrap up

LtCol Schotemeyer
HOMC, VWAP
703 693 8955

Objectives

- Generate Discussion to improve regional, installation, and unit practices
- Identify problem areas
- Identify Best Practices

- End of the year reporting

VWAP – Installation Program

- The Installation VWLO ensures that victims and witnesses are receiving the proper care
- The Installation VWLO is responsible to their commander to ensure that the Installation VWAP is in compliance with Directives, Instructions, and orders
- The Installation must reach out to the tenants on their installation

VWAP Stated Goals

- Ensure that victims and witnesses receive appropriate responses and assistance from government actors
- Protect victims from further harm/hardship
- Ensure all victims are aware of their rights and are provided services they need

- Employ a multi-disciplinary approach to assisting victims and witnesses

VWAP Access to Service

- As the VWLO ask are Services?
 - Visible? Known to the public – user friendly
 - Accessible? Physically, culturally, electronically
 - Acceptable? Friendly, knowledgeable, private, professional
 - Available? Responsive and consistent

VWAP

- Framework for success
 - Personnel are professional, informed and dedicated
 - SOPs and Turnover Procedures in place and are followed
 - Policy is up to date and reviewed often
 - Coordination that works
 - Services are wide ranging and specific enough to provide assistance to victims and witnesses

VWAP

- *"The measure of success and quality is ultimately the degree to which a victim's need is met in the areas of safety, healing, justice and restitution (financial recovery to pre-crime level)."*
- Vice how many DD form 2701/2/3/4's we correctly processed and reported.

VWAP

- How can we get USMC Base VWAPs to the optimum state?
- Immediate Impact:
 - Websites: Information flows across all services and support available to the victims
 - Local training, website, posters, other media – use VWAP Council meetings
 - Local SOP/Turnover Binders for VWLOs and LOI for base VWAP reps
 - VWAP included in inspection process – CGIP, Article 6

VWAC Meeting

- When are you meeting
- Who is coming?
- Who is giving you difficulty by not attending
- Where are you meeting?
- What is happening at these meetings?

VWAP Problem Areas

- Assignment of VWLO
 - Collateral or full time duty?
 - Who should be the VWLO?
 - Turnover
- Assignment of VWACs
- Commands complying with the VWAP
- End of the year reporting

VWAP Problem Areas

- Quality of services provided to victims and witnesses
- Responsiveness to victims who are not the victims of a sexual assault

VWAP Reporting

- Reporting requirements
 - 2701-2704s – now quarterly
 - 2705 - Annually
- Double counting of 2701s
 - Training
 - Organization

VWAP – Way ahead

- How can we get USMC Base VWAPs to the optimum state?
- Mid-term:
 - Civilianize VWLO billets?
 - Ensure yearly funding for training (HQMC and Local)
- Long term:
 - *Post-process evaluation by victims/witnesses?*
 - *Study, evaluate and refine base programs*
