

**PART B – SPECIAL CONSIDERATIONS INVOLVING VICTIMS****CHAPTER 4****VICTIM AND WITNESS ASSISTANCE PROGRAM****0401. PURPOSE**

This Chapter provides regulations concerning the execution of the Marine Corps' Victim and Witness Assistance Program (VWAP), including specific duties of trial counsel and other personnel in cases involving victims and witnesses. Nothing in this Chapter restricts the legal services provided by members of the VLCO, whose missions, duties, and responsibilities are covered in detail in Volume 4 of this manual. This Chapter is not intended to create, and does not create, any entitlement, cause of action, or defense in favor of any person arising out of the failure to provide a victim or witness the assistance outlined herein. No limitations are placed on the lawful prerogatives of the Marine Corps or its officials.

**040101. Applicability of VWAP**

A. The VWAP is not limited to criminal offenses prosecuted at courts-martial. Except as specified, the notification responsibilities described in this Chapter also pertain when offenses are adjudicated at non-judicial punishment (NJP), ADSEP proceedings, or via other administrative means.

B. Particular attention shall be paid to cases involving unrestricted reports of violations of Articles 120, 130 (Article 120a if alleged to have been committed prior to January 1, 2019), 120b, 120c, 125 (if alleged to have been committed prior to January 1, 2019), and Article 80 attempts of these offenses under the Uniform Code of Military Justice. Such unrestricted reports create additional notification requirements and rights under JAGINST 5800.7G, which are discussed further in this chapter.

C. The Marine Corps Sexual Assault Prevention and Response Office (SAPRO) supervises and has cognizance over all programs and services provided to adult sexual assault victims, as defined in reference MCO 1752.5C. In all cases involving allegations of sexual assault, personnel shall review MCO 1752.5C for supplemental guidance.

**040105. Records Management**

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

**040106. Cancellation**

This Chapter constitutes a substantive rewrite of the Marine Corps Victim and Witness Assistance Program policy and should be read in its entirety. This Chapter cancels and replaces MCO 5800.14 (VWAP).

**0402. TYPES OF VICTIMS**

Various provisions in the UCMJ, Rules for Courts-Martial, Military Rules of Evidence, and service regulations guarantee victims certain rights during the military justice process. Practitioners must ensure they are using the correct definition of victim applicable for each circumstance. For example, certain rights are afforded to any victim that has suffered a direct physical, emotional, or pecuniary harm as a result of the commission of an offense under the UCMJ; other rights require the victim to be named in a specification, to have testified at trial, or to have suffered harm as a result of an offense of which the accused was convicted. A general definition of victim as used in this

order is provided in paragraph 0411, but personnel should remain aware that the term “victim” is subject to change through legislation and higher authority.

#### 0403. NOTIFICATION OF RIGHT TO CONSULT WITH VICTIMS’ LEGAL COUNSEL (VLC)

##### 040301. Requirement to Notify Certain Victims of Right to Assistance from a VLC

Pursuant to 10 U.S.C. § 1044e victims of alleged sex-related offenses have the right to assistance from a VLC. Additionally, pursuant to 10 U.S.C. § 1044e(f) and 10 U.S.C. § 1565b, when a trial counsel or representative of a trial counsel meets with a victim of sexual assault or an allegation of a sex-related offense who is not already represented by a VLC, the trial counsel or the trial counsel’s representative shall ensure that the victim has been notified of the availability of VLC and offered the option of seeking assistance from a VLC. For purposes of this notification requirement, a sex-related offense is defined as: Articles 120, 120a (if alleged to have been committed prior to January 1, 2019), 120b, 120c, 125 (if alleged to have been committed prior to January 1, 2019), 130, 80 attempts of these listed offenses of the UCMJ.

##### 040302. Notifying Other Victims of the Availability of a VLC

Pursuant to Section 548 of the FY20 NDAA, victims of alleged domestic violence offenses are also eligible to seek assistance from a VLC. Additionally, in accordance with Volume 4 of this Manual, the CVLC may grant exceptions to policy to allow representation of victims of other crimes, including victims who are not eligible for services under 10 U.S.C. § 1044e. Accordingly, the trial counsel or the trial counsel’s representative shall notify every victim, as defined in Article 6b, UCMJ of the availability of VLC to ensure the CVLC is provided the opportunity to exercise this discretion.

