



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



QUANTICO, VA
OFFICER'S CLUB

12-14 MAY 2015

Victim Witness Assistance Program

Presented by
Marine Corps VWAP

Breaks
Classroom

DAY 1: TUESDAY, MAY 12	
0800 - 0830	Check-in and Distribution of Materials
0830 - 0845	Welcoming Remarks Maj Sameit, VWAP, Judge Advocate Division
0845 - 0930	USMC VWAP Overview and Article 6b, UCMJ Maj Sameit, VWAP, Judge Advocate Division
0930 - 0945	Break
0945 - 1030	USMC VWAP Overview and Article 6b, UCMJ (continued) Maj Sameit, VWAP, Judge Advocate Division
1030 - 1115	DoD VWAP Updates LtCol Oakley, Deputy Director, Office of Legal Policy OUSD (P&R)
1115 - 1245	Lunch
1245 - 1345	USMC SAPR Program Overview DaShawna Townsend, SAPR Branch, HQMC
1345 - 1430	VWLO, VWAC, and Legal Officer Responsibilities Maj Sameit, VWAP, Judge Advocate Division
1430 - 1445	Break
1445 - 1545	Family Advocacy Program Overview Mr. Young Hoang, Family Advocacy Office
1545 - 1630	Legal Assistance Available to Victims Capt Dan Majtan, Legal Assistance Officer



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



QUANTICO, VA
OFFICER'S CLUB

12-14 MAY 2015

Breaks

Classroom

Victim Witness Assistance Program

Presented by
Marine Corps VWAP

DAY 2 : WEDNESDAY , MAY 13	
0 8 0 0 - 0 8 4 5	Victim Legal Counsel Organization Maj Tilney, NCR RVLC
0 8 4 5 - 0 9 3 0	Court-Martial Process Overview and MRE 514 Capt Joe Neely, VWAP, Judge Advocate Division
0 9 4 5 - 1 0 0 0	Break
1 0 0 0 - 1 0 3 0	PSL Corrections Jenny Franks, PP&O PSO
1 0 3 0 - 1 1 3 0	Transitional Compensation Best Practices Najah Barton, MFS, HQMC
1 1 3 0 - 1 2 3 0	Lunch
1 2 3 0 - 1 3 1 5	Civilian Victim Assistance under the Crime Victim's Rights Act Mr. Dan Eddy, Nat'l Assoc. of Crime Victim Compensation
1 3 1 5 - 1 4 0 0	Commanding General Inspection Process and 092 Checklist Mr. William Yables, VWLO, MCAS New River
1 4 0 0 - 1 4 1 5	Break
1 4 1 5 - 1 5 0 0	Article 139 Complaints and PCA Capt Joe Neely, VWAP, Judge Advocate Division



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



QUANTICO, VA
OFFICER'S CLUB

12-14 MAY 2015

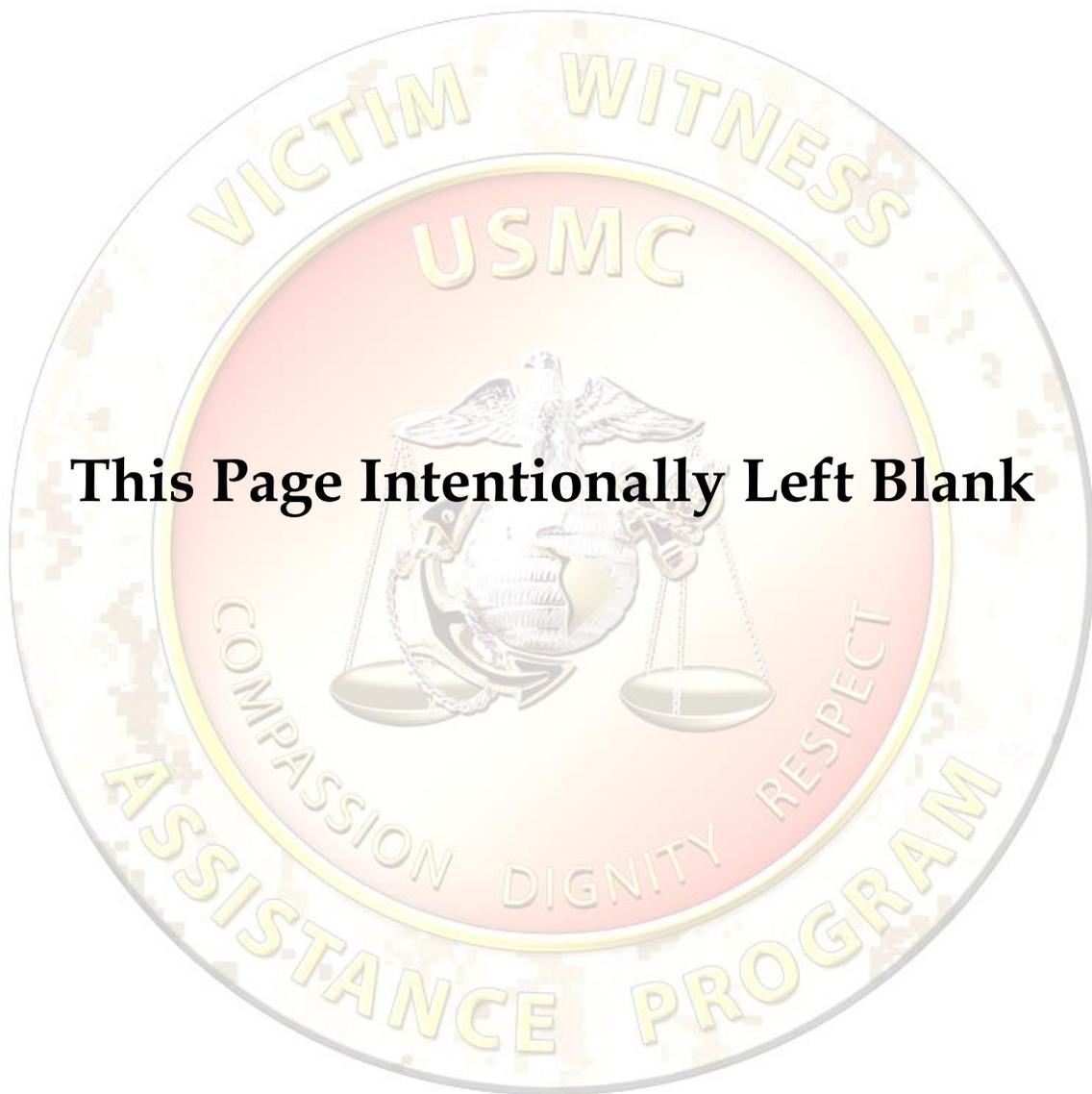
Victim Witness Assistance Program

Presented by
Marine Corps VWAP

Breaks

Classroom

DAY 3: THURSDAY, MAY 14	
0800 - 1000	Impact of Crime on Victim Survivors Dr. Christopher Wilson
1000 - 1015	Break
1015 - 1200	Communicating with Victim Survivors Dr. Christopher Wilson
1200 - 1230	VWAP Best Practices, Questions, & Answer Sessions Maj Sameit, VWAP, Judge Advocate Division

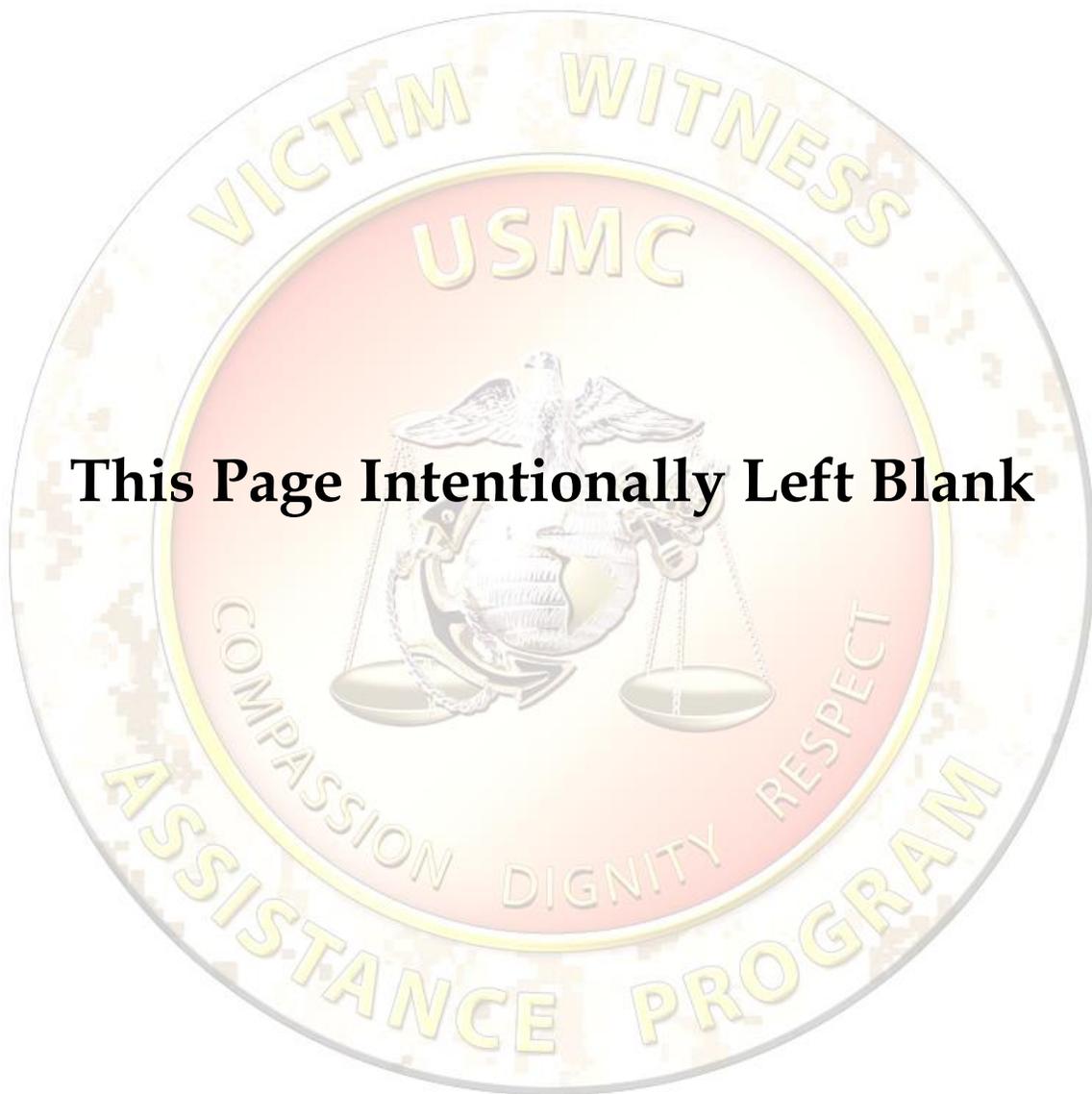


This Page Intentionally Left Blank

**USMC FY15 VWAP TRAINING
12-14 MAY 2015**

TABLE OF CONTENTS

<u>TOPIC</u>	<u>TAB</u>
VWAP Overview and Article 6b	A
DoD VWAP Updates	B
USMC SAPR Program Overview	C
VWLO, VWAC, and Legal Officer Responsibilities	D
Family Advocacy Program Overview	E
Legal Assistance and VWAP	F
Victim Legal Counsel Organization	G
Court-Martial Process Overview and MRE 514	H
PSL Corrections	I
Transitional Compensation Best Practices	J
Civilian Victim Assistance under the CVRA	K
Commanding General Inspection Process and 092 Checklist	L
Article 139 Complaints and Personnel Claims Act	M
Impact of Crime on and Communicating with Victim Survivors	N
VWAP Best Practices, Q&A Session	O

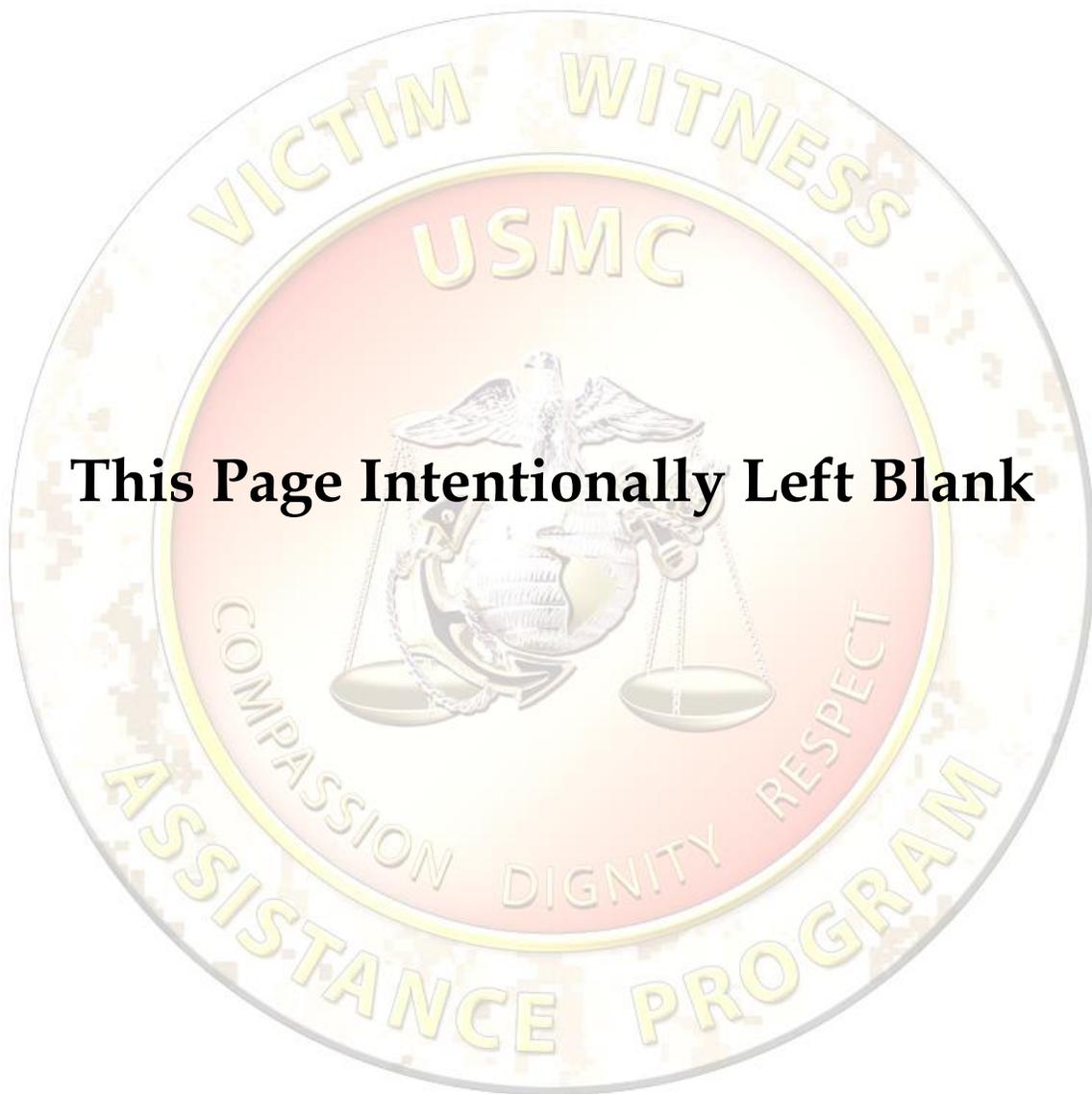


This Page Intentionally Left Blank

ANNEX A:

USMC VWAP Overview and Article 6b





This Page Intentionally Left Blank

VWAP Overview

Maj Sameit
HQMC, VWAP
703 693 8955

GOALS of the Training

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

VWAP 101

VWAP: PURPOSE & GOALS

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

VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP) - REFERENCES

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

Victims Eligible for VWAP Services

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

VWAP: VICTIMS' RIGHTS

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

VWAP: VICTIMS' RIGHTS

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

VWAP: VICTIMS' RIGHTS

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

VWAP: Witnesses eligible for services

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

VWAP: WITNESS' RIGHTS

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

VWAP: WITNESS' RIGHTS

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

VWAP: DOD POLICY

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

VWAP: HOW IT WORKS

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

VWAP OFFICIALS

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

VWAP Definitions

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

INSTALLATION LEVEL: WHO DOES WHAT

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

INSTALLATION LEVEL: WHO DOES WHAT

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

VWAP: COORDINATION IS KEY

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

RVWLO REQUIREMENTS

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

VWLO REQUIREMENTS

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

VWLO REQUIREMENTS

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

VWAP vs SAPR/FAP

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

VWAP vs SAPR Applicability

VWAP

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

FAP

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

SAPR

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

VWAP vs SAPR Personnel Involved

SAPR

- Uniform Victims Advocates

VWAP

- Victim Witness Assistance Coordinators

FAP

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

VWAP FORMS

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

VWAP: Pretrial & DD Form 2701

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

VWAP: Military Trial Process & DD Form 2702

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

VWAP: Post Trial & DD Form 2703

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

VWAP: Post Trial & DD Form 2704

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

VWAP: Post Trial Notifications & DD Form 2705

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

MCO 5800.14 VWAP

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

Functional Area Checklist

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

VWAP: RESOURCES AND FORMS

- CMC – Maj Mark Sameit (703) 693-8955; mark.sameit@usmc.mil / Capt Joe Neely (703)693-8407; joseph.t.neely@usmc.mil
- CMC (PSL Corrections) (703) 614-1480
- Installation Victim Witness Liaison Officers (VWLO)
- <http://www.defenselink.mil/vwac/dodprograms.html> (DOD VWAP COUNCIL WEBSITE) – contains link to training presentations and forms
- <http://www.ncvc.org/hcvc/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)

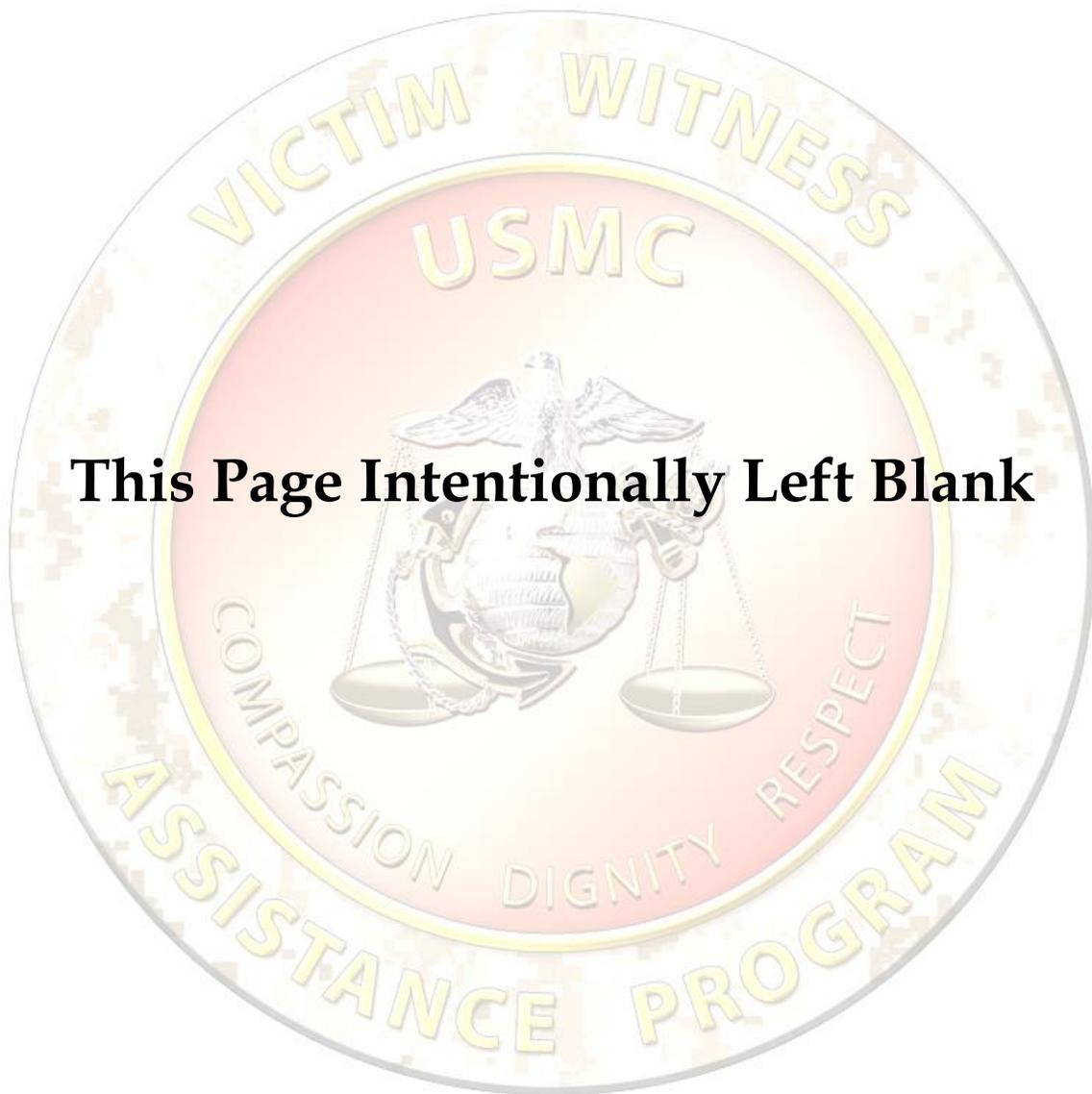
SUMMARY

- 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:

DoD VWAP Updates





This Page Intentionally Left Blank

DOD VICTIM WITNESS ASSISTANCE

Update



Office of Legal Policy, OUSD (P&R)





2



3

VWAP Challenges

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

4

Overview

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



5

Key References

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

6

Enhanced crime victims' rights

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

_____ 6

Enhanced crime victims' rights

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

_____ 6
Legal and VWAP Support

DoD Standards for Victim Assistance Services

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

_____ 12

Communicating Effectively

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

13

Maintaining High Ethical Standards

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

14

Foundational Program Standards

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

15

Special Victim Investigation and Prosecution Capability (SVIP)



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

16

Who is in the SVIP?

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

17

Activation Protocol

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



18

Specialized MCIO Training

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

19

Specialized Legal Support/VWAP Training

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

20

SVIP-C Implementation

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



Legal and VWAP Support

21

Collaboration and Teamwork

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

22

Victim Feedback

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



23

“Nobody washes a rental car”

TOM FRIEDMAN



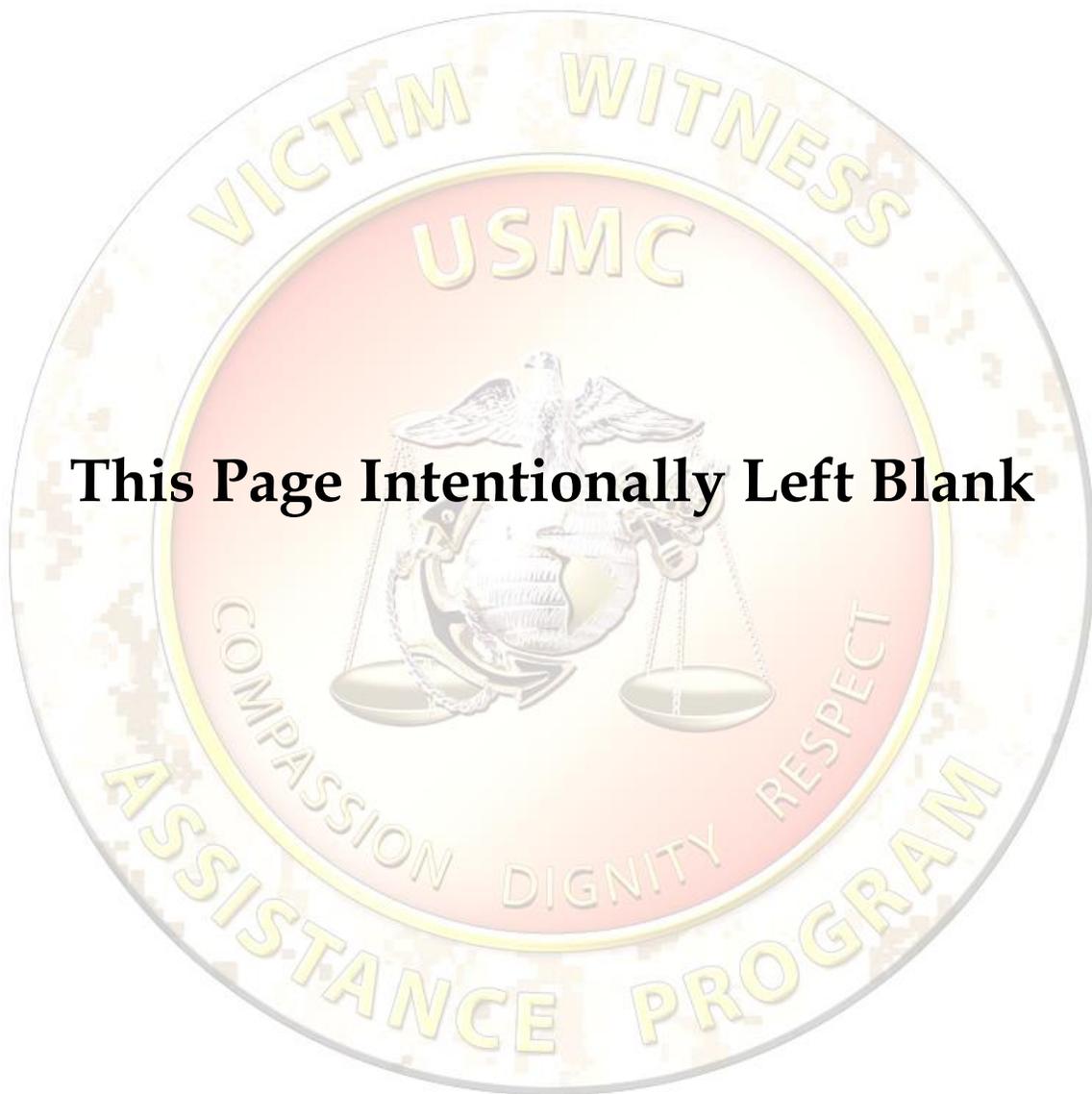
Legal and VWAP Support

24

Conclusion

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

Questions?

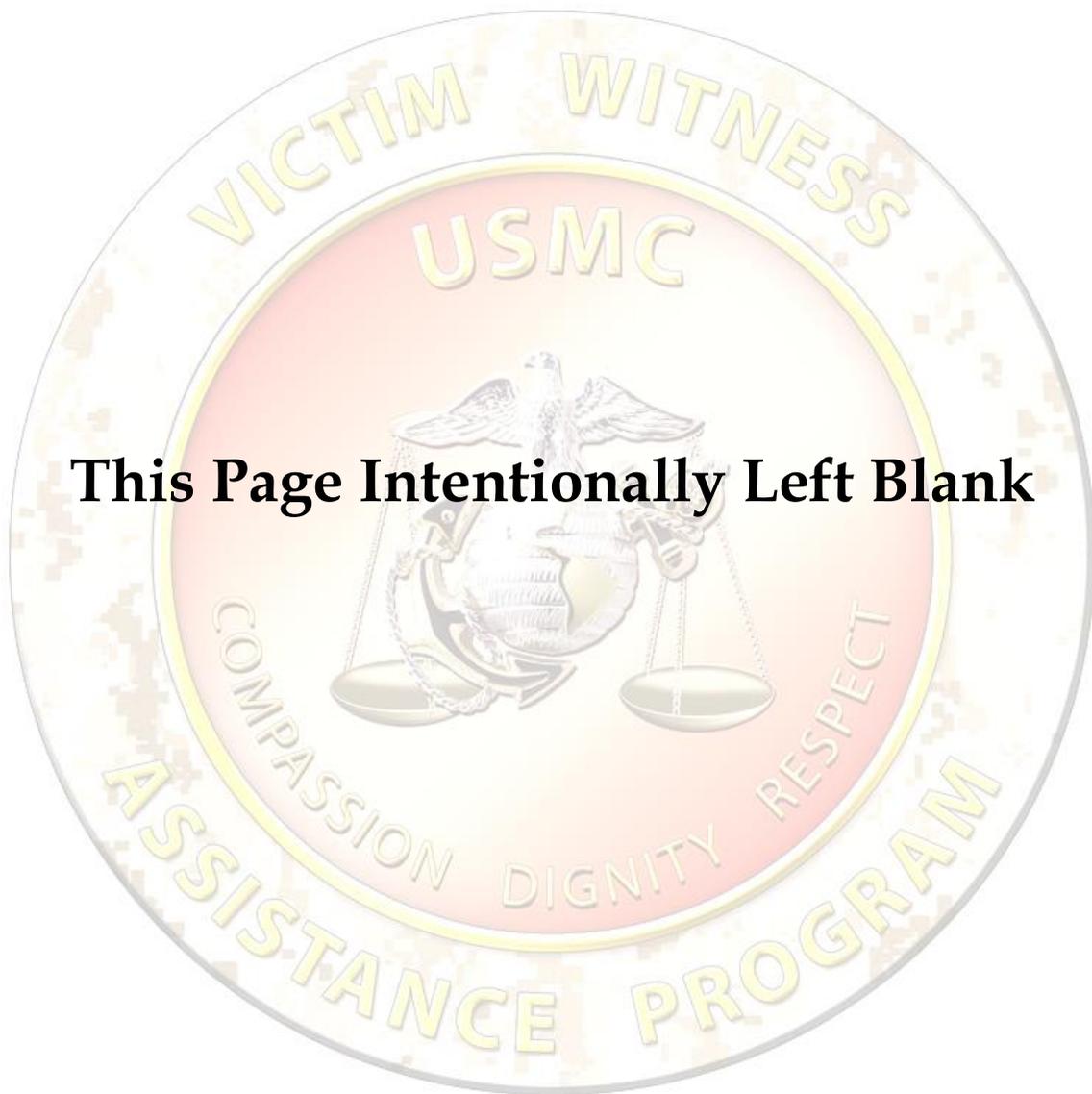


This Page Intentionally Left Blank

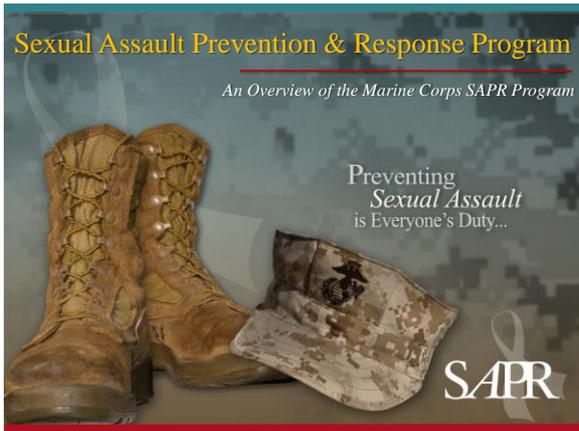
ANNEX C:

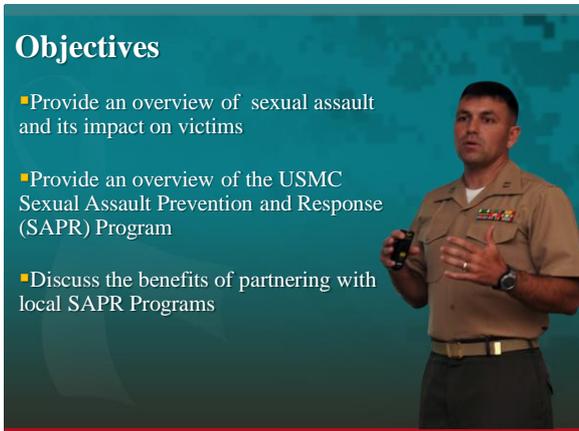
USMC SAPR Program Overview

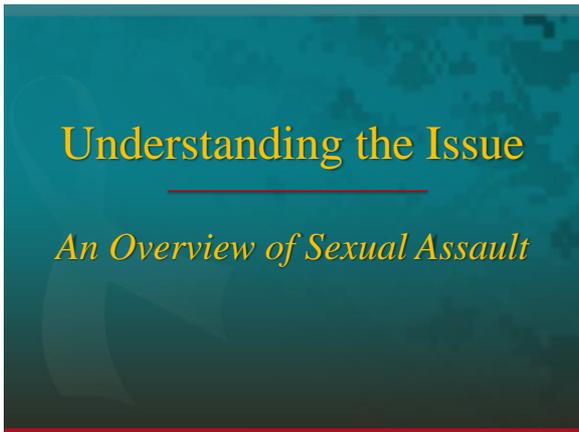


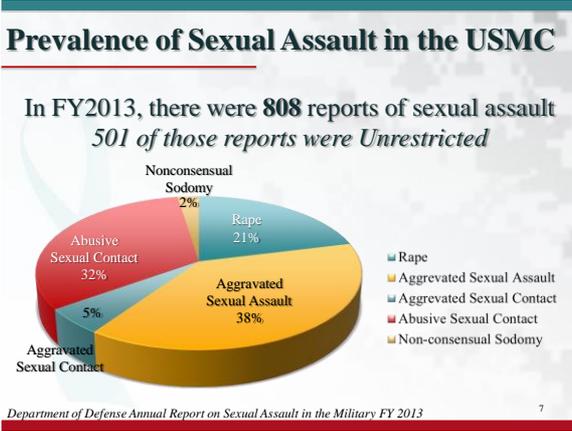


This Page Intentionally Left Blank









Prevalence of Sexual Assault in the USMC

Of those reports for which data was available:

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

Department of Defense Annual Report on Sexual Assault in the Military FY 2013 8

- ### Impact of Sexual Assault on the Victim
- | | |
|--|--|
| Physical Effects | Emotional Effects |
| <ul style="list-style-type: none">Physical traumaSkeletal muscle tensionEating pattern disturbanceSTIs and/or pregnancy | <ul style="list-style-type: none">Individual reactions vary widelyFlashbacksAnxietyPowerlessnessDisorganizationSelf-blameDepressionWithdrawal |

Victim Reporting Options

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

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

10

Unrestricted Reporting

For an Unrestricted Report, the victim can contact:

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

11

Restricted Reporting

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

12

Restricted Reporting

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

In California, medical providers are required to report sexual assault
- Option can also be preserved if you speak to a:
 - Chaplain
 - Victim's Legal Counsel

13

Restricted Reporting

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

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

14

A Source of Support

The USMC SAPR Program

The USMC SAPR Program

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

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

16

Those Eligible for SAPR Services

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

17

Services Provided by the SAPR Program

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

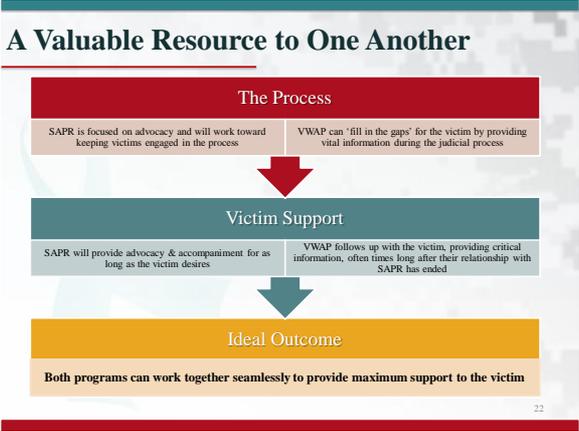
18





A Valuable Partnership

*Working with your local
SAPR Program*

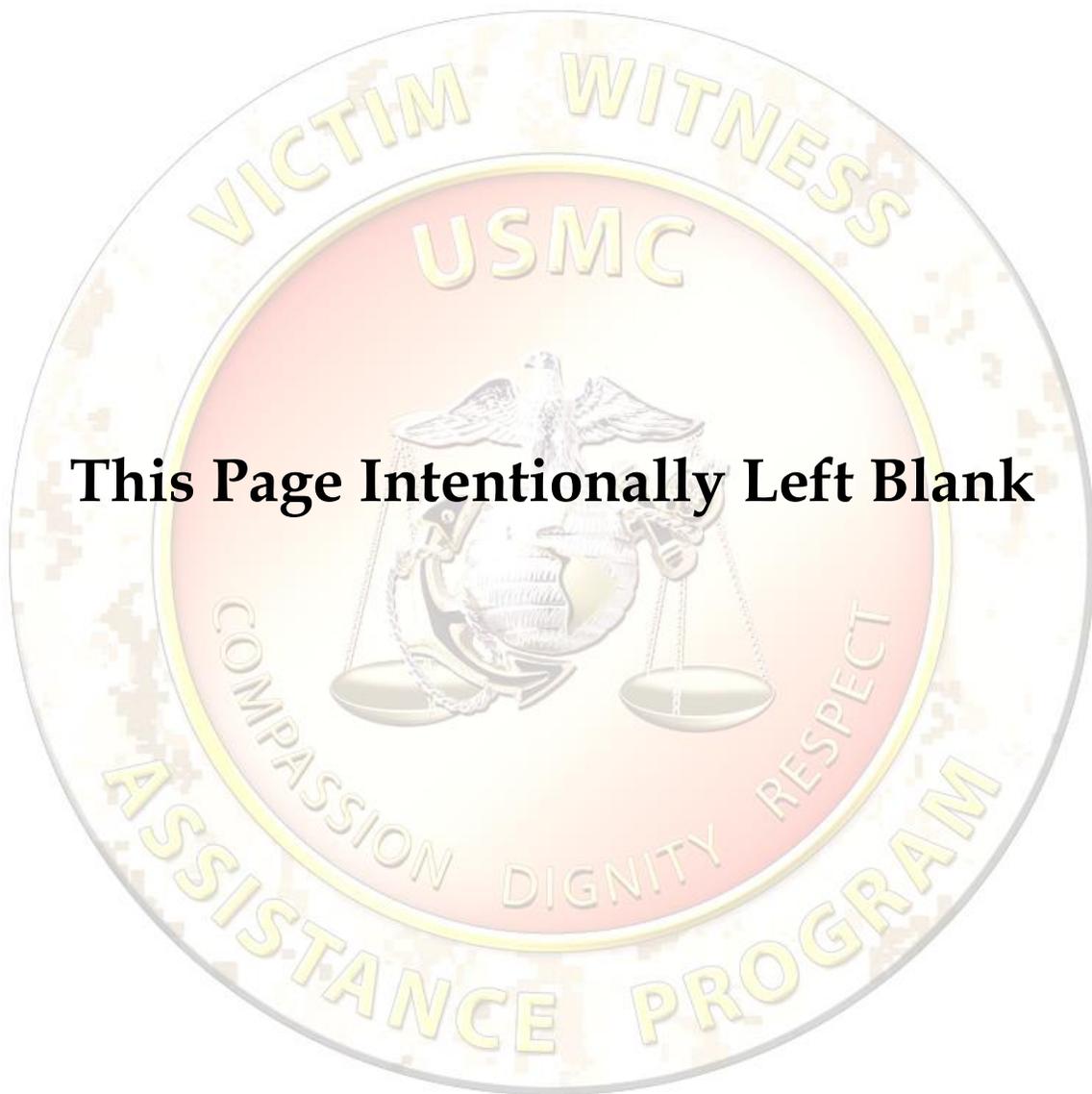


- ### Connecting With The SAPR Program
- Both programs can rely on one another for accurate subject matter expertise
 - A partnership allows both programs to work more efficiently toward protecting victims' rights
 - A positive working relationship makes it easier to identify and resolve concerns for a victim
- 23

- ### Raise Awareness Together
- Partner with the Installation or Command SARC on events that bring awareness to victims' rights issues
 - April is Sexual Assault Awareness & Prevention Month (SAAPM)
 - National Crime Victims' Rights Week is
 - April 19-25 2015
 - Consider an awareness campaign that continues throughout the year
- 24

Conclusion

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

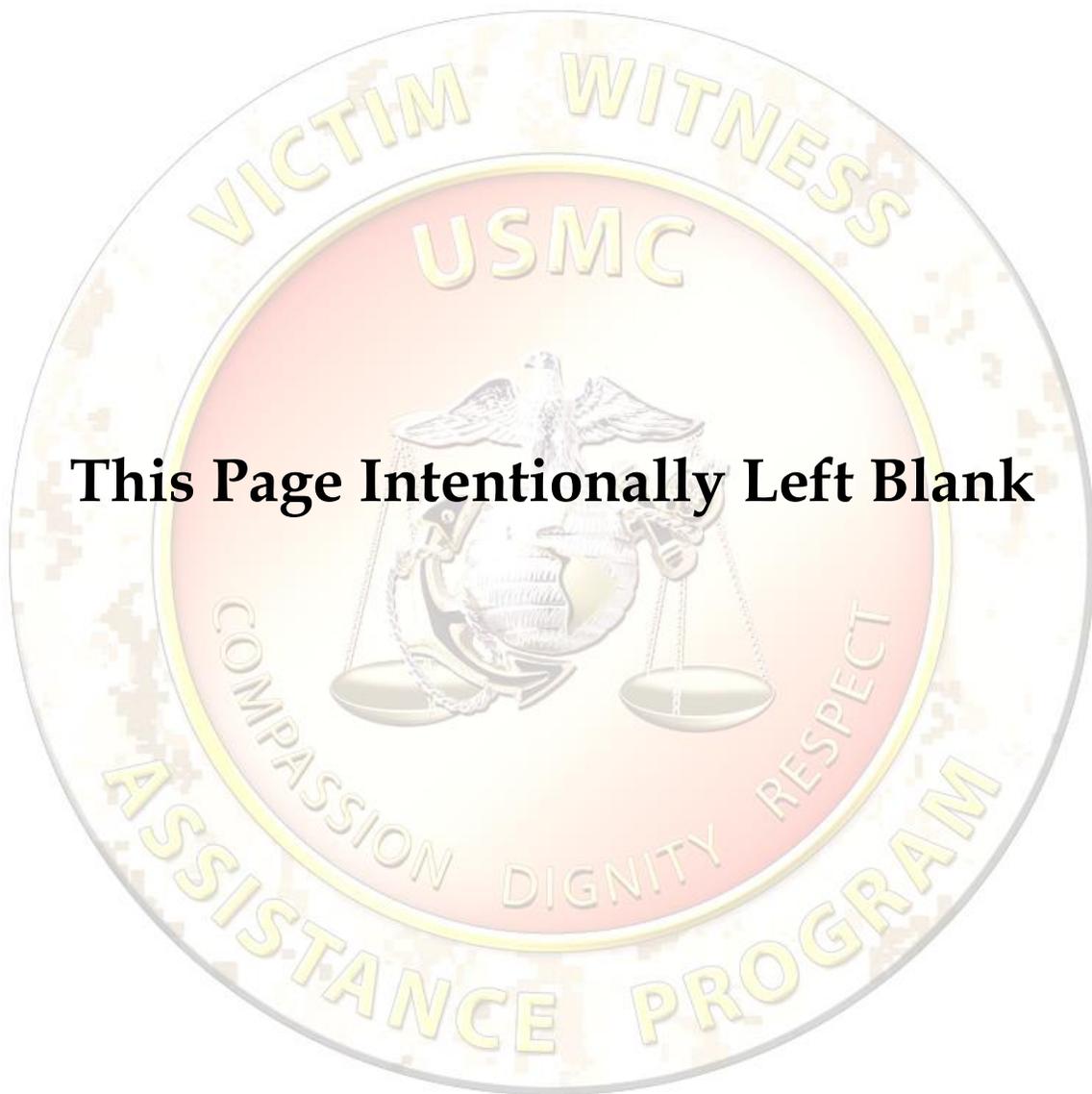


This Page Intentionally Left Blank

ANNEX D:

VWLO, VWAC, and Legal Officer Responsibilities





This Page Intentionally Left Blank

VWAP Roles and Responsibilities

Maj Sameit
HQMC, 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
- Victim Legal Counsel
- Service Providers
- Confinement CO/OIC

SJA to CMC

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

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

SJA

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

LSST OIC

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

Law Enforcement

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

RVWLO

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

VWLO

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

VWLO

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

VWAC

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

VWAC

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

Trial Counsel

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

TC - Notification Requirements

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

16

TC Notification Requirements

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

TC - Notification Requirements

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

18

TC - Consultation Requirement

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

19

TC - Other Assistance

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

20

TC - Sentencing

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

21

Victim Legal Counsel

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

22

Legal Assistance

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

Service Providers

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

24

Brig and PTC Facility CO/OIC

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

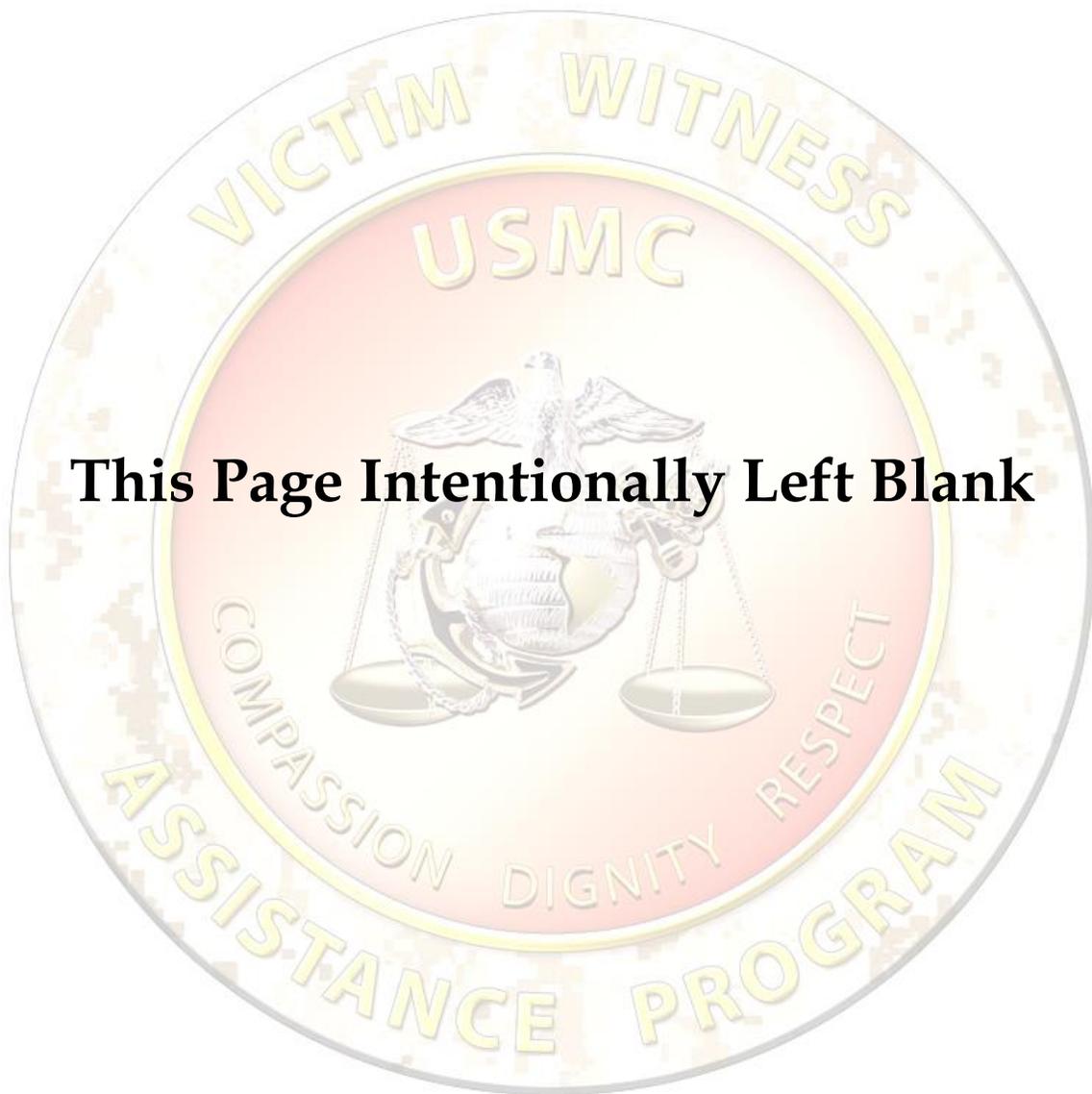
25

*Special Victim Capable VWAP Personnel

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

*Special Victim Capable VWAP Personnel

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

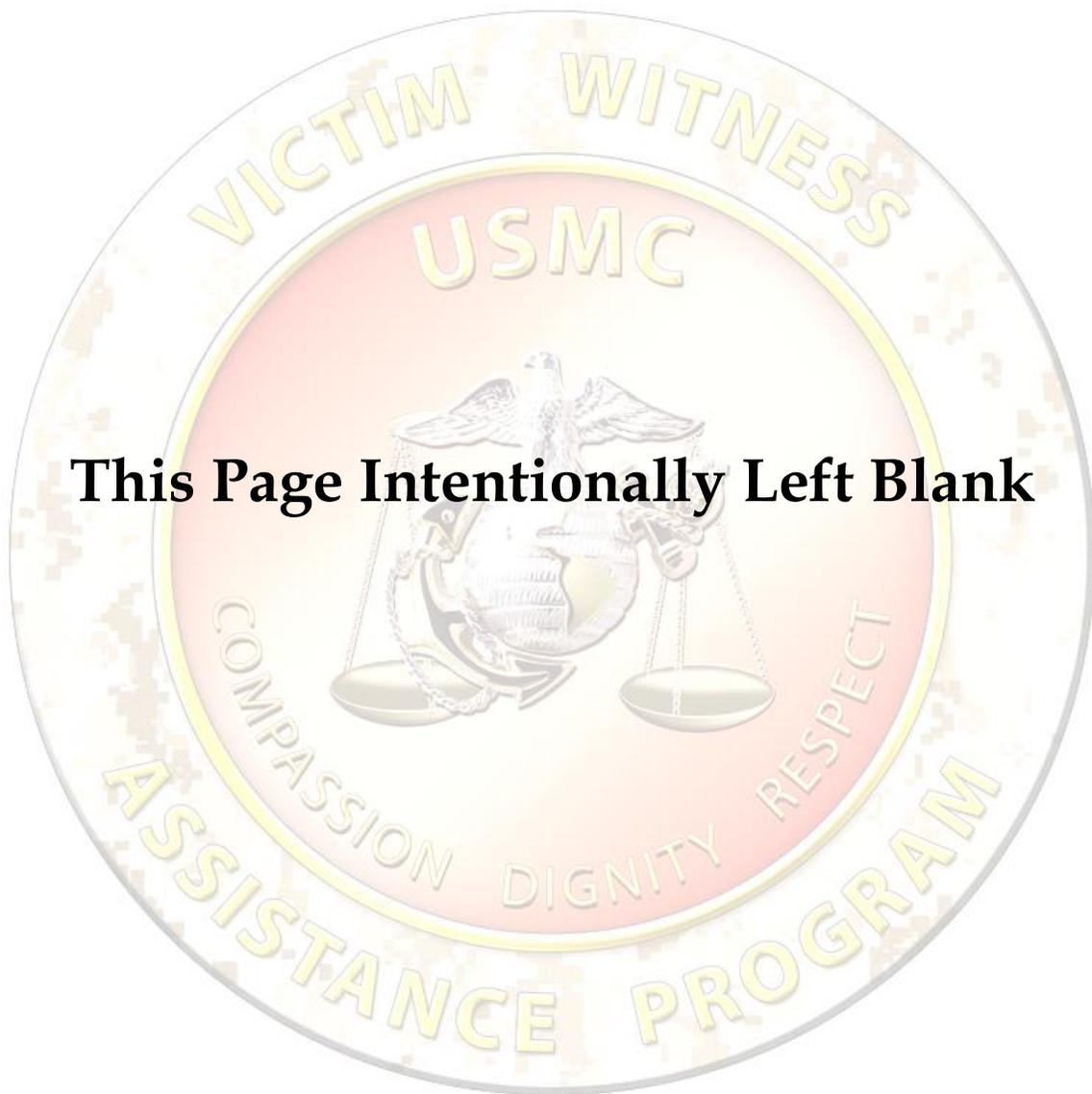


This Page Intentionally Left Blank

ANNEX E:

Family Advocacy Program Overview





This Page Intentionally Left Blank



Family Advocacy Program

26 March 2015

The overall classification of the brief is
UNCLASSIFIED//FOUO



Family Advocacy Program

Mission

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

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

"Keeping Faith"



Family Advocacy Program

USMC DOMESTIC VIOLENCE AND CHILD MALTREATMENT
REPORTED INCIDENTS MEETING CRITERIA
Data Source: Marine Corps Metrics as of 24 March 2015

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

*FY 15 data is reported annually
**Data is extracted from the Metrics (live data), as of 24 March 2015

"Keeping Faith"



Prevention and Education Program

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

“Keeping Faith”



Prevention and Education Program

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

“Keeping Faith”



Victim Advocacy Program

Responsibilities

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

“Keeping Faith”



Victim Advocacy Program

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

"Keeping Faith"



Victim Advocacy Program

24/7 Helpline

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

Transitional Compensation for Abused Family Members (TCAFM)

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

"Keeping Faith"



Clinical Program

Responsibilities

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

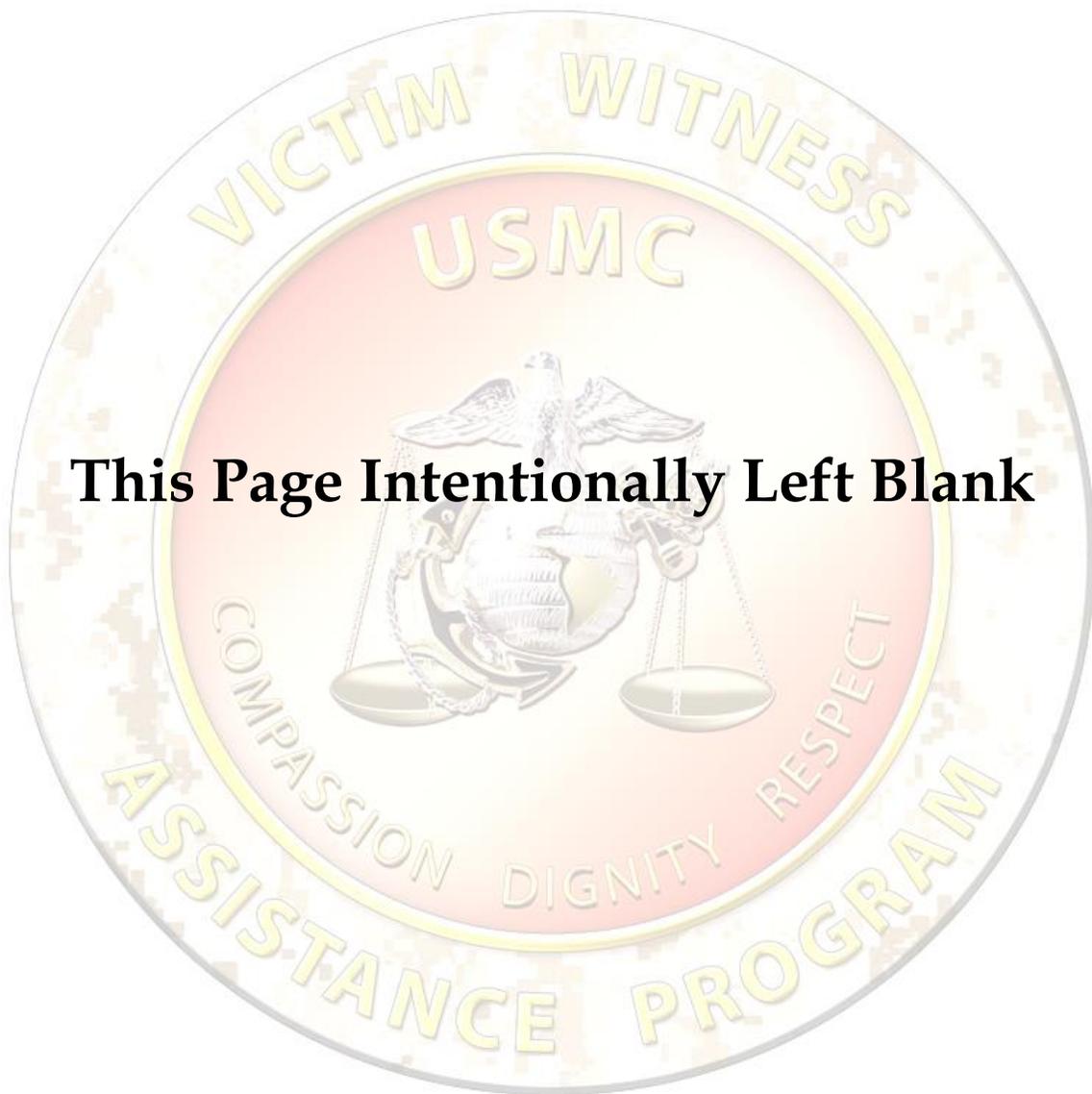
"Keeping Faith"



Questions?

"Keeping Faith"

13

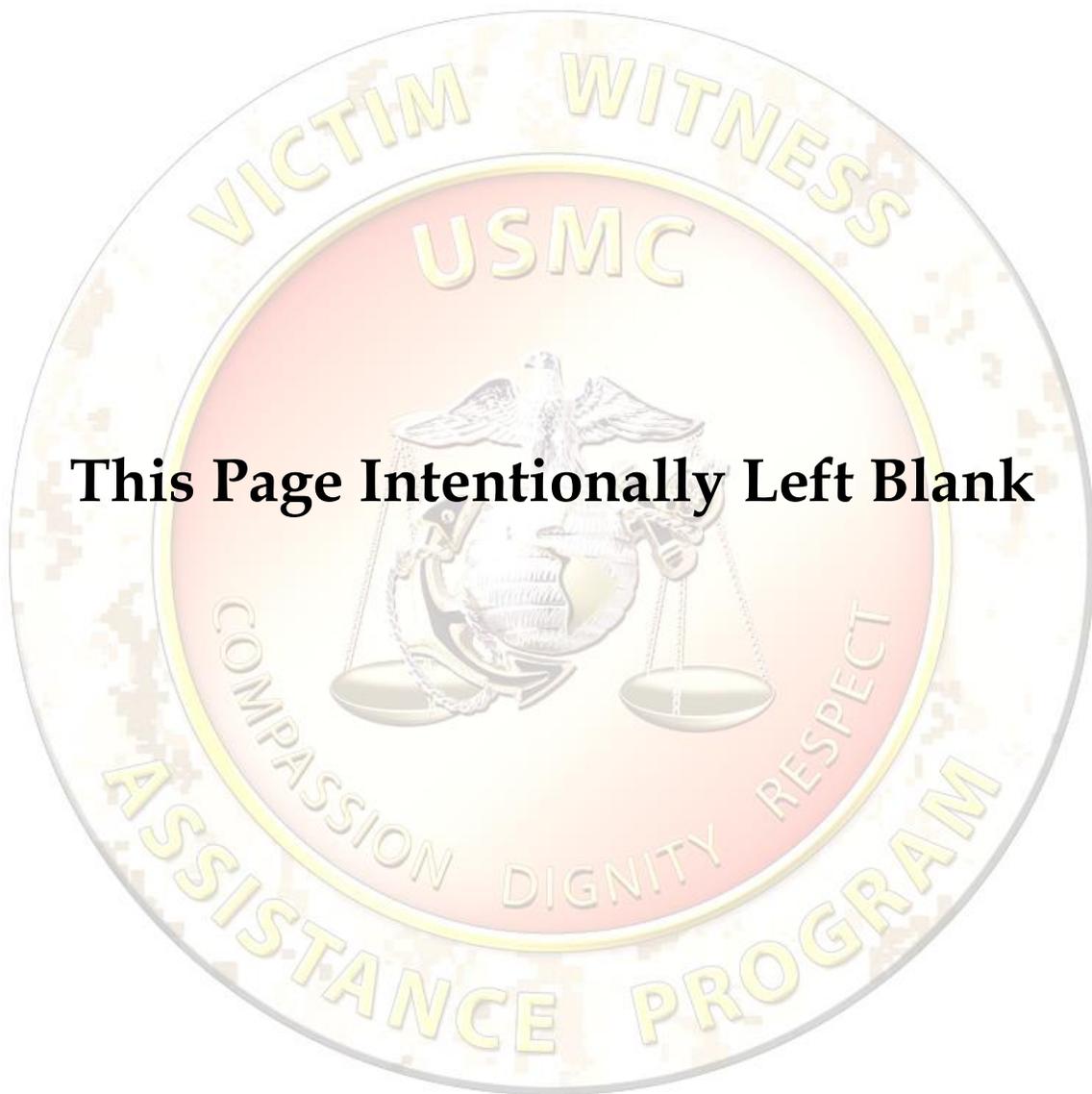


This Page Intentionally Left Blank

ANNEX F:

Legal Assistance and VWAP





This Page Intentionally Left Blank

Legal Assistance for Victims of Crime

LEGAL ASSISTANCE

PRESENTED BY
LEGAL SERVICES SUPPORT SECTION
NATIONAL CAPITAL REGION



Legal Assistance Personnel

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

Current T/O:

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

Attorney-Client Privilege Applies



Demographics -- Clients

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



LA for Victim of Crime

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

Services Provided

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



Estate Planning

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

Family Law

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

Other

- Chapter 15 – Non Support Requests

Contact Information and Appointments

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



Location



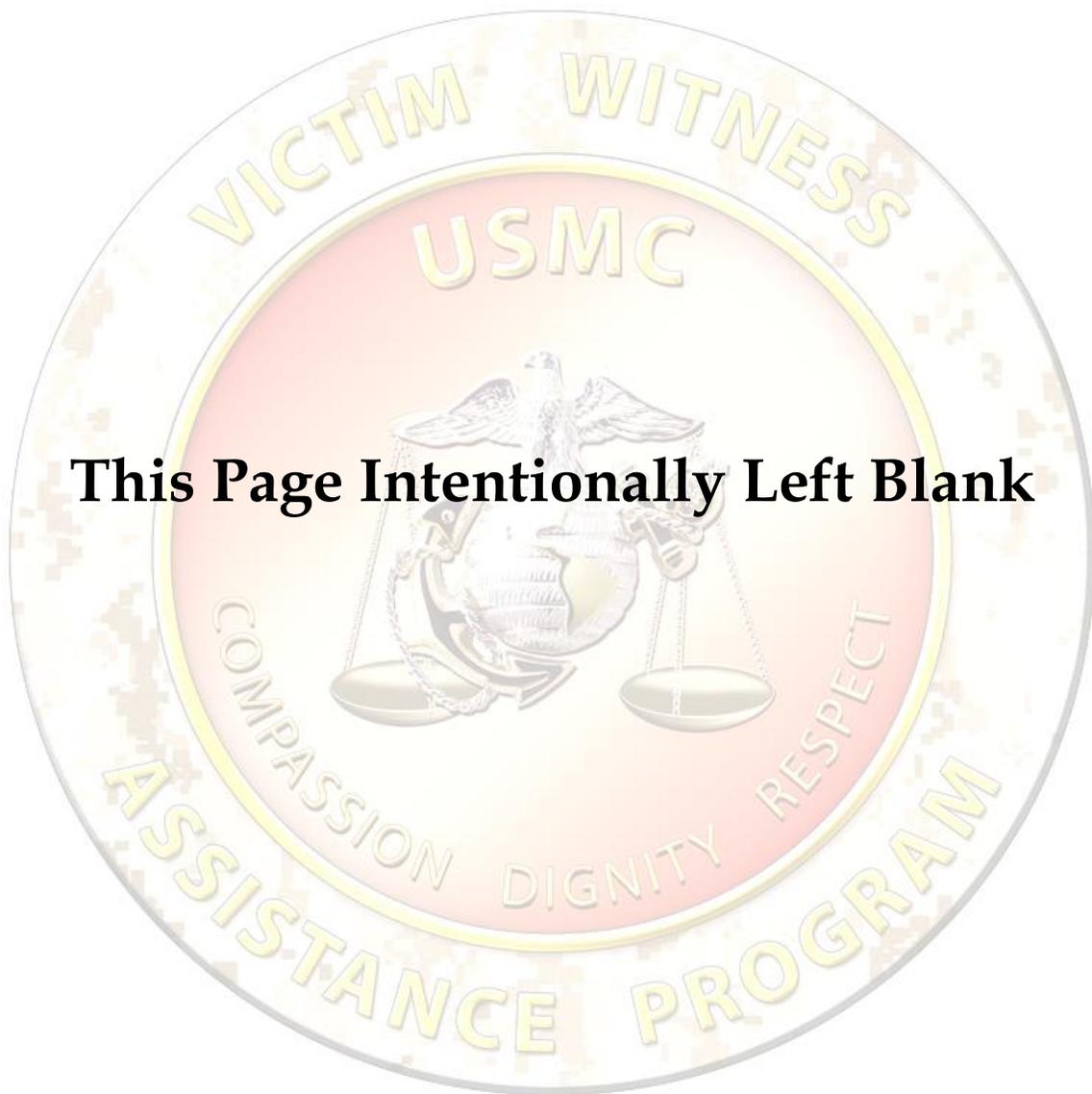
- 3095 Roan Street
- Behind the Pool
- Next to the Band
- Across from WFL
- MCAF = Too Far



ANNEX G:

Victim Legal Counsel Organization





This Page Intentionally Left Blank



Victims' Legal Counsel Organization (VLCO)

Major Marc Tilney
Regional Victims' Legal Counsel
Marine Corps National Capital Region
marc.tilney@usmc.mil
(703) 784-3872

FOR OFFICIAL USE ONLY



Background

- **10 U.S.C. § 1044**, *Traditional Legal Assistance*, (enacted 30 Oct 2000)
- **USD Memo**, *Legal Assistance for Crime Victims*, (17 Oct 2011)
- **10 U.S.C. § 1565b**, *Legal Assistance to Victims of Sexual Assault*, (enacted 31 Dec 2011)
- **U.S. Air Force SVC Program**, Jan 2013
- **LRM v. Kastenberg**, Established right to be heard "through counsel," decided by the Court of Appeals for the Armed Forces, 18 Jul 2013
- **SECDEF Memo**, Directed Services to Establish Special Victim's Advocacy Programs, 14 Aug 2013
- **Establishment of Marine Corps VLCO**, MARADMIN 583/13, 31 Oct 2013

FOR OFFICIAL USE ONLY

2



Mission Statement

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

FOR OFFICIAL USE ONLY

3



VLCO

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

FOR OFFICIAL USE ONLY

4



Statistics (Current Cases)

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

FOR OFFICIAL USE ONLY

5



Who is eligible?