##### 040303. Timing of Notification

Absent exigent circumstances, notification to the victim must occur before a trial counsel, or representative of the trial counsel, interviews or requests a statement from the victim. The trial counsel or the trial counsel’s representative must document the notification to the victim in the case file or the exigent circumstances that supported an immediate interview of the victim.

#### 0404. VICTIM AND WITNESS RIGHTS

Personnel directly engaged in the prevention, detection, investigation, and disposition of offenses, to include courts-martial, law enforcement and legal personnel, commanders, trial counsel, and staff judge advocates, will ensure victims are accorded their rights under Article 6b, UCMJ, other federal law, regulation, or policy.

##### 040401. Victim Rights

In addition to any other rights afforded to third parties, a crime victim has the right to:

A. Be reasonably protected from the accused offender.

B. Be provided with reasonable, accurate, and timely notice of:

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

(2) A preliminary hearing pursuant to Article 32, UCMJ, relating to the offense. Including the right to receive a copy of the appointing order directing the preliminary hearing.

(3) A court-martial relating to the offense, including any open hearing held pursuant to Article 39a, UCMJ, and any post-trial vacation hearing.

- relating to the offense.
- (4) A public proceeding of the Military Department Clemency and Parole Board
- of any person.
- (5) The release or escape of the accused, unless such notice may endanger the safety
- (6) The date and time of any review of the accused's case by an appellate court, the scheduling (including changes and delays) of each public appellate court proceeding the victim is entitled to attend, and the decision of any appellate court or judge advocate review.
- (7) Any post-trial motion, filing, or hearing that addresses either the findings or sentence of a court-martial involving the accused, the unsealing of privileged or private information of the victim, or which may result in the release of the accused.
- C. The right to receive, upon request, a copy of, or access to, the recording of a preliminary hearing held under Article 32, UCMJ, as soon as practicable following the conclusion of the hearing.
- D. The right to not be excluded from any public hearing or proceeding described in paragraph 040401.E. of this chapter except under such circumstances as permitted exclusion under Military Rule of Evidence 615 of reference (g).
- E. Be reasonably heard, personally or through counsel, at:
- (1) A public hearing concerning the continuation of confinement before the court-martial of the accused.
- (2) Preliminary hearings conducted pursuant to Article 32, UCMJ, and court-martial proceedings relating to Rules 412, 513, and 514 of the Military Rules of Evidence or regarding other rights provided by statute, regulation, or case law.
- (3) A public sentencing hearing relating to the offense.
- (4) A public Military Department Clemency and Parole Board hearing relating to the offense.
- F. The right to confer with the attorney for the U.S. Government at any proceeding described in paragraph 040401.B of this chapter.
- G. The right to be consulted and express their opinion concerning:
- (1) Pretrial confinement of the accused and release of the accused from pretrial confinement.
- (2) Regarding offense(s) committed against the victim, any decision to not prefer charges and any decision to dispose of the charges by means other than court-martial.
- (3) Regarding offense(s) committed against the victim, any decision concerning whether to dismiss or refer charges.
- (4) The proposed terms and conditions of any plea agreement.
- (5) About testifying as a witness. Note: while the convening authority and trial counsel should strongly consider the victim preference concerning whether to provide testimony, the victim's

preference against testimony does not prevent the government using subpoena, or other appropriate legal process, to require victim testimony in the interest of justice.

H. Crime victims and their dependents who are eligible for legal assistance may consult with a military legal assistance attorney in accordance with DoDI 1030.02 Paragraph 3.4 and Volume 5 of this Manual. Additionally, victims may elect to seek the advice of a private attorney, at their own expense.