BLUF: It depends, let VLCO make the determination.

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

FOR OFFICIAL USE ONLY

6



10 U.S.C. §1565b

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

FOR OFFICIAL USE ONLY

7



Victim Rights

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

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

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

FOR OFFICIAL USE ONLY

8



Scope of Services

Legal Advice & Counseling

- Privileged, confidential communication with VLC.
- VLC can provide information and guidance regarding any crime committed in violation of the UCMJ.
- VLC will refer victims to Defense and/or Legal Assistance when appropriate.

Representation (Detailing)

- Only for offenses subject to trial by court-martial.
- All victims of sexual assault when requested.
- All cases with issues arising under M.R.E. 412, 513, 514, when requested.
- Representation ends at convening authority action in the case, although additional assistance may be approved by OIC VLCO.

FOR OFFICIAL USE ONLY

9



VLC Advice & Counseling

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

FOR OFFICIAL USE ONLY

10



VLC Advice & Counseling (Cont'd)

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

FOR OFFICIAL USE ONLY

11



VLC Representation

VLC detailed to a case represent the victim's interests throughout the military justice process until the convening authority takes action.

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

FOR OFFICIAL USE ONLY

12



VLCO Impact

Positive victim responses to legal services

- Confidence to report crimes
- Increased satisfaction with military justice process

- Success protecting victims' privacy rights
 - Mental health records
 - Sexual history/sexual predisposition

- Legal services provided are based on individual client goals
 - Administrative separation
 - Expedited transfer
 - Transitional compensation
 - Declination to participate in court-martial

FOR OFFICIAL USE ONLY

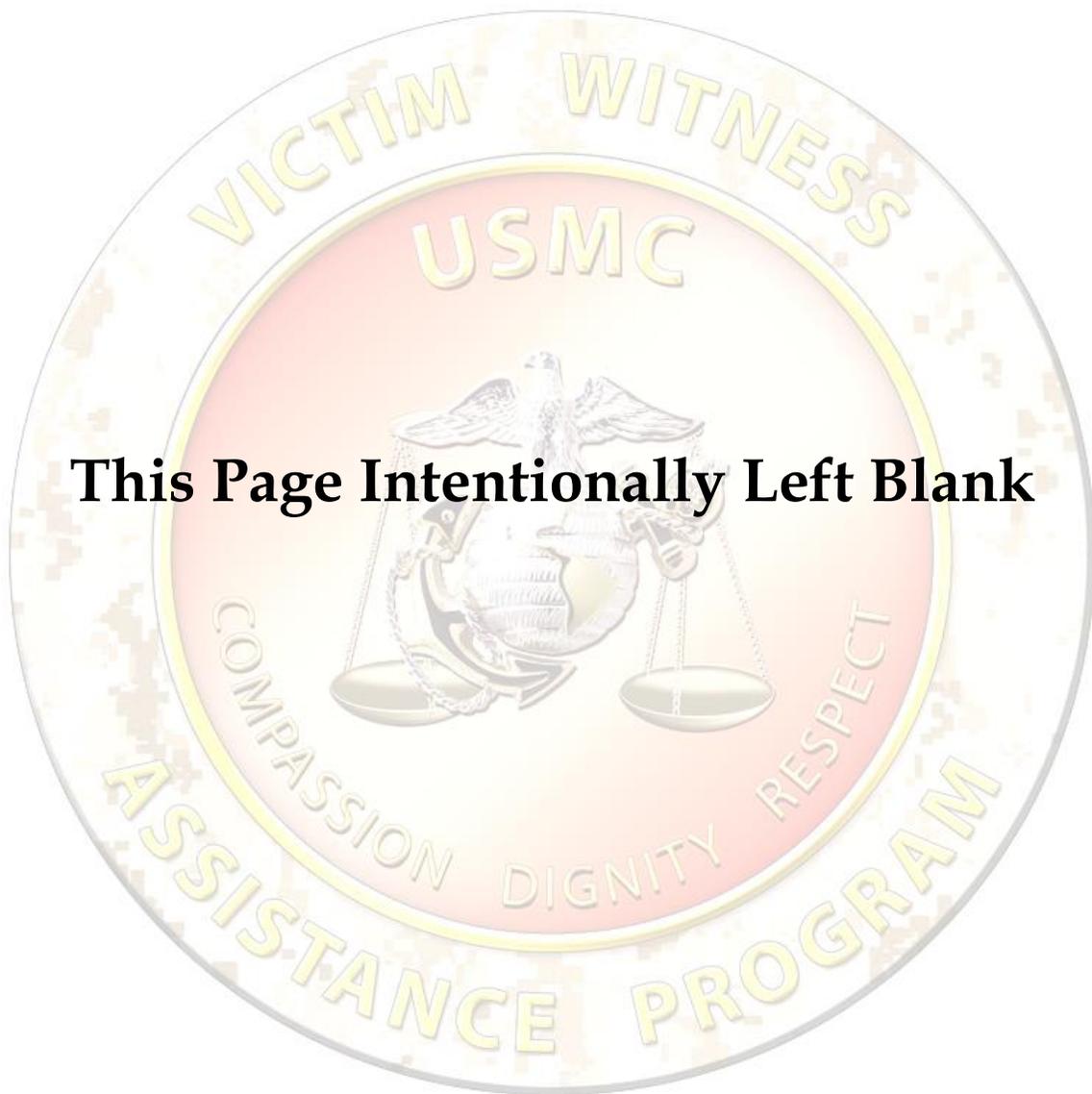
13



QUESTIONS?

FOR OFFICIAL USE ONLY

14

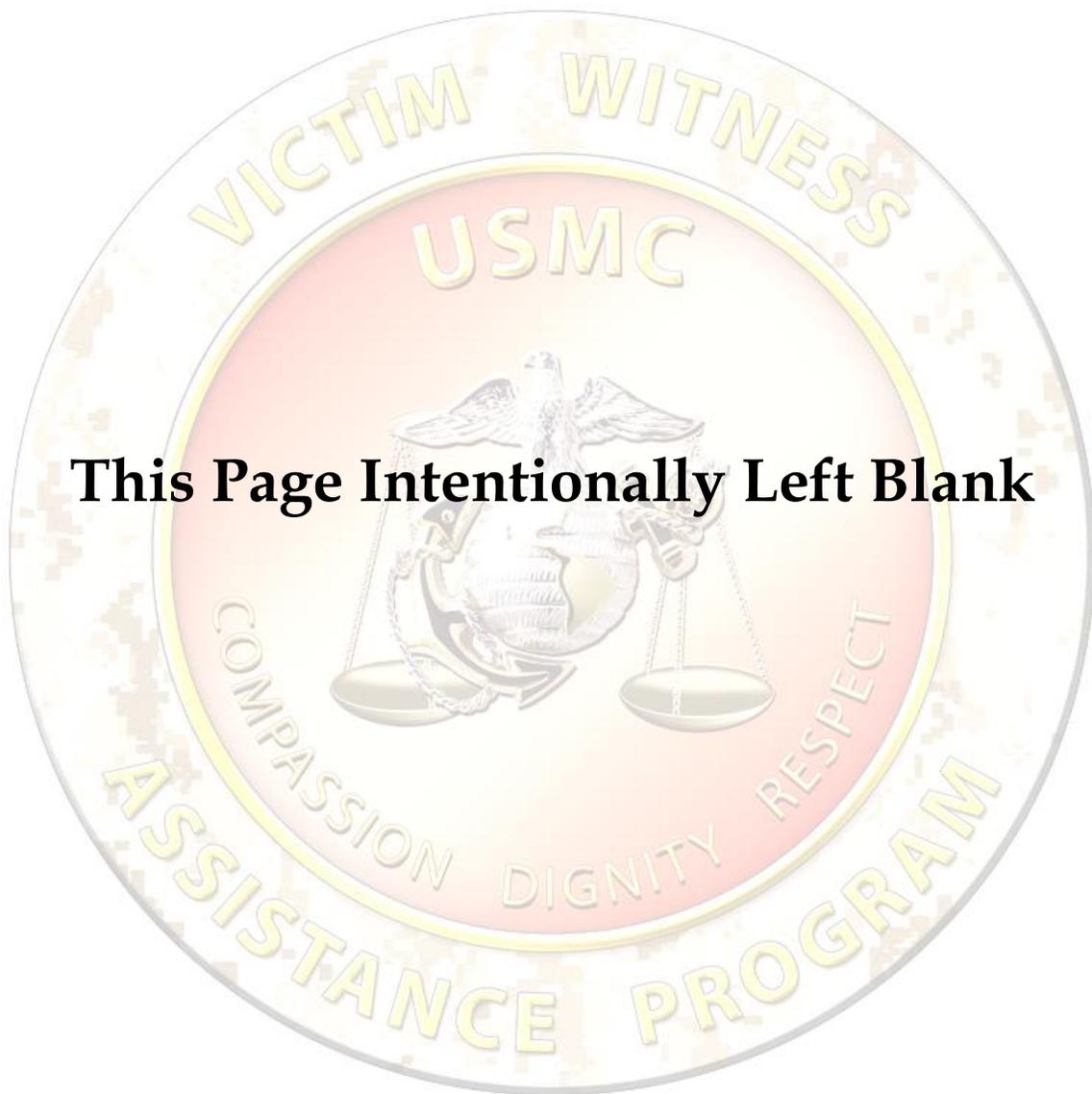


This Page Intentionally Left Blank

ANNEX H:

Court-Martial Process Overview and MRE 514





This Page Intentionally Left Blank

An Overview of The Court-Martial Process & MRE 514

Marine Corps TCAP



Class Agenda



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

Getting Started



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

From RLS to Referral



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

Types of Courts-Martial



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

Trial Process / Anatomy



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

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

Pre-trial 39a Sessions



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

Pre-trial Agreements (PTA)



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

Verdict and Sentence



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

Role of the Trial Counsel



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

Role of the Defense Counsel



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

Role of the Military Judge



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

Members (a.k.a. The Jury)



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

MRE 514 Victim Advocate – Victim Privilege

21 April 2015

14

Background

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

15

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.”

16

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)

17

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

18

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

19

Exceptions – 514(d)

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

20

Exceptions – 514(d)

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

21

MRE 514 – Judicial Process

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

22

MRE 514 – Judicial Process

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

23

MRE 514 – Reporting

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

24

MRE 514 – Takeaways

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

25

MRE 514 – Takeaways

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

26

MRE 514 – Takeaways

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

27

MRE 514 – Hypothetical #1

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

28

MRE 514 – Hypothetical #2

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

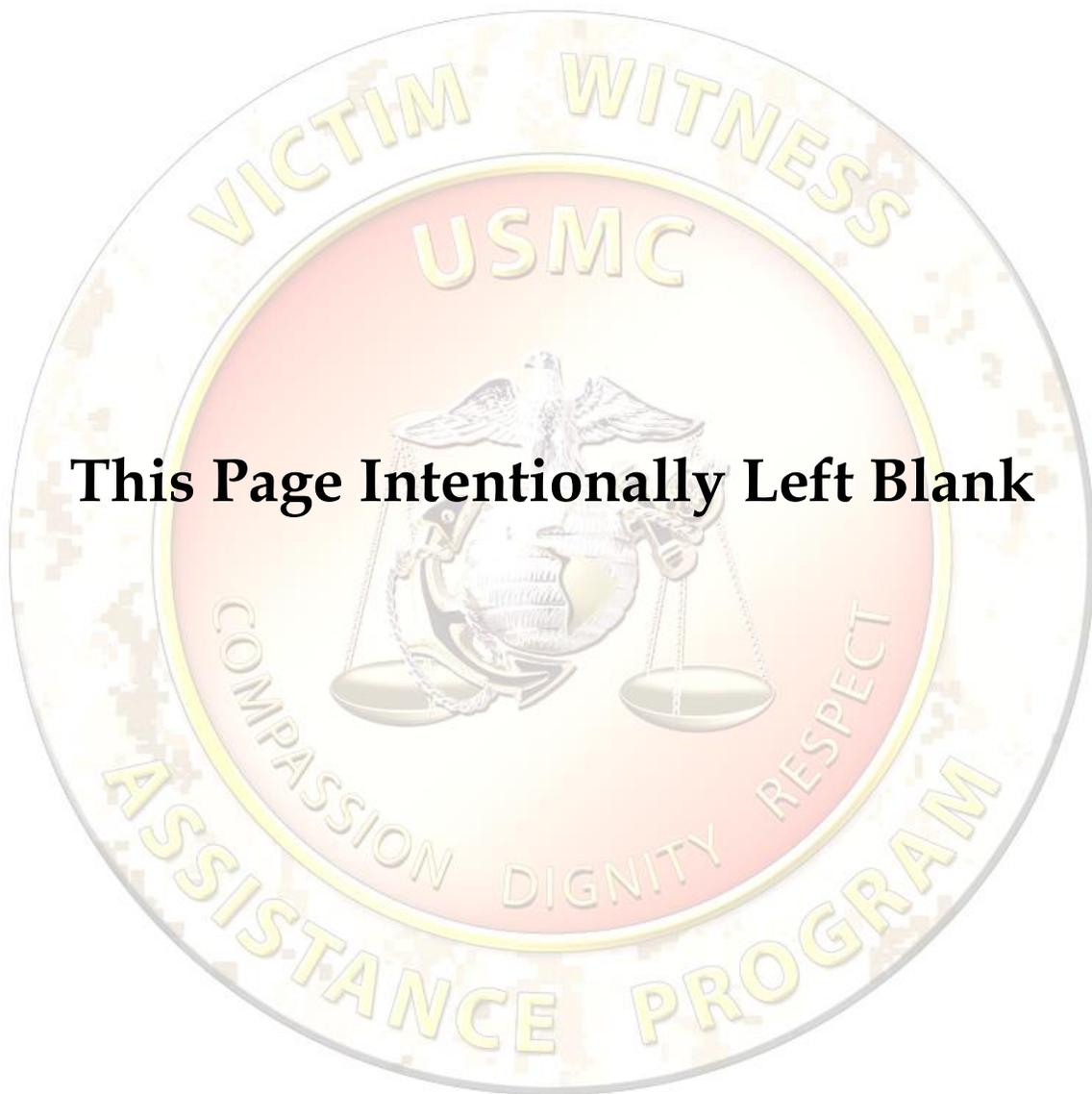
29

QUESTIONS?



ANNEX I:
PSL Corrections





This Page Intentionally Left Blank



BRIG VICTIM / WITNESS ASSISTANCE PROGRAM



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



AGENDA



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



REFERENCES



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



CMC PSL CORRECTIONS VWAP MISSION STATEMENT



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



CMC PSL CORRECTIONS RESPONSIBILITIES



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



CMC PSL CORRECTIONS RESPONSIBILITIES CONT'D



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



BRIG RESPONSIBILITIES



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



BRIG RESPONSIBILITIES CONT'D



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



QUALITY CONTROL



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



VICTIMS/WITNESSES ENROLLED IN PROGRAM



CY 2012

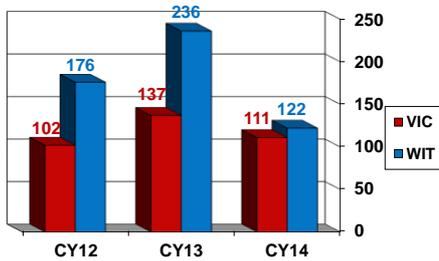
Victims = 102
Witnesses = 176

CY 2013

Victims = 137
Witnesses = 236

CY 2014

Victims = 111
Witnesses = 122





PRISONER STATUS CHANGES & NOTIFICATIONS



CY 2012

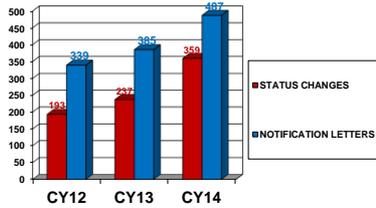
Status Changes = 193
Notification Letters = 339

CY 2013

Status Changes = 237
Notification Letters = 385

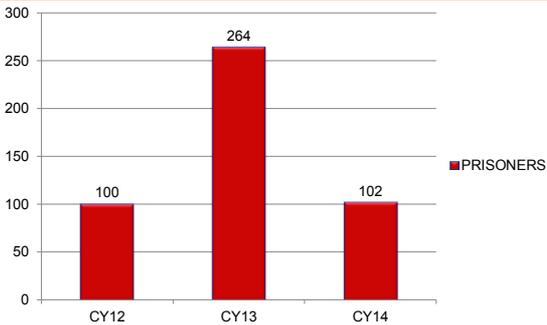
CY 2014

Status Changes = 141
Notification Letters = 200



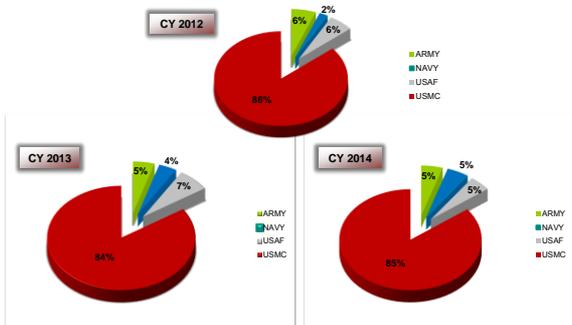


PRISONERS ENROLLED IN VWAP





PERCENTAGE OF PRISONERS ENROLLED IN VWAP





HOW CAN YOU HELP?



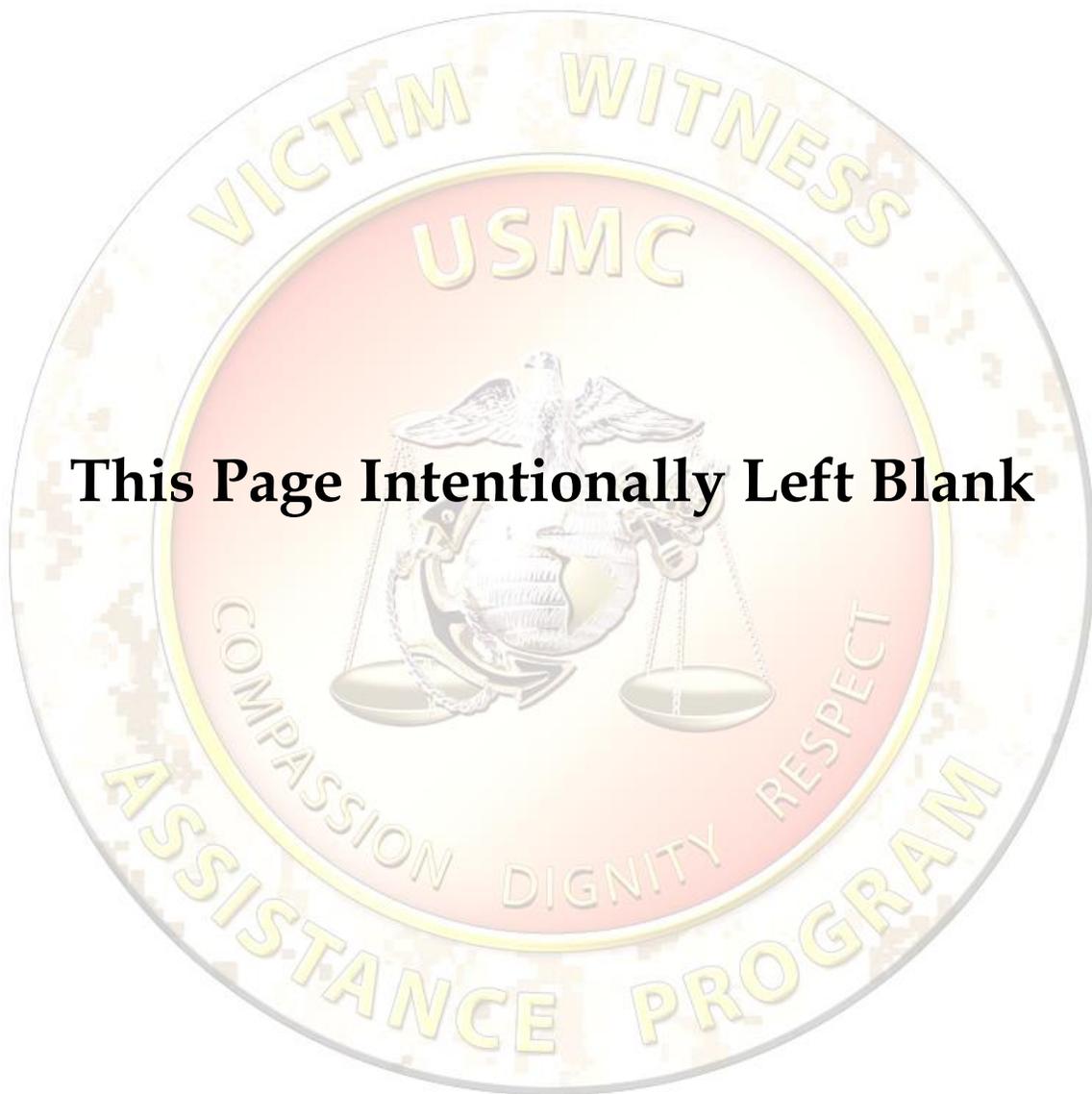
- Continue to ensure complete and accurate DD Form 2704's:
 - Enables timely notifications to be made to victims and witnesses
 - Fulfills the purpose of the VWAP program
- Process for incomplete, incorrect, or undelivered DD 2704's:
 - Brig attempts to rectify discrepancies through trial counsel
 -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



CMC PSL CORRECTIONS



QUESTIONS

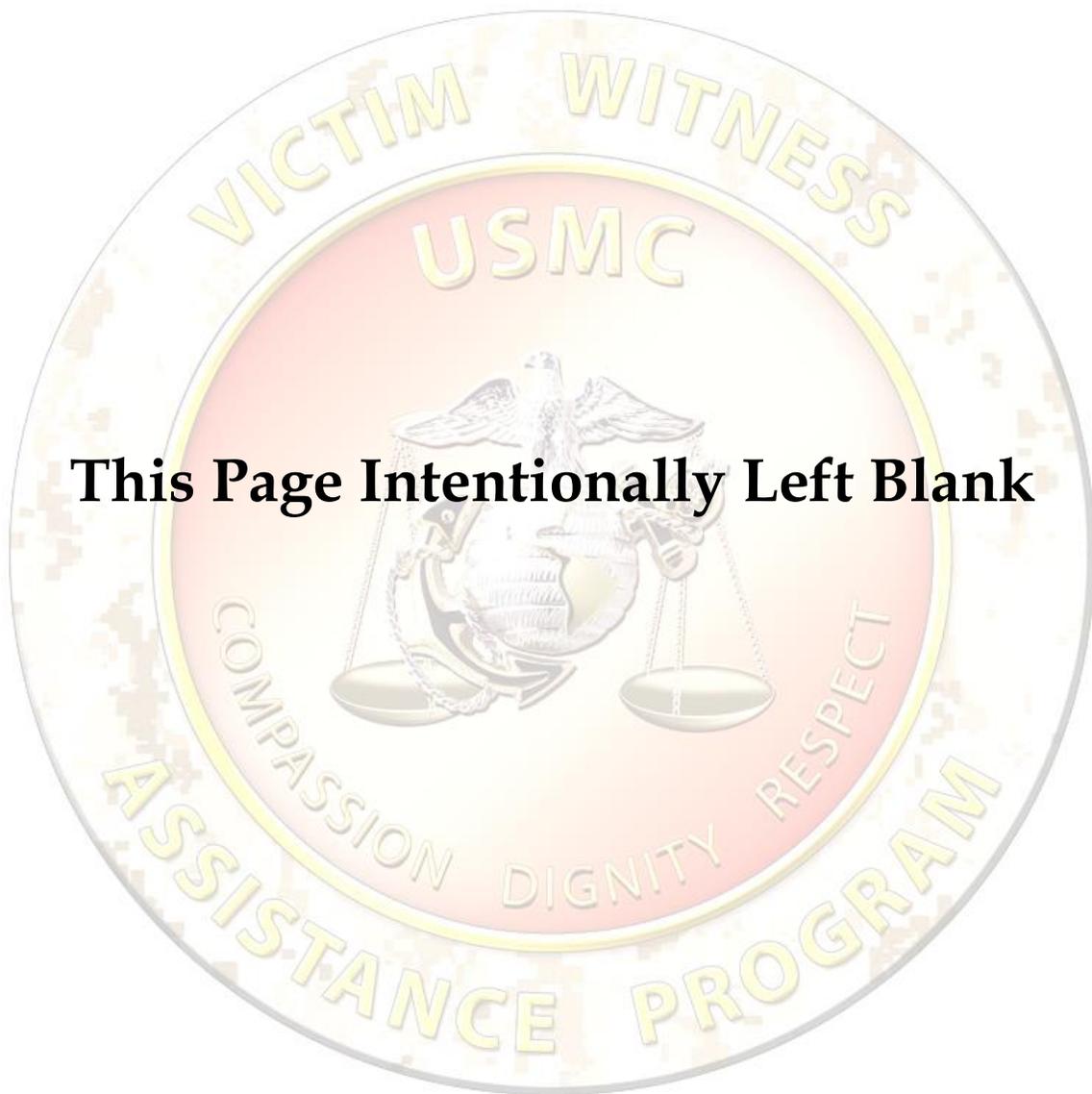


This Page Intentionally Left Blank

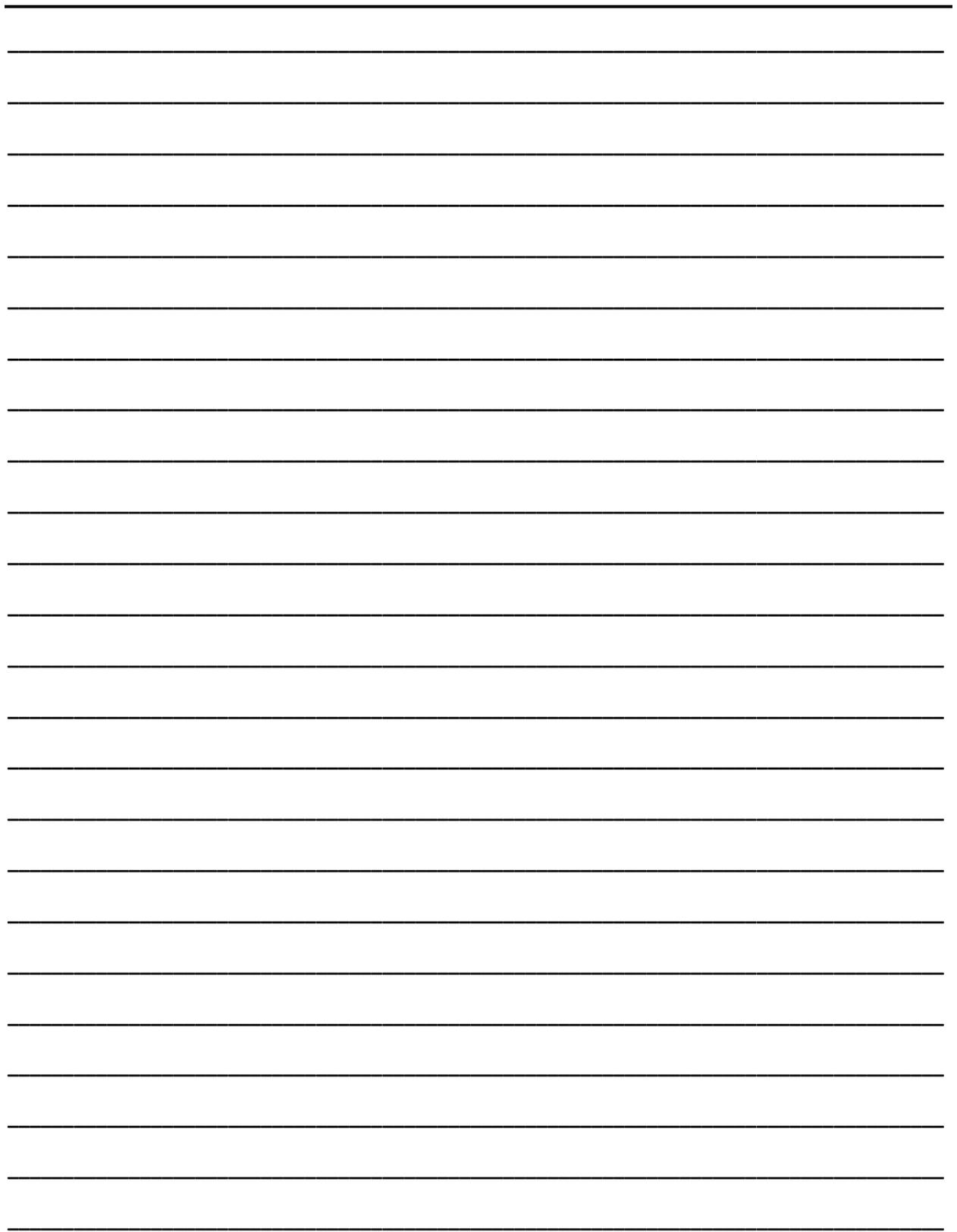
ANNEX J:

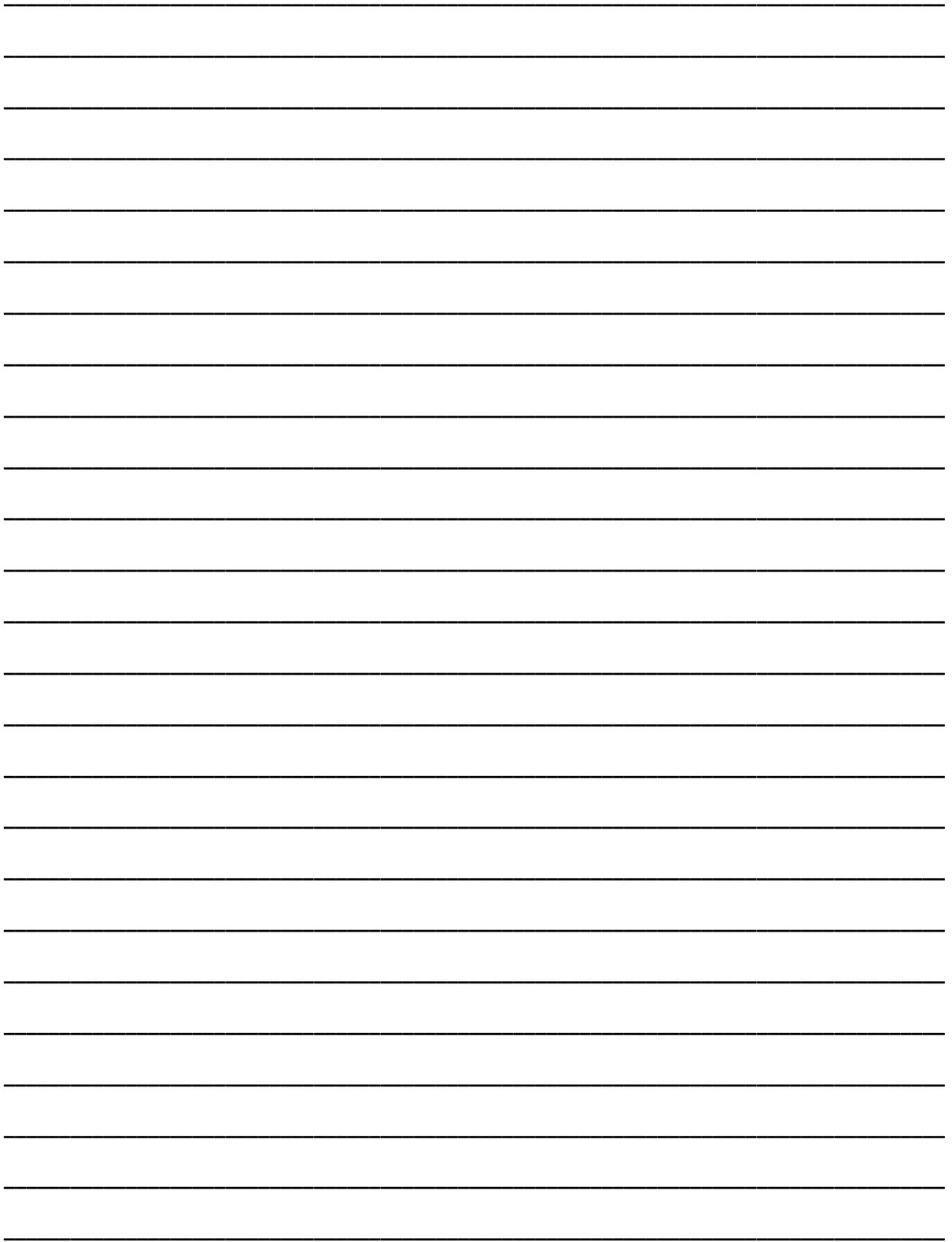
Transitional Compensation Best Practices





This Page Intentionally Left Blank

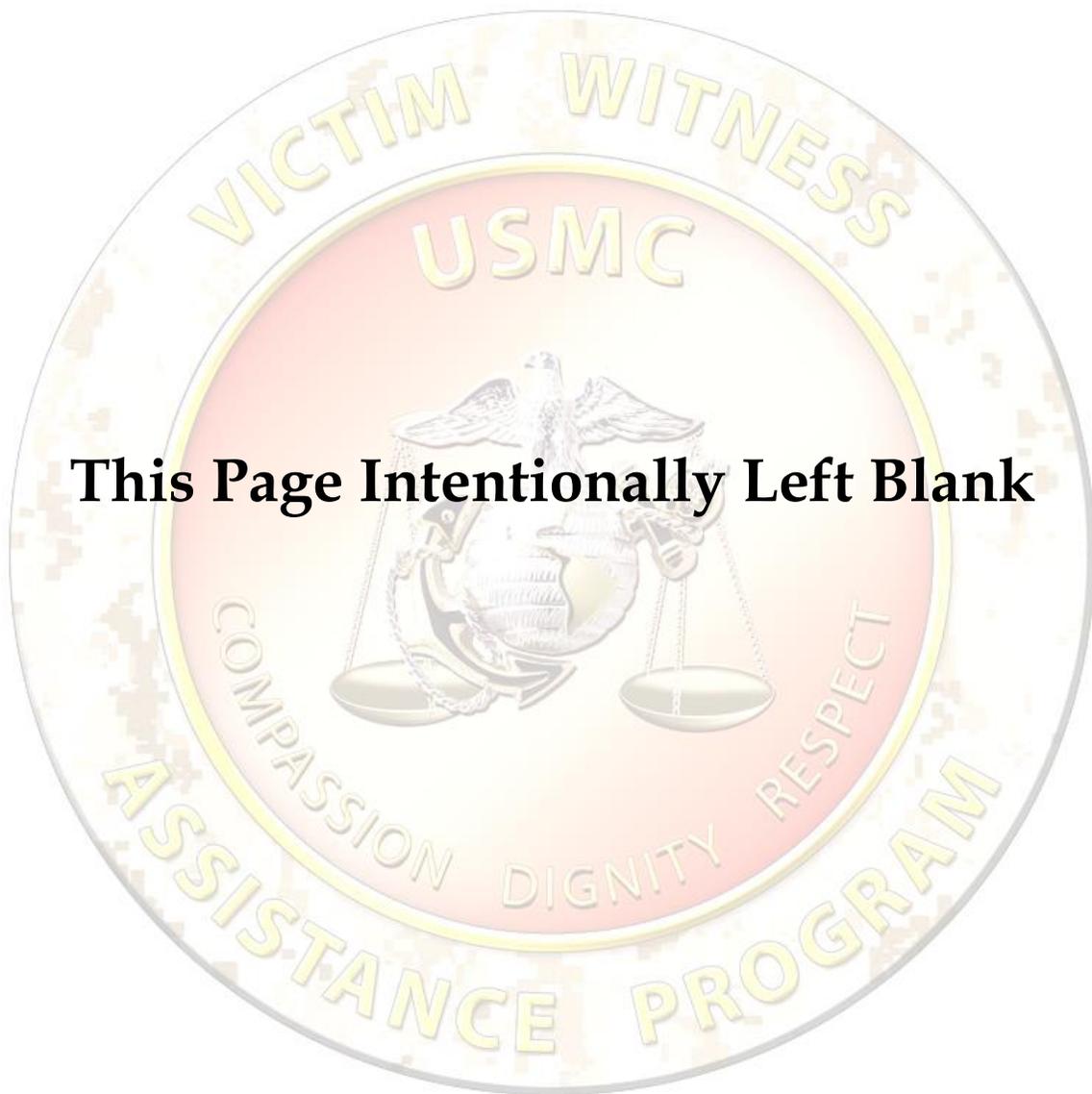




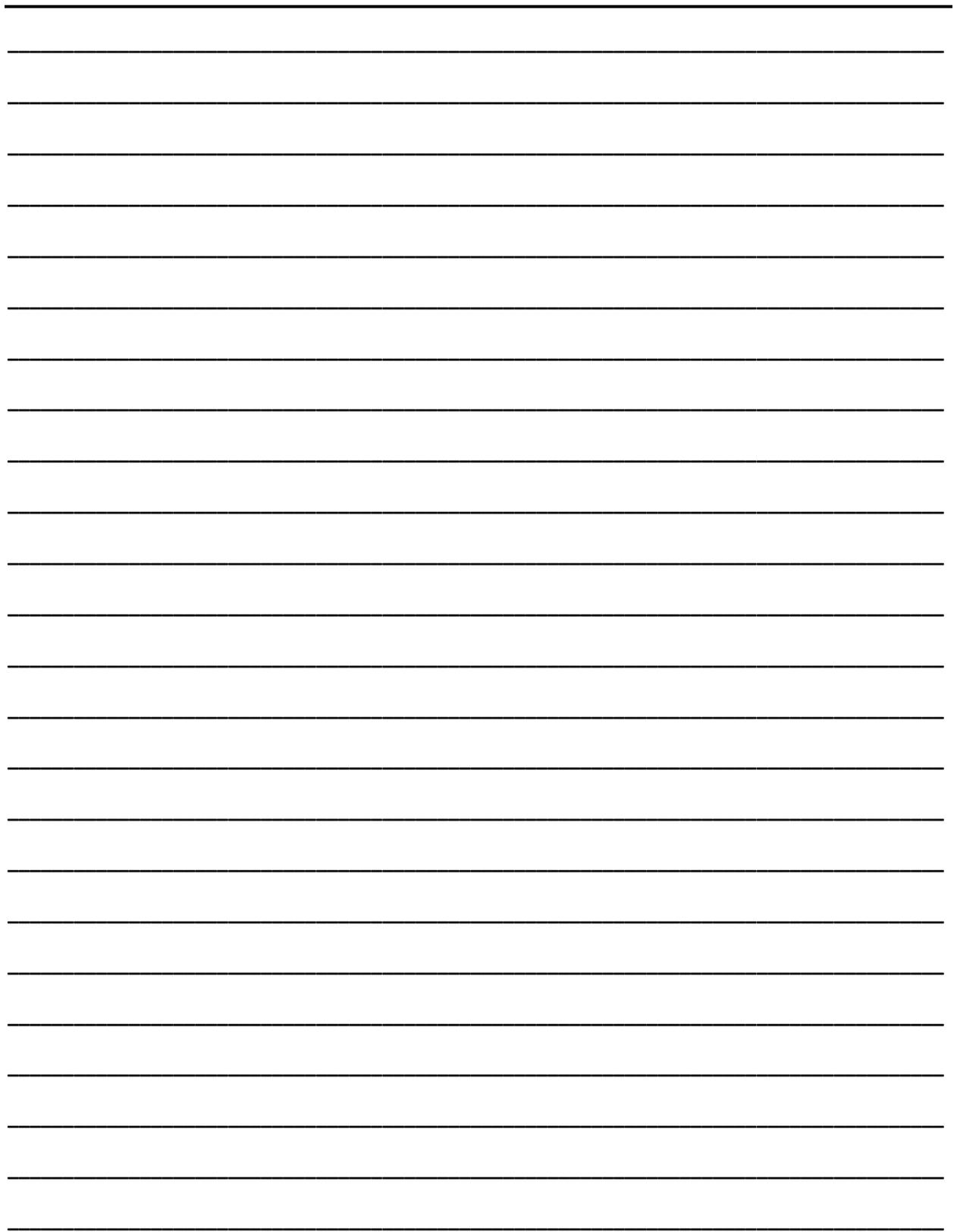
ANNEX K:

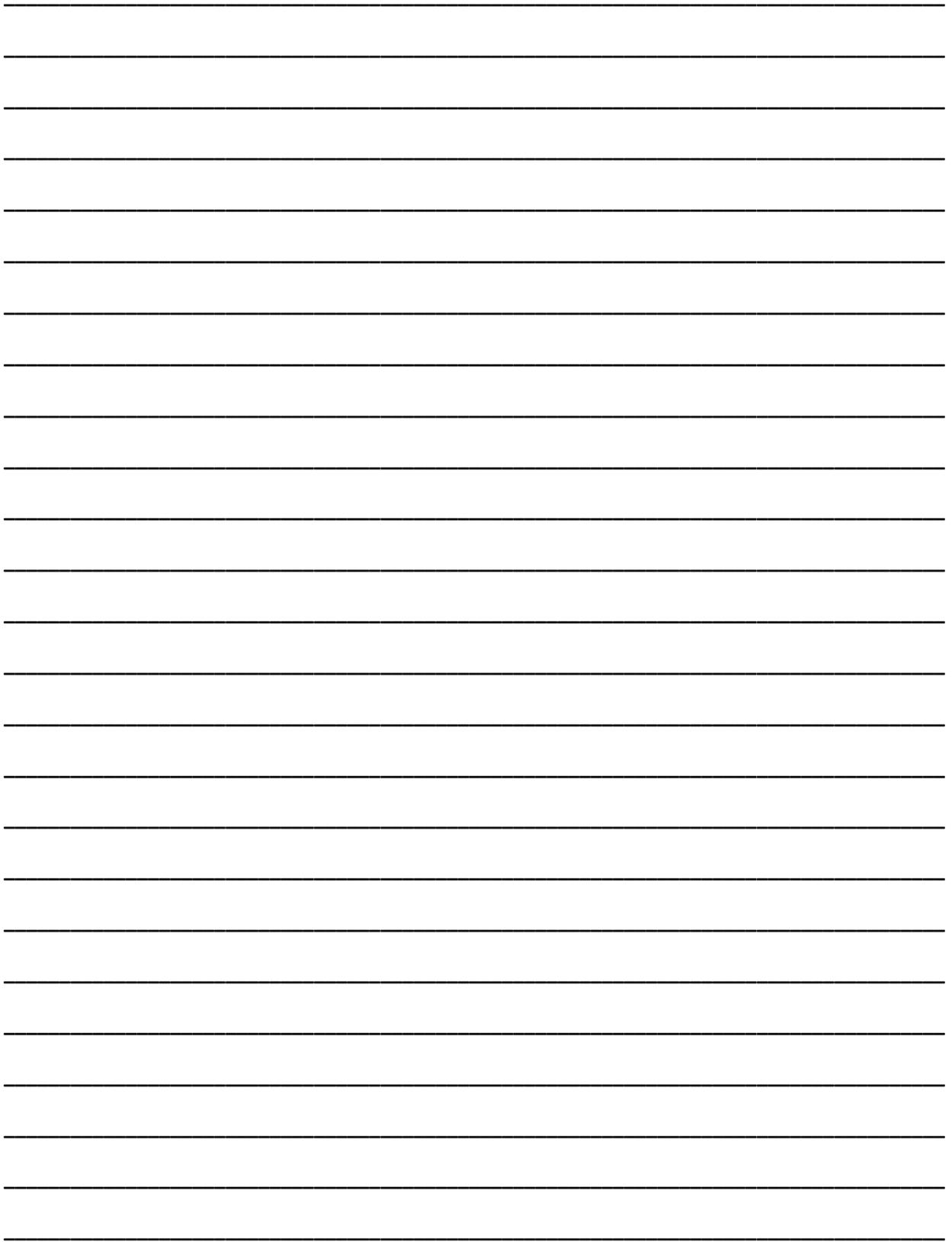
Civilian Victim Assistance under the CVRA





This Page Intentionally Left Blank

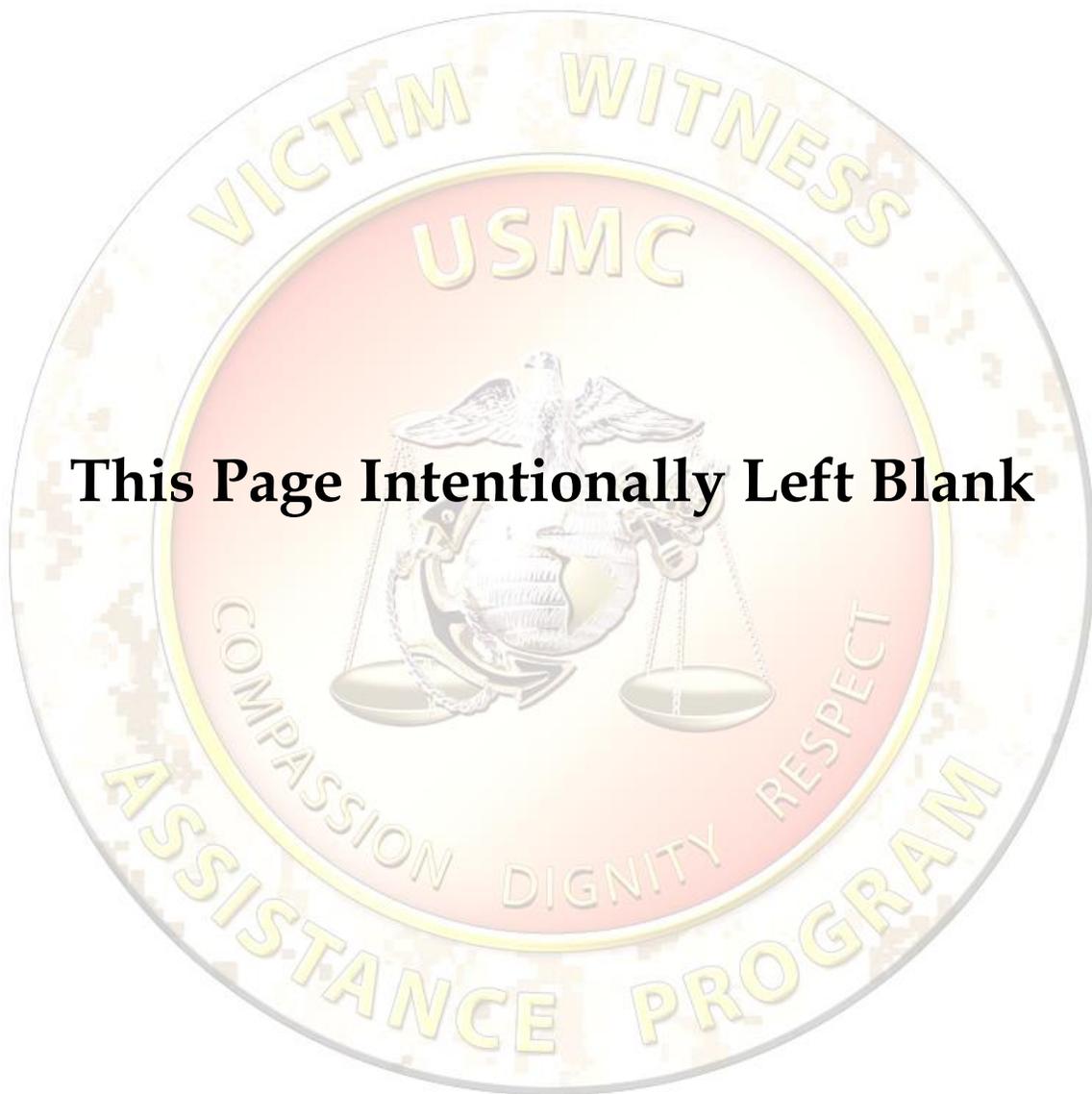




ANNEX L:

CGIP and 092 Checklist





This Page Intentionally Left Blank

Commanding General Inspection Process

Functional Area TAB 092

Victim Witness Assistance Program (VWAP)

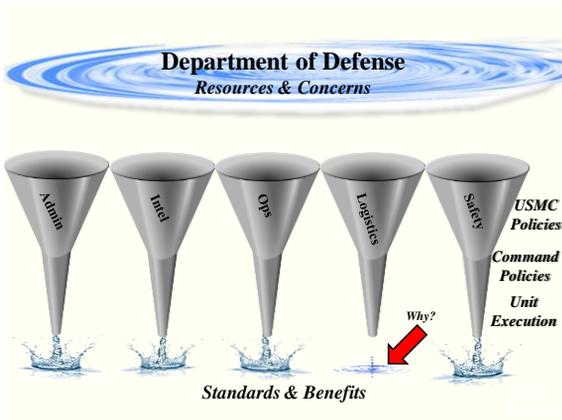


Presented by:
William Yables Jr.
Installation Victim Witness Liaison Officer
Marine Corps Air Station New River

A Visit From The Inspector General...



2



Finding the Root Cause...



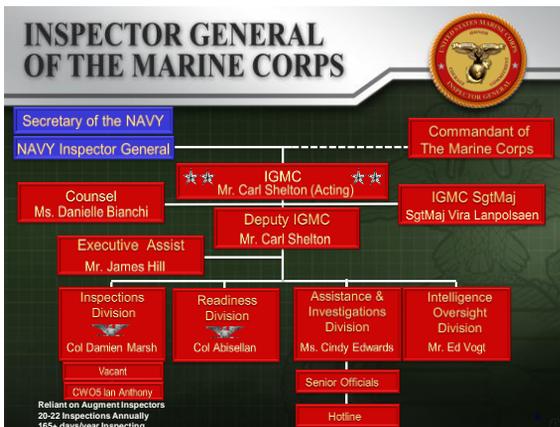
Inspection Authority

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



IGMC MEMBERS:
DoD IG Trained & Sworn
Credentialed Naval Investigators

5



Mission

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

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

Inspection Philosophy

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



8

Two fundamentally different types of inspections

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



Short / No-Notice Inspections

NO MORE
PAINTING ROCKS!

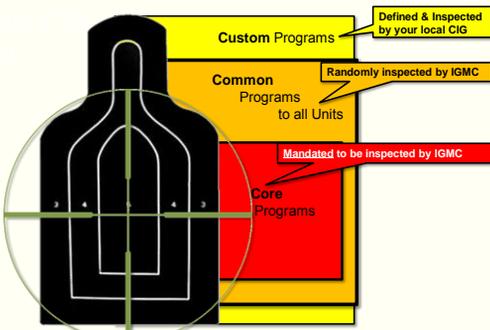
*Want to see
Ordinary Operations*

*Expect to see
Normal Wear & Tear*



10

What the IGMC inspects...



The Core Programs (33)

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

Grading



Non-Mission Capable

Findings

Discrepancies

Mission Capable

- **Mission Capable / Non-Mission Capable:**
 - Does Unit possess requisite...
 - Skills?
 - Equipment?
 - Personnel?
 - Understanding of directives?
- in order to accomplish assigned mission, tasks, and functions.*

- Checklist items may be found with:
- **Finding:** An error that detracts from readiness, involves waste fraud or abuse, health, safety, morale, welfare, or deviate from Higher Headquarters policies.
 - **Discrepancy:** Failure to comply with guidance, direction, and required actions.

Inspection End State

- ✓ Enhanced Knowledge of Functional Area & USMC Policies
- ✓ Identified & shared Best Practices
- ✓ Recognize Individual Excellence
- ✓ Provide an Accurate Assessment with Recommendations.
- ✓ Enhance trust of the IGMC inspection process
- ✓ Continual Improvement of IGMC Inspection Process



14

Inspection Trends

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

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



Inspection Trends cont.

092 06 001 Has the Unit Commander appointed in writing, by name, title, duty address, and telephone number, a VWAC?

- Missing required information (title: Legal Officer)

092 06 002: In cases of summary courts-martial where confinement is adjudged and approved, did the unit commander coordinate with a trial counsel assigned to the Legal Services Support Team (LSST) supporting their command prior to completing the DD Form 2704?

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

Inspection Trends cont.

092 06 003: Have Commanders provided annual VWAP training to ensure that unit personnel know the identity of their VWAC and understand victim and witness rights?

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



092 07 001: Is the VWAC an Officer, SNCO, or civilian member of the commander's staff of appropriate experience, temperament, and rank?

- Don't have the appropriate experience or temperament

Inspection Trends cont.

092 07 002: What is the process in place to maintain data on the number of victims and witnesses who receive DD Forms 2701?

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

092 07 003: Are the total number of victims and witnesses provided DD Form 2701 being reported to the installation VWLO quarterly?

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



Inspection Trends cont.

092 07 004: In pretrial confinement cases where the victim or witness has requested notification, did the VWAC notify the victim or witness of changes in the accused's pretrial confinement status?

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

092 07 005: Has the VWAC obtained and distributed VWAP materials and provide VWAP training to the members of the command on an annual basis?

- Haven't obtained and distributed anything
- No training; same as in question 092 06 003

Questions



DETAILED INSPECTION CHECKLIST

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

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

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

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

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

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

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

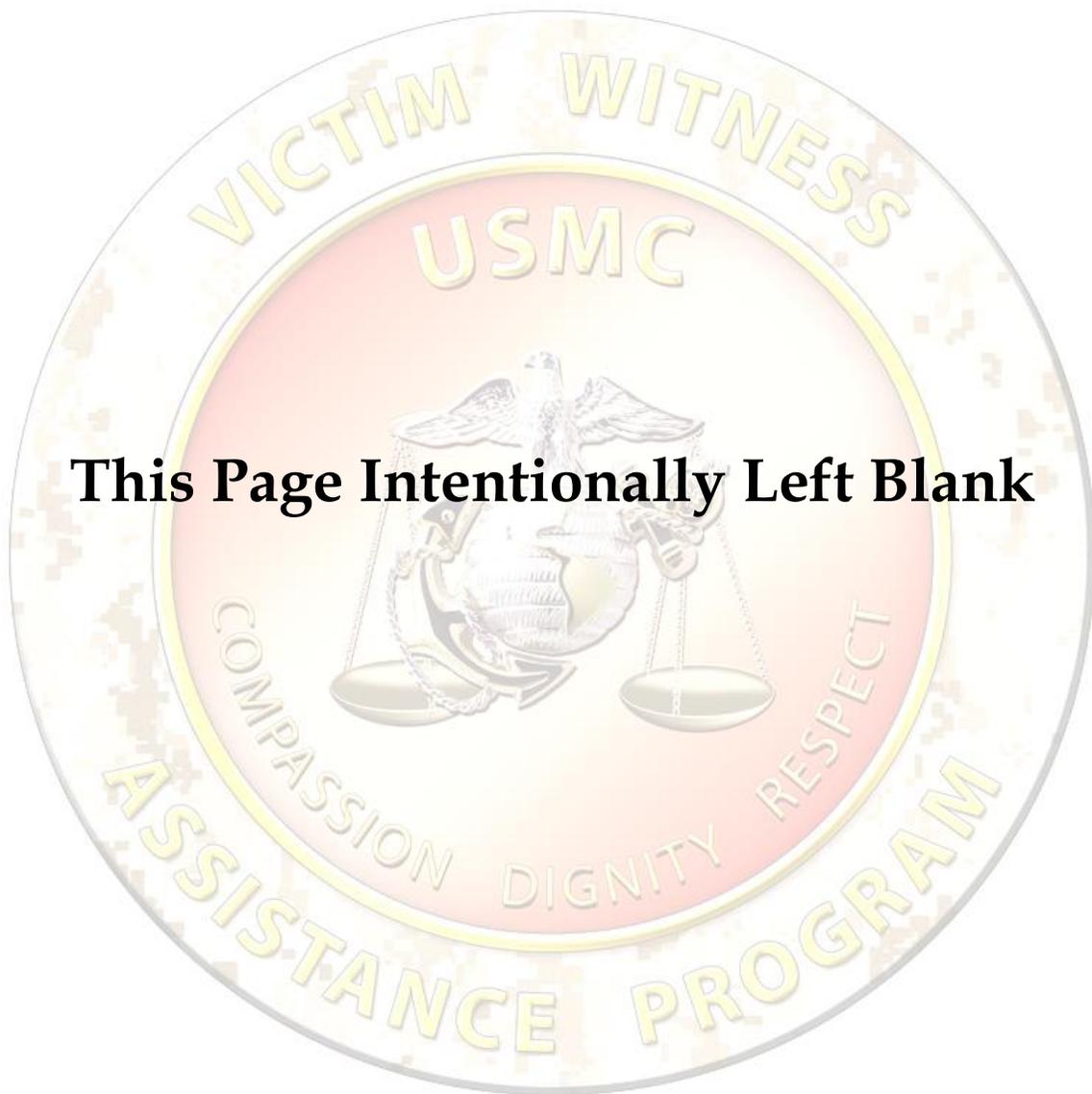
- 092 04 024 Are individual confinement records of prisoners included in the victim and witness program identified by placing a white label on the outside of the file with the letters "VW" written at least high in black?
Reference
MCO 5800.14, ENCL (3), PAR 4(e)(4)
- 092 04 025 Does the confinement facility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

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

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

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

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

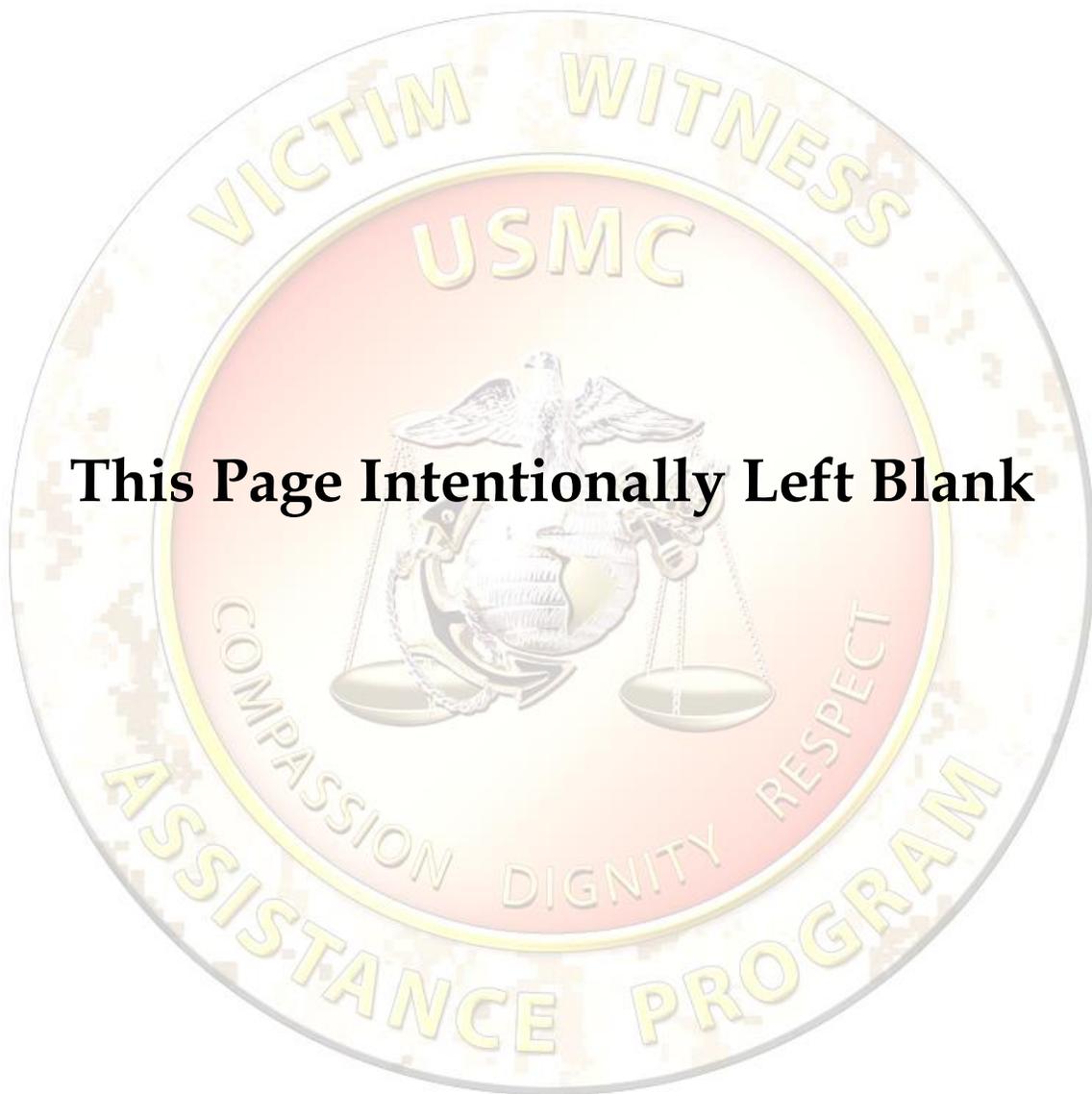


This Page Intentionally Left Blank

ANNEX M:

Article 139 Complaints and PCA





This Page Intentionally Left Blank

Article 139 and the PCA

Capt Neely
HQMC, VVAP
703 693 8407

GOALS of the Training

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

Article 139, UCMJ

Article 139

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

Article 139

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

Article 139

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

Article 139

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

Article 139

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

Article 139 – Submitting a Claim

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

Article 139 – Submitting a Claim

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

Article 139 – The Investigation

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

Article 139 – The Investigation

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

Article 139 – JA Review

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

Article 139 – Commander’s Action

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

Article 139 – Commander’s Action

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

Article 139 – Appeal

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

Article 139

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

Article 139 – Realistic Scenario

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

Personnel Claims Act

- Scenario:

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

- This is exactly what the PCA is for!