I. Victims of an offense alleged under Articles 120, 120a, 120b, or 120c or forcible sodomy under the UCMJ or attempts to commit such offenses under Article 80, UCMJ, who are eligible for legal assistance per Military Department or National Guard Bureau policies or in accordance with Sections 1044 or 1044e of Title 10, U.S.C., may consult with a VLC in accordance with DoDI 1030.02 Paragraph 3.5 and Volume 4 of this Manual. Victims of these covered offenses will be informed by a sexual assault response coordinator (SARC), victim advocate, victim witness liaison, military criminal investigator, trial counsel, or other responsible official that they have the right to consult with a VLC as soon as they seek assistance in accordance with Section 1565b of Title 10, U.S.C., and as otherwise authorized by Military Department and National Guard Bureau policy.

J. Receive restitution as provided in accordance with state and federal law.

K. Proceedings free from unreasonable delay.

L. Be treated with fairness and respect for his or her dignity and privacy.

M. Express his or her views to the commander or convening authority as to disposition of the case.

N. Not be prevented from, or charged for, receiving a medical forensic examination.

O. Have a sexual assault evidence collection kit or its probative contents preserved, without charge.

P. Be provided a copy of any reports arising from result of a sexual assault evidence collection kit, including a deoxyribonucleic acid (DNA) profile match, toxicology report, or other information collected as part of a medical forensic examination, unless doing so would impede or compromise an ongoing investigation.

Q. Be informed in writing of policies governing the collection and preservation of a sexual assault evidence collection kit.

R. Upon written request, receive written notification from the appropriate official with custody not later than 60 days before the date of the intended destruction or disposal of a sexual assault evidence collection kit.

S. Upon written request, be granted further preservation of the kit or its probative contents.

T. For victims of sex-related offenses committed in the United States, to be provided an opportunity to express a preference regarding whether the offense should be prosecuted by court-martial or in a civilian court with jurisdiction over the offense. Additional details concerning this notification requirement are outlined in paragraph 040402 of this Volume.

U. Where the accused was found guilty of an offense tried at a court-martial, the right to submit a written statement to the convening authority after the sentence is adjudged.

V. The right to petition the Navy and Marine Corps Court of Criminal Appeals for a writ of mandamus contesting a ruling in an Article 32, UCMJ, preliminary hearing or court-martial if the victim believes the



ruling violates the victim's rights as enumerated in Article 6b, UCMJ, or afforded by Military Rule of Evidence (MRE) 412, MRE 513, MRE 514, or MRE 615 pursuant to Article 6b(e), UCMJ.

W. In all cases arising after 1 January 2019, the victim has the following additional rights.

(1) The right to petition for an Article 30a, UCMJ, hearing before a military judge for matters arising under Article 6b(c) and (e), UCMJ.

(2) The right to petition for an Article 30a, UCMJ, hearing before a military judge for relief or quashing of an investigative subpoena.

(3) The right to decline an interview with defense counsel, or to condition such interview on the presence of trial counsel, victim advocate, and/or victims legal counsel.

(4) If named in a specification being considered in an Article 32, UCMJ, preliminary hearing, the right to submit supplemental materials for the preliminary hearing officer's consideration within 24 hours of the preliminary hearing officer's closing the hearing.

(5) The right, upon request, to receive a redacted recording of all open sessions of the court-martial.

(6) The right, upon request, to receive a redacted copy of the court-martial record of trial, provided the victim was named in a specification for which the accused was charged.

(7) In any case in which the victim testified, the right to receive a redacted copy of the court-martial record of trial, regardless of the findings.

(8) The right to receive a copy of any post-trial action taken by the convening authority, if applicable.

(9) The right receive a copy of the Entry of Judgement.

X. For victims of sex-related offenses, a right to receive notifications in accordance with sections 0128(i), 0142a, and 0142b of the JAGMAN. Additional details concerning these notification requirements are outlined in paragraphs 040402 and 040403 of this Volume.

Y. Notification of disposition of the case, to include the acceptance of a plea of "guilty." The also includes the right to be notified of any decision to dispose of an alleged offense at NJP or ADSEP proceeding, and the right to notification of the time, location, and outcome of the NJP or ADSEP proceeding.