Personnel Claims Act

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

Personnel Claims Act

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

Personnel Claims Act

0802 RESPONSIBILITIES

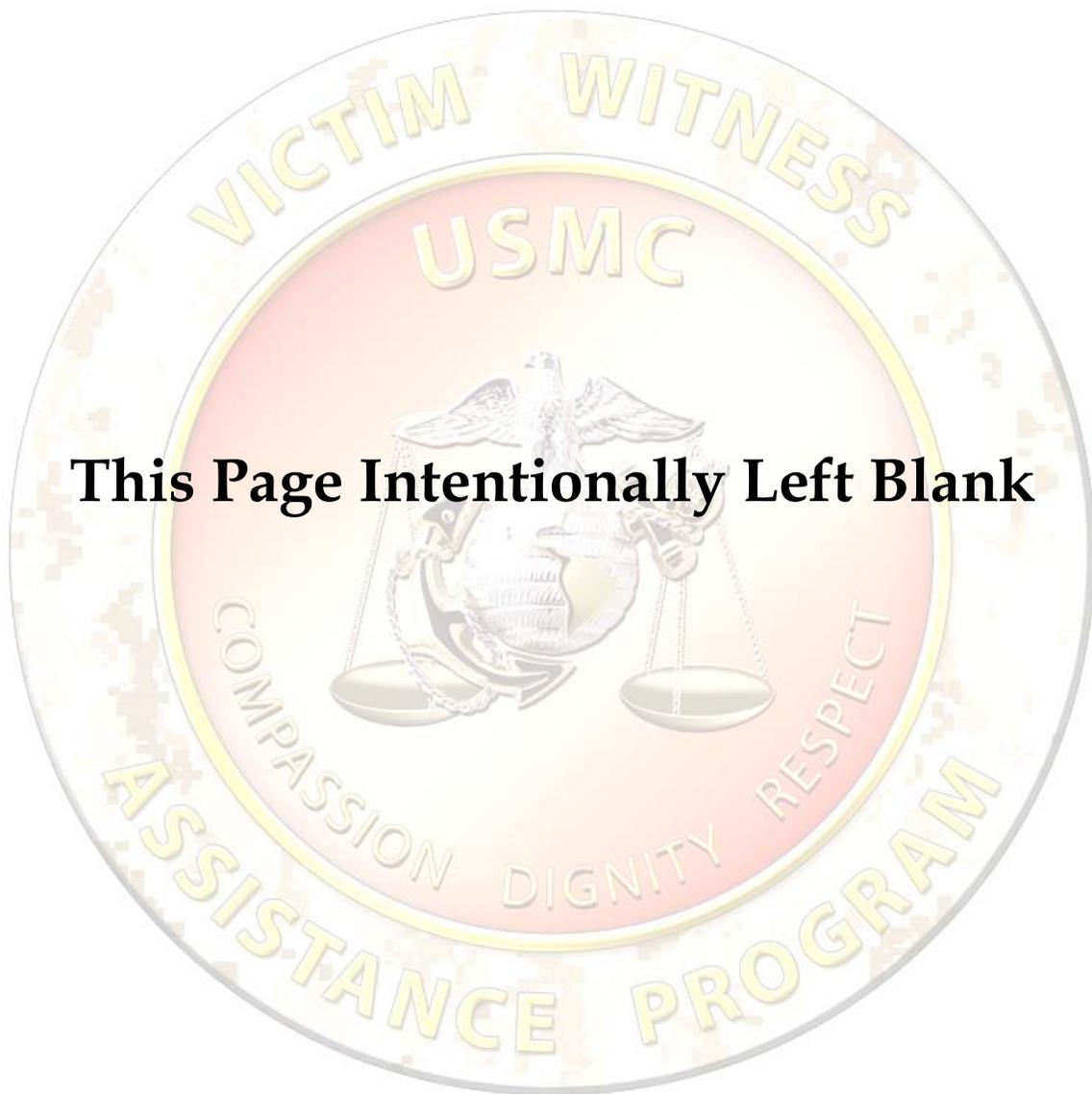
JAGMAN

a. The Judge Advocate General (JAG) is responsible for the resolution of claims arising under the Federal Tort Claims Act (FTCA), Military Claims Act (MCA), Nonscope Claims Act, Military Personnel and Civilian Employees' Claims Act (PCA), Foreign Claims Act (FCA), International Agreements Claims Act (IACA), Medical Care Recovery Act (MCRA), the Third Party Payers Act, and the Federal Claims Collection Act (FCCA) (affirmative claims). The Office of the Judge Advocate General (OJAG), Claims and Tort Litigation Division (Code 15) executes this responsibility on behalf of the JAG.

b. The Division Director, Claims and Tort Litigation (OJAG Code 15) is the manager of the Department of the Navy (DON) claims system that evaluates, adjudicates, and provides litigation support for claims arising under the acts listed above. The claims system consists of attorneys and support personnel assigned to OJAG (Code 15). Code 15 personnel responsible for processing tort

SUMMARY

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

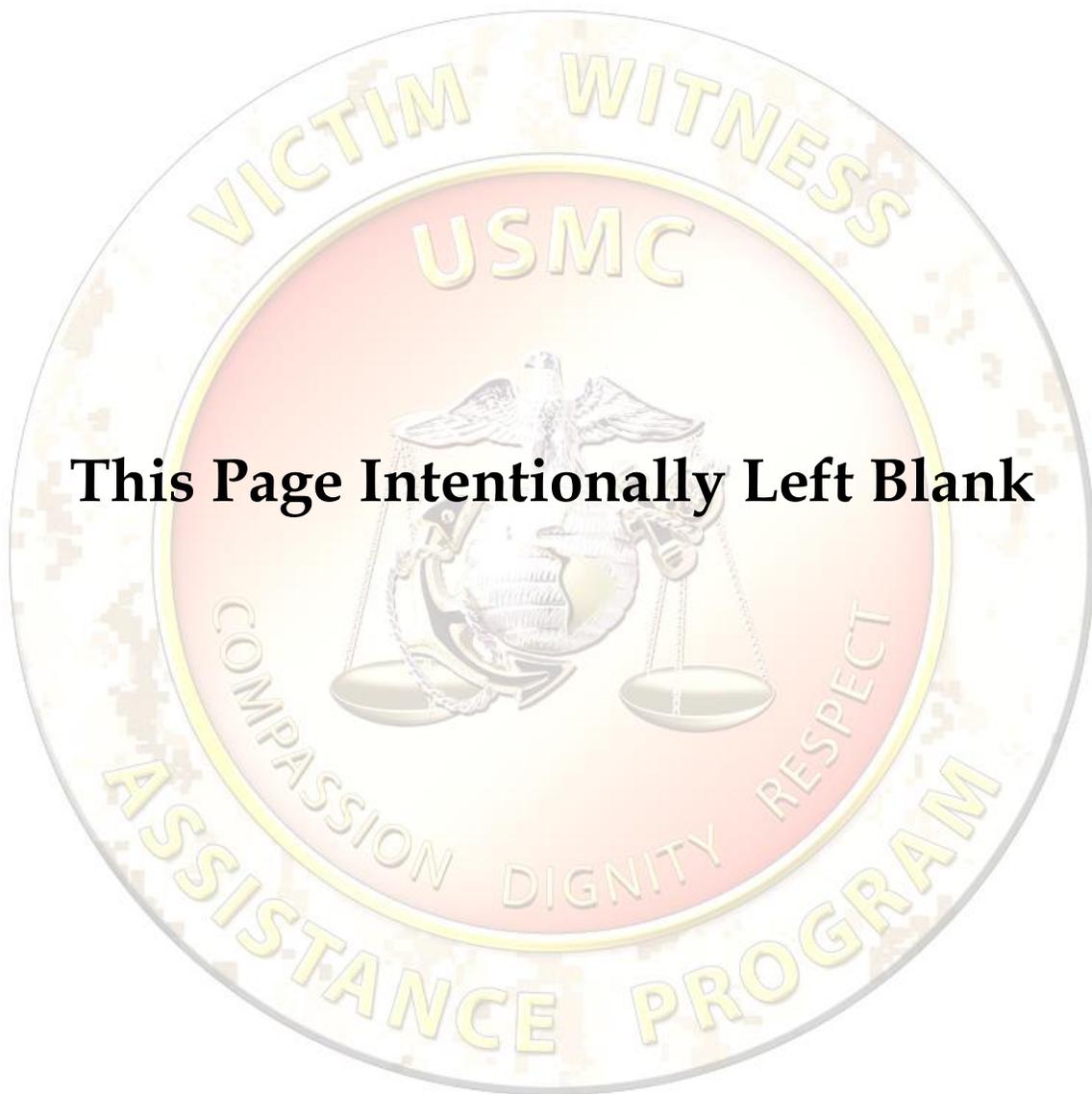


This Page Intentionally Left Blank

ANNEX N:

Impact of Crime on and Communicating with Victim Survivors





This Page Intentionally Left Blank

Impact of Crime on Victim Survivors

What you need to know and why

May 14, 2015

Christopher Wilson, Psy.D.
Licensed Psychologist
1020 SW Taylor, Suite #245
Portland, OR 97205

Email: chris@drchristopherwilson.com
Web: www.drchristopherwilson.com
Twitter: @drchriswilson

Who am I?



Psychologist

Trainer/Clinician/Evaluator
Expert in the field of DV

Translator

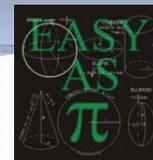
Musician & Photographer

2

Why neuroscience? (at 0800 no less!)



Our learning objectives:



- Understand the basics of the neurobiology of trauma
- Understand some of the specifics related to sexual assault victims and domestic violence victims
- Use that understanding to:
 - make sense of seemingly counterintuitive victim behavior
 - understand the importance of soft eyes and more effectively communicate with victim survivors

3

Snapshot of Part 1

- Brain basics
- Brain circuitry - the fear circuit sans trauma
- The impact of sexual assault - the fear circuit & trauma
- The after effects of trauma on the brain
- Small group discussion/exercise

4

A few thoughts
before we jump in

I'm not a neuropsychologist



5

A few thoughts
before we jump in

Regarding the brain: we're discussing a small stretch
of highway...no more than a few miles!



6

A few thoughts
before we jump in

We will both be discussing the brain during a sexual
assault/domestic violence assault/other assault and the
potential long term impact on the brain



7

Defining Trauma



8

Defining Trauma



9

Defining Trauma



10

Defining Trauma

"It's just the brain doing what the brain does."

~ Me



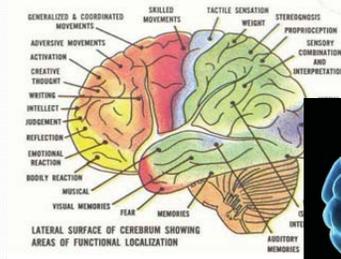
11

Snapshot of Part 1

- **Brain basics**
- Brain circuitry - the fear circuit sans trauma
- The impact of assault - the fear circuit & trauma
- The after effects of trauma on the brain

12

Localized Function versus Circuitry



16

It's the difference between:

"the amygdala is responsible for..."

and

"the amygdala is involved in..."

17

A few brain basics

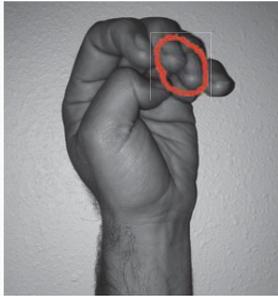
You have a brain-map in your fist!



18

A few brain basics

Pre-frontal cortex = your middle nails



19

A few brain basics

Pre-frontal cortex plays a role in:

Top-down attention: *you consciously chose!*



20

A few brain basics

Pre-frontal cortex plays a role in:

Top-down attention

Integration of data: *consolidation of memory/narrative*



equals



21

A few brain basics

Pre-frontal cortex plays a role in:

Top-down attention

Integration of data

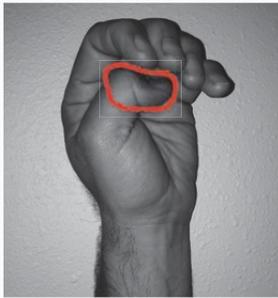
Logical decision making



22

A few brain basics

Limbic System = area around your thumb



23

A few brain basics

Limbic System plays a role in:

Fear network



24

A few brain basics

Limbic System plays a role in:

Fear network

Memory encoding



25

Snapshot of Part 1

- Brain basics
- **Brain circuitry - the fear circuit sans trauma**
- The impact of sexual assault - the fear circuit & trauma
- The after effects of trauma on the brain

26

Circuits = Neural Networks



- The neurons that fire together wire together
- Repetition breeds neural networks
- The more often/more intense = deeper network

13

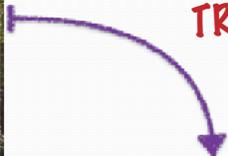
Repetition over time!



14

OR...

TRAUMA!



15

Trauma vs Threat

There's an
Evil
Monkey
in my closet



27

Predict and Protect!



28

Consistently assess for safety



Involves:

Various sensory inputs

Maps of safety/threat

The extremes are easy to understand...

29

Map of safety or threat?



The extremes are easy to understand...

29

Map of safety or threat?



Sometimes it's not so obvious...

29

"Sense" Danger

**DANGER
WILL ROBINSON!**



Involves:
Various sensory inputs
Fear network
(including amygdala)
NOT the pre-frontal cortex!

30

Assess the threat!



Involves:
Various what?
Maps of what?
If the threat is valid,
you don't think, you act!

31

Respond to the threat...

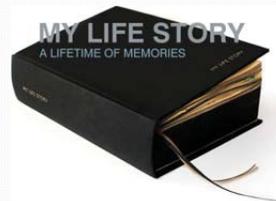


We evolved to **freeze first**,
then **flee** if possible.

46

Once the threat has passed...

*Learn from experience
Make logical decisions to minimize future risk*



Involves:
The integrative function of the
pre-frontal cortex

32

Imagine for a moment...



33

As an aside...

- We have very advanced memory networks!
- No trauma? No problem. We'll store that in a nice time line for you.
- File that away for later...



34

Snapshot of Part 1

- Brain basics
- Brain circuitry - the fear circuit sans trauma
- **The impact of assault - the fear circuit & trauma**
- The after effects of trauma on the brain

35

During an assault Fear Circuitry takes over!



36

Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival reflexes/reactions
- Bottom-up attention
- Self-protection habits
- Altered memory encoding and consolidation



37

Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival reflexes/reactions
- Self-protection habits
- Bottom-up attention
- Altered memory encoding and consolidation



37

High Stress + Fear =
Impaired Prefrontal
Cortex

38 Arnsten 1998, *Science*, 280, 1711-1712; Arnsten 2009, *Nature Reviews Neuroscience*, 10,



39

Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival *reflexes/reactions*
- Self-protection habits
- Bottom-up attention
- Altered memory encoding and consolidation



37

Freeze



Maybe the monster won't see me!

43

Freeze



Ready to suddenly
burst into action

44

When

FEAR

kicks in

Fight or flight?



We evolved to freeze first,
then flee if possible.

46

Fight or flight?



FREEZE → FLEE → FIGHT!

How to FLEE when there's
no (perceived) escape route



Drastic survival reflexes...

46

47

Dissociation

Blanked/Spaced Out

Disconnected from Body

Autopilot



48



Tonic Immobility

- *Freezing = Alert and immobile, but able to move*
- **Tonic immobility = Paralysis, can't move or speak**
- **Caused by** extreme fear, physical contact with perpetrator, restraint, **perception** of inescapability
- **Can occur in sexual and non-sexual assaults**

Marx et al. 2008, *Clin Psychol Sci Practice*, 74; Bovin et al. 2008, *J Trauma Stress*, 402; Brickman & Briere 1984, *Int J Women's Studies*, 195; Fuse et al. 2007, *J Anx Disord*, 265

50

Tonic Immobility

- **Response over 300 million years old**
- Sudden onset, usually after failed struggle
- Sudden termination
- **Can last from seconds to hours**
- **Does not impair alertness or memory encoding**

Humphreys et al. 2010, *J Interpersonal Viol*, 358

52



Tonic Immobility

Other common elements

- Fixed or unfocused staring
- Intermittent periods of eye closure
- Rigid or trembling muscles
- Sensations of coldness
- Numbness or insensitivity to pain

53

Marx et al. 2008, *Clin Psychol Sci Practice*, 74; Bovin et al. 2008, *J Trauma Stress*, 402



Collapsed Immobility

Similar to tonic immobility

- Can't move or speak
- Causes = extreme fear, physical contact with perpetrator, restraint, **perceived** inescapability
- Evolutionarily old response
- Sudden onset (but more gradual offset)

55

Kozlowski et al., in press, *Harvard Rev Psychiatry*; Baldwin 2013, *Neurosci Biobehav Rev*, 1549; Bracha 2004, *CNS Spectrums*, 679

Collapsed Immobility

Key differences from Tonic Immobility

- Extreme ↓ in heart rate and blood pressure
- Faintness, "sleepiness" or loss of consciousness
- Loss of muscle tone - Collapsed, limp, etc.

57 Kozlowski et al., in press, *Harvard Rev Psychiatry*; Baldwin 2013, *Neurosci Biobehav Rev*, 1549

I felt like a rag doll.



He was just moving me around.

58

Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival reflexes/reactions
- Self protection habits
- Bottom-up attention
- Altered memory encoding and consolidation



37



Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival reflexes/reactions
- Self-protection habits
- **Bottom-up attention**
- Altered memory encoding and consolidation



37

When you're not threatened...



You control your attention

40

When you're not threatened...



You may get distracted...but when you notice, you regain control over what you attend to in the environment

40

When you're not threatened...



This is called TOP-DOWN Attention (you call the shots!)

40

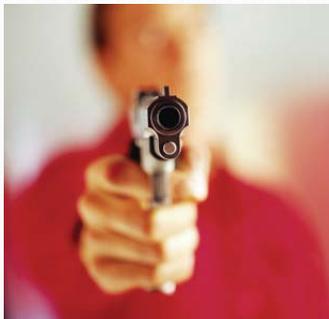
Fear Circuitry taking over =



Q: What do you focus on if there is no weapon?

40

Fear Circuitry taking over =



A: What ever will help you survive/cope!

40

Fear Circuitry taking over =

- **Attention is no longer a conscious choice!**
- You pay attention in order to survive/cope
 - may mean paying attention to the threat
 - may mean **NOT** paying attention to the threat!
- **This is called BOTTOM-UP attention**

40

Fear circuitry focus:

What seems most important to survival and coping



How do you know what your victim/survivor will remember?

62

Fear Circuitry taking over =

- Impaired pre-frontal cortex
- Survival reflexes/reactions
- Bottom-up attention
- Self-protection habits
- Altered *memory* encoding and consolidation



37

Focus of your attention



↓
Encoding



Consolidation/Storage

60

Bottom-Up Attention and Memory

Fear circuitry focus:

what seems most important to survival and coping

61

Bottom-Up Attention and Memory

Central Details are the details focused on by the victim - central to survival and coping

Central Details get encoded/consolidated!

64

Bottom-Up Attention and Memory

Peripheral details are the details NOT focused on by the victim

Peripheral details have a lower rate of getting encoded/consolidated!

66

Listen to this audio clip and pay attention to what the officer remembers and what he can't remember



65

Vulnerability to change?

- **Central Details = Very Low Vulnerability**
- **Peripheral Details = High Vulnerability**

67

The hippocampus & memory

If you saw a hippo on campus you'd remember!



68

The hippocampus & memory

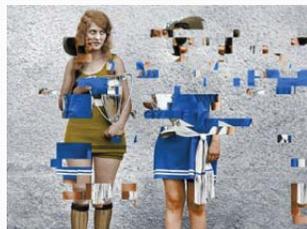
Plays a role in "date stamping" memory



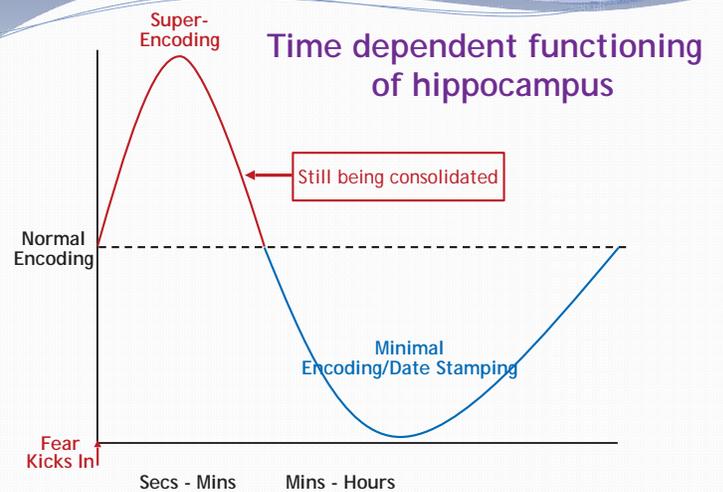
69

The hippocampus & trauma =

- During a traumatic event the hippocampus goes through two phases



70



71

Zoladz et al., 2014, Costa & Villalba (Eds.), *Horizons in Neuroscience Research* (Vol. 14), 1-40

What else Gets Encoded and Consolidated

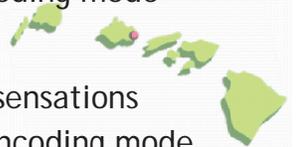
- **Islands** of memory (fragments & key periods related to survival reactions)
- **Few** peripheral details
- **Little** time-sequence information
- **Little** words or narrative



73

Islands of Memory

- **Larger islands** - Key periods within assault
 - When **fear kicked in**, right before and after
 - Hippocampus in hyper-encoding mode
- **Micro-islands** - Fragmentary sensations
 - Hippocampus in minimal-encoding mode



74

65

Exposure to trauma =

- Decreased activity in Broca's area
- Broca's area is related to speech
- Some believe that this is why individuals struggle to use words to explain their traumatic experiences.



"I just can't find the words"

72

Explicit vs. Implicit Memory

Explicit = You know it's a memory. You likely will include it in your account of the incident.

Implicit = You don't realize it's a memory, so all else being equal, aren't likely to include it in your account of the incident.

77

Explicit vs. Implicit Memory

Explicit = Can be elicited by asking traditional investigative questions.

Implicit = Likely will not be elicited without asking sensory focused questions.

78

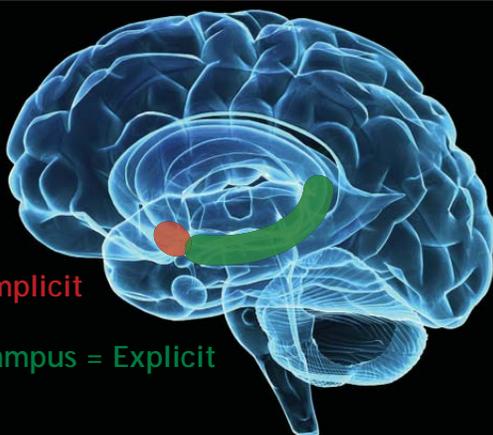
Explicit Memory Formation

Encoding → Consolidation → Stored Memory

Episodic Memory Circuitry

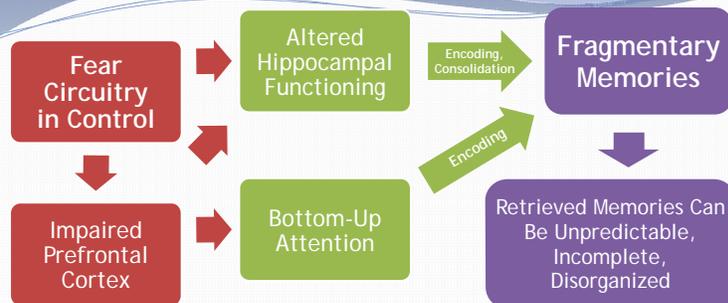


Explicit vs. Implicit Circuitries



Amygdala = Implicit

Hippocampus = Explicit

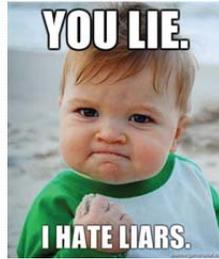


Some Aspects CAN Be Recalled Accurately:
Fear Onset, Central Details, Survival Reflexes and Other "Islands of Memory"

Traumatic Memory

Ever had a witness discredited because her/his account of the alleged crime was disjointed or didn't make sense?

Hmmmm...



80

Impact of trauma on narrative*



*the ability to take various memories and piece them together in a meaningful manner

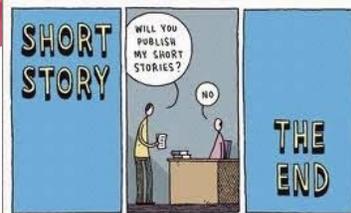
81

Our expectations of a narrative



Beginning
Middle
End

Temporal Integrity



82

A few brain basics

Pre-frontal cortex plays a role in:

Top-down attention

Integration of data: *consolidation of memory/narrative*



equals



21

What happened at breakfast?



84

Memory is initially a disconnected set of data points



85

Your Left Prefrontal Cortex is heavily involved in integrating the data points into a narrative



86

This is traumatic memory!

The taste of orange juice



The feeling of jeans on your skin



A feeling or sense of disappointment

87



Imagine for a minute:



You can't put the memories into a narrative...
...you can't even find the words to describe them!

Perpetrator

Victim

- Not stressed
- **Prefrontal cortex in control**
- Thinking and behavior:
 - Planned
 - Practiced
 - Habitual
 - Narrative function intact so account of incident will likely have temporal integrity.

- Afraid, overwhelmed
- **Fear circuitry in control**
- Attention and thoughts driven by perpetrator actions
- Behavior controlled by survival reflexes and habits from childhood (incl. abuse)
- Narrative function impaired so account of incident will likely NOT have temporal integrity.

And when your Left Prefrontal Cortex comes back on line...

how will you make sense of it all?



The impact of alcohol



Alcohol and Memory

- Low dose/intoxication
 - Impairs context encoding (hippocampus)
 - Does not impair encoding of sensations
 - Resembles effect of fear/trauma
- High dose/intoxication:
 - Impairs hippocampus-mediated encoding and consolidation of both context and sensations
 - Does not necessarily impair implicit memories

93 Melia... LeDoux, 1996, Neuroscience, 74, 313
Bisby et al. 2009, Psychopharmacology, 204, 655; Bisby et al. 2010, Biol Psychiatry, 68, 280

Seemingly Counter-intuitive Victim Behavior

**it's not counter-intuitive if
you understand the science!*

94

Small group exercise

- In groups of 3 or 4 please come up with a list of:
 - victim behaviors during a sexual/domestic assault that would seem counter intuitive if you didn't have any training in the neurobiology of trauma.
- If you can give specific examples, please do.

95

Snapshot of Part 1

- Brain basics
- Brain circuitry - the fear circuit sans trauma
- The impact of assault - the fear circuit & trauma
- **The after effects of trauma on the brain**

96

Exposure to trauma over time =

A hyper-sensitive
"Danger Will Robinson"



97

Exposure to trauma over time =

- Remember, the hippocampus shifts away from contributing to the process of assessing safety

ACCESS DENIED

Due to the increased activation of your amygdala, your mental maps of safety are currently not available. Please try again later.

98

More science behind the experience



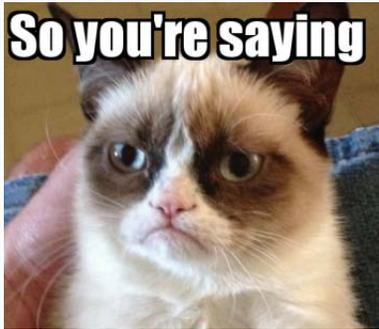
Look at this photo and take it in – really examine it.

99

More science behind the experience

Now imagine turning to your neighbor and describing what you saw in as much detail as possible.

100



When you get triggered, you can't just "notice you're safe" without some help or until you crash

101

Seemingly Counter-intuitive Victim Behavior

**it's not counter-intuitive if you understand the science!*

102

Small group exercise

- In groups of 3 or 4 please come up with:
 - A list of victim behaviors in the hours, days, weeks, months, and years after a sexual/domestic assault that would seem counter intuitive if you didn't have any training in the neurobiology of trauma.
 - Come up with a scientific explanation for why the victim might engage in this behavior.
- If you can give specific examples, please do.

103

Does it makes sense that the victim:

- May have appeared not to resist or "fight back" during the sexual assault.
- May not have been able to give "basic" who/what/where/when/why/how details to law enforcement.
- May only be able to give a partial account of the assault to law enforcement or even at trial.
- May not want to be present in the courtroom during her testimony.
- May have changed various details in her account of the assault from the time of the initial law enforcement investigation to the time of her testimony.
- May at some point appear to have a blank stare while testifying and appear unable to speak.
- May seek out sexual partners soon after the assault, or even continue to have sexual relations with the defendant.

104

Every assault, every victim,
every brain is unique!

*Being open to the nuance and context
of every assault, every victim/brain is
easier said than done!*

105

Essentials of Healing and Seeking Justice

"The core experiences of psychological trauma are **disempowerment** and **disconnection**. Recovery, therefore, is based upon the **empowerment** of the survivor and the **creation of new connections**...."

- Judith Herman

106

Response flexibility



109

Understanding the Victim/Survivor Experience (Part 2)



109

How did crime scenes used to get processed?



How do crime scenes get processed today?



Science dictated the change in technique!

Why does one use a soft brush to dust for fingerprints?



Science tells us that by using a hard brush you can lose or contaminate evidence by damaging the ridges...right?

What is science telling us about interviewing/interacting with trauma victims?



There is a softer, more effective brush out there!

The traditional paradigm of investigation...

**Just the facts, mam.
Just the facts.**



The traditional paradigm of investigation...

Sequence of Events

5:05:32	Bus loses power
5:06:15	Mr. Waggoner gets off bus
5:11:22 – 5:13:13	Multiple gunshots heard
5:13:35	Mr. Waggoner gets back on bus
5:17:49	Bus loses power (second time)
5:18:01	Mr. Waggoner clears the weapon
5:18:54	Bus starts driving again
5:23:15	Arrives at Westown
5:25:15	Police on bus
5:28:24	Paramedics on bus
5:29:20	Mr. Waggoner leaves bus

****Approximate times****

2/26/2014

4

Bottom-Up Attention and Memory

Central Details are the details focused on by the victim - central to survival and coping

Central Details get encoded/consolidated!

64

Bottom-Up Attention and Memory

Peripheral details are the details NOT focused on by the victim

Peripheral details have a lower rate of getting encoded/consolidated!

66

Fear circuitry focus:

What seems most important to survival and coping



How do you know what your victim/survivor will remember?

62

Fear circuitry focus:

What seems most important to survival and coping



To know, you have to be given access to the victims/survivor's experience...

62

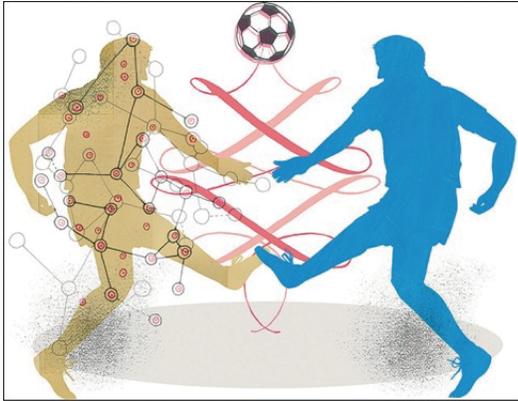
To be given access to a victim/
survivor's experience...
you need the password...



The science of mirror neurons



- Monkey see...monkey do...
- Monkey see...monkey's brain fires like he's doing... but he's not doing!
- What the WHAT???



More on mirror neurons

- Mirror neurons are connected to the limbic system (which is about our emotions)
- When we mirror the motor activity of facial expression, it allows for emotional resonance (or empathy)



More importantly

- The victims you work with will mirror YOUR facial expressions...and have a sense of whether you are connected emotionally...
- Remember where is the limbic system is? It's not conscious on their part.



So the password is...

Soft eyes!



So the password is...

Soft eyes!



*Listen to this clip from the film
Captain Phillips*

**Notice the tone and the
approach of the officer...**

What's it sound like?

What are you able to tell me?

Then listen and take notes...yep...avoid interrupting!

What kind of thoughts were you having? Do you remember any particular smells/sounds/feelings?

What's one thing you don't think you'll ever forget?

Organizing

- We all do it!



Exposure to trauma also means:

- A neural network that leads to an automatic response to any perceived threat.



© Christopher Wilson
2013

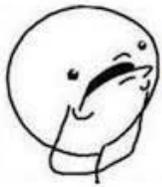
The Left-prefrontal Cortex

- The LPFC is the thumb nail on your middle finger (if your right hand is your brain)
- The main functions of the LPFC are integrative:
 1. Use of language
 2. Use of logic
 3. Tells the story of your life (lying!)



We are who we tell ourselves we are...

That awkward moment when someone asks you to tell more about yourself, and you're like:



OH GOD,
WHO AM I?

What story do victims tell?

What's the cultural narrative

for being a victim?



What story do victims tell?

One complication of being a victim of violent crime is that very often, fight or flight is not an option...



What story do victims tell?

Why did I let that happen to me???

I must be...

We create our narrative...we fill in the blanks...

The Impact on Narrative



At all levels of the process WE impact the "pot" of experiences a victim has...

We create our narrative...we fill in the blanks...

What's that got to do with me?

- How do you organize victims (effectively or ineffectively)?



What story do many victims tell themselves?



It makes no sense...but I know what happened!

Cast doubt...

**RESTRICTED
— AREA —**

ACCESS DENIED

You'll get shut out...and lose valuable data!

Suspend your disbelief...

**RESTRICTED
— AREA —**

ACCESS GRANTED

You'll be let in...and given access to more data!

Other suggestions for interacting with victims/survivors





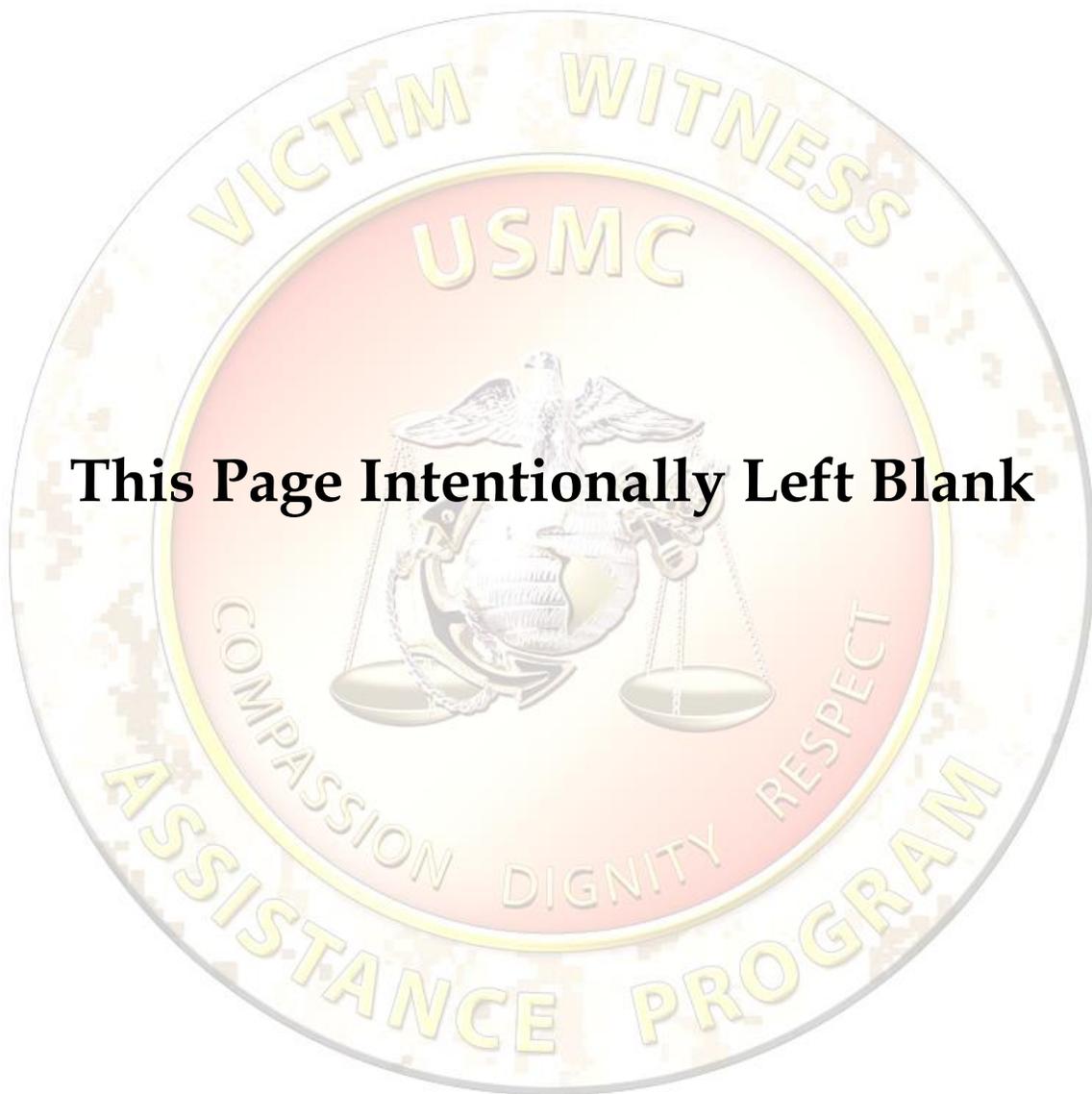
Questions? Comments?

Please feel free to contact me:
chris@drchristopherwilson.com

Follow me on Twitter:
[@drchriswilson](https://twitter.com/drchriswilson)

Visit my website:
www.drchristopherwilson.com

Thank you to Jim Hopper, Ph.D. for his multiple contributions to this training and use of several of his slides.

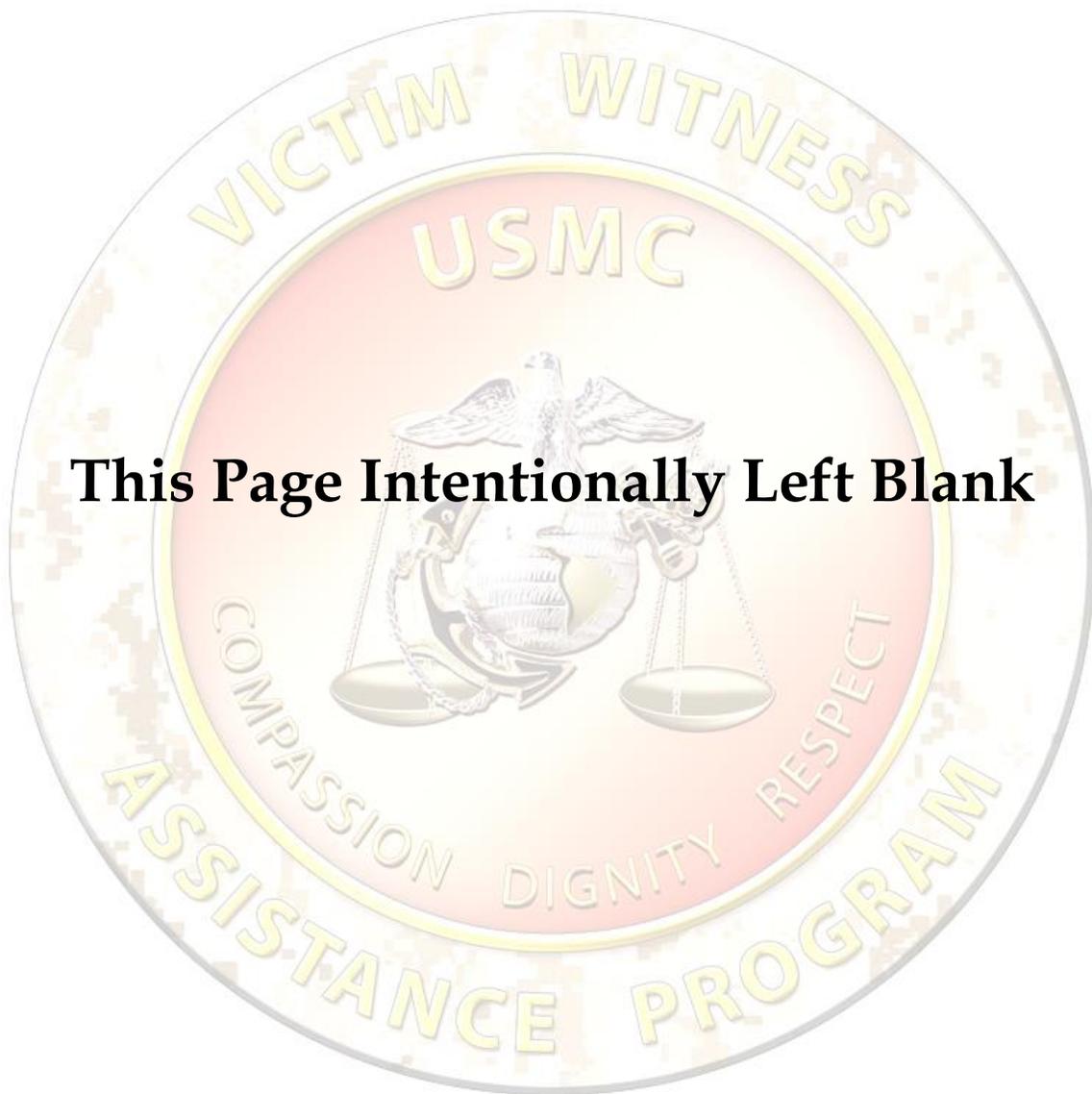


This Page Intentionally Left Blank

ANNEX O:

VWAP Best Practices, Q&A Session





This Page Intentionally Left Blank

VWAP Best Practices, Q and A, Wrap up

Maj Sameit
HOMC, VWAP
703 693 8955

Objectives

- Generate Discussion to improve regional, installation, and unit practices
- Identify problem areas
- Identify Best Practices
 - Ensure the victims and witnesses receive optimal services
- 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
- Making judgments & recording conversations

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*