040402. Specific Notification Requirements for Victims of Sex-Related Offenses to be Conducted by Trial Services Organization Personnel

A. Pursuant to paragraph 0142a of the JAGMAN, TSO personnel are responsible for ensuring that Service member and civilian victims of sex-related offenses receive notifications of the following significant events in the military justice process:

(1) Conclusion of the investigation;

(2) The initial disposition decision;

(3) Pre-trial confinement hearings;

(4) Preferral of charges;

- (5) Article 32, UCMJ hearings;
- (6) Referral of charges;
- (7) All court proceedings, including arraignment, motions hearings, and trial dates;
- (8) Withdrawal of charges;
- (9) Dismissal of charges;
- (10) Post-trial hearings;
- (11) Vacation hearings; and
- (12) Clemency submissions.

B. Pursuant to R.C.M. 306(e) and paragraphs 0128(a) and 0128(b) of the JAGMAN, TSO personnel shall provide a victim of a sex-related offense, when committed in the United States, the opportunity to express the victim's preference for jurisdiction of prosecution. If the victim expresses a preference for a civilian jurisdiction to prosecute the offense, the convening authority is responsible for notifying the civilian jurisdiction of the victim's preference. To ensure this occurs, TSO personnel shall coordinate with the cognizant SJA. Additionally, if the commander (or the convening authority if charges are preferred) learns of any decision by the civilian authority to prosecute or not prosecute the offense in civilian court, the commander or convening authority shall ensure the victim is notified.

C. The notifications of significant events and of the victim's opportunity to express a preference for jurisdiction must be documented and maintained within a system of records. Accordingly, TSO personnel shall ensure that these notifications are maintained within the VWAP section for each case in the military justice electronic case management system. Additionally, to document the victim's preference for jurisdiction, TSO personnel shall document the victim's preference for jurisdiction using the standard Victim Preference Letter (VPL) which shall be signed by the victim and the trial counsel and uploaded into the electronic case management system. See appendix A-1-q of the JAGMAN.

D. For purposes of the notification requirements within this paragraph, sex-related offenses include allegations of the following: Articles 120, 120a (if alleged to have been committed prior to January 1, 2019), 120b, 120c, 125 (if alleged to have been committed prior to January 1, 2019), 130, and 80 attempts of these listed offenses of the UCMJ.

040403. Specific Notification Requirements for Victims of Sex-Related Offenses to be Conducted by the Commander or the Commander's Designee

A. In accordance with paragraph 0142b of the JAGMAN, a commander who, pursuant to R.C.M. 401(c)(1), dismisses a preferred sex-related offense, must provide monthly notifications to the victim concerning the status of a final determination on further action of the dismissed sex-related offense, whether nonjudicial punishment, other administrative action, or no action. These monthly notifications must continue until final disposition of the sex-related offense. In certain circumstances, a final disposition of the sex-related offense may occur prior to, or contemporaneously with, the dismissal of the offense. In that circumstance, the commander will satisfy this notification requirement by providing the victim with immediate notice of the dismissal and the nature of the final disposition concerning the sex-related offense.

B. In accordance with paragraph 0142b(c)(3) of the JAGMAN, these notifications may be provided by the commander or the commander's designee. Normally, these notifications will fall under the purview of the unit's VWAC. Notifications shall be documented using the commander notification form available at <https://portal.secnav.navy.mil/orgs/JAG/20/SitePages/Home.aspx>.

C. Under no circumstance shall the notifications required by this paragraph be conducted by the SARC. In many circumstances, this notification requirement will overlap with the notifications and updates provided to a victim pursuant to the requirements of DoDI 6495.02 (Sexual Assault Prevention and Response). However, the notifications required by this paragraph are distinct from the DoDI 6495.02 notifications in two important ways. First, the monthly notifications pursuant to DoDI 6495.02 are conducted by the victim's commander. *See* DoDI 6495.02, Enclosure 5 at paragraph 3.g.(2), Enclosure 9 at paragraph 2.f. In contrast, the notifications required by this paragraph must be made by the *accused's* commander—the commander dismissing the preferred sex-related offense. Second, the notifications required pursuant to DoDI 6495.02 do not apply “to victims of sexual assault perpetrated by a spouse or intimate partner ... or military dependents under the age of 18 who are sexually assaulted.” *See* DoDI 6495.02, paragraph 2.b. However, the notification required by this paragraph must be made to those categories of victims. Accordingly, the notifications made pursuant to DoDI 6495.02, in many cases, will not satisfy the notification requirements of this paragraph.

D. Normally, the unit VWAC shall be responsible for ensuring the commander complies with the notification required by this paragraph.

E. For purposes of the notification requirements within this paragraph, sex-related offenses include allegations of the following: Articles 120, 120a (if alleged to have been committed prior to January 1, 2019), 120b, 120c, 125 (if alleged to have been committed prior to January 1, 2019), 130, and 80 attempts of these listed offenses of the Uniform Code of Military Justice. Although no withholding policy exists for Article 120c and 130 offenses, Staff Judge Advocates should track all Article 120c and 130 offenses within the subordinate units of their GCMCAs, to ensure these notifications occur, when required.

#### 040404. Witness Rights

A witness has the right:

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

#### 0405. NOTIFICATION REQUIREMENTS

##### 040501. Considerations

- A. The party responsible for each disclosure and notification is specified in the following subparagraphs.
- B. If the victim is represented by counsel, information will be provided to the VLC or civilian counsel unless otherwise specified.

040502. Initial Information and Services

A. Immediately after identifying a crime victim or witness the unit Victim Witness Assistance Coordinator (VWAC), the LSST VWAC, or trial counsel will explain and provide a copy of DD Form 2701, “Initial Information for Victims and Witness of Crime” and provide the below information.

(1) Contact information for the appropriate victim and witness services, including NCIS/CID, the command Victim and Witness Liaison, the trial counsel office, victim compensation personnel, legal assistance, VLC, and the Inspector General’s office.

(2) Record the date on which the DD Form 2701 was provided to the victim or witness. Proper completion and recording of this completion serves as evidence the victim or witness was timely notified of his or her rights.

(3) Information about available military and civilian emergency medical and social services, victim advocacy services for victims of domestic violence or sexual assault. When necessary, party administering DD Form 2701 will provide assistance in securing such services.

(4) Information about restitution or other relief a victim may be entitled to, and the manner in which such relief may be obtained.

(5) To victims of intra-familial abuse, information on the availability of limited transitional compensation benefits and possible entitlement a portion of the active duty Service member’s retirement benefits pursuant to Sections 1059 and 1408 of Title 10, U.S.C., and DoDI 1342.24.

(6) Information about public and private programs available to provide counseling, treatment, and other support, including available compensation through federal, state, and local agencies.

(7) Information about the prohibition against intimidation and harassment of victims and witnesses, and arrangements for the victim or witness to receive reasonable protection from threat, harm, or intimidation from an accused offender and from people acting in concert with or under the control of the accused offender.

(8) Information concerning military and civilian protective orders, as appropriate.

(9) If necessary, provide assistance in contacting the people responsible for administering victim and witness services and relief.

(10) If appropriate, explain how victim or witness experiencing reprisal as a result of their making, preparing to make, or being perceived as making or being prepared to make a protected communication in accordance with Section 1034 of Title 10, U.S.C. and DoD 7050.06 may file a military whistleblower complaint with the Inspector General’s Office.

(11) Information about the victim’s right to seek the advice of an attorney with respect to his or her rights as a crime victim pursuant to federal law and DoD policy. This includes the right of Service members and their dependents to consult a military legal assistance attorney or a VLC.

040503. Information to be Provided during Investigation of a Crime

A. If additional victims or witnesses are identified in the course of the investigation, the law enforcement officer, military criminal investigator, or other appropriate party will provide the party with a DD form 2701 and the inform the newly identified victim or witness of the rights and services listed in paragraph 040502 as soon as practicable.

B. Law enforcement investigators, criminal investigators, unit or LSST VWAC, or trial counsel will inform victims and witnesses of the status of the investigation of the crime, to the extent providing such information does not interfere with the investigation.

040504. Information and Services to be Provided Concerning the Prosecution of a Crime

A. Prior to or during initial meeting with the victim or witness, the LSST VWAC or trial counsel will provide a copy of DD Form 2702, “Court-Martial Information for Victims and Witnesses of Crime,” to the victim or witness in order to convey basic information about the court-martial process. The date the DD Form 2702 is provided to the victim or witness shall be recorded.

B. The LSST VWAC or trial counsel should ensure the victim or witness understand the information concerning their rights as listed in Paragraphs 040401 and 040402 of this chapter, and take steps to ensure the victims and witnesses receive the additional rights and services listed below:

(1) Explanation of the court-martial process and the victim and witness’ role in that process. Including the possible need for pretrial interviews with law enforcement, government counsel, and defense counsel. Along with the victim’s right to be interviewed by defense counsel only in the presence of their VLC, Victim Advocate, or government counsel.

(2) Before any court proceedings, help with locating available services such as transportation, parking, childcare, lodging, and courtroom translators or interpreters that may be necessary to allow the victim or witness to participate in court proceedings.

(3) Right during the court proceedings to have a private waiting area out of the sight and hearing of the accused and defense witnesses. In the case of proceedings conducted aboard ship or in a deployed environment, provide a private waiting area to the greatest extent practicable.

(4) Notification of the scheduling, including changes and delays, of a preliminary hearing conducted pursuant to Article 32 of the UCMJ, and each court proceeding the victim and witness is entitled to or required to attend will be made without delay.

(a) This includes a right to any docket requests, as well as docketing or scheduling orders, including deadlines for filing motions and the date, time, and location for any session of trial.

(b) On request of a victim or witness whose absence from work or inability to pay an account is caused by the alleged crime or cooperation in the investigation or prosecution, the employer or creditor of the victim or witness will be informed of the reasons for the absence from work or inability to make timely payments on an account. This requirement does not create an independent entitlement to legal assistance or a legal defense against claims of indebtedness.

(5) Notification of the preliminary hearing officer’s final recommendation.

(6) Consultation concerning any decision to dismiss charges or enter into a plea agreement.

(7) Notification of the final disposition of the case, to include the acceptance of a plea of “guilty,” the rendering of a verdict, the withdrawal or dismissal of charges, or disposition other than court-martial, to include non-judicial punishment under Article 15, UCMJ, administrative processing or separation, or other administrative actions.

(8) Notification to victims of the opportunity to present to the court at sentencing, in compliance with applicable law and regulations, a statement of the impact of the crime on the victim, including financial, social, psychological, and physical harm suffered by the victim. The right to submit this statement is limited to the sentencing phase and does not extend to the providence inquiry before findings during a guilty plea.



(9) Victim's rights to submit matters for convening authority's consideration when taking action pursuant to Article 60, UCMJ.

(10) Notification of the offender's sentence and general information regarding minimum release date, parole, clemency, and mandatory supervised release.

040505. Information and Services to be Provided During Post-Trial Process

A. The LSST VWAC or trial counsel will provide explanations and services to victims and witnesses upon the court-martial conviction of an offender using DD Form 2703, "Post-Trial Information for Victims and Witnesses of Crime," to convey basic information about the post-trial process. The LSST VWAC or trial counsel will record the date of the DD Form 2703 was provided.

B. The LSST VWAC or trial counsel will ensure victims and witnesses are provided and understand the following information and are provided the following services during the post-trial process:

(1) General information about the convening authority's action, the appellate process, the corrections process, work release, furlough, probation, parole, mandatory supervised release, and other forms of release from custody, and eligibility for each.

(2) Information regarding their right to elect to be notified of further actions in the case including the convening authority's action; entry of judgment; appellate motions, hearings, and decisions; changes in inmate status; and consideration for parole.

C. LSST VWAC or trial counsel will use DD Form 2704, "Victim/Witness Certification and Election Concerning Prisoner Status" to explain and inform victims and witnesses about their right to elect to be notified of appellate actions, hearings, decisions, and changes in the offender's status in confinement. The DD Form 2704-1, "Victim Election of Post-trial Rights," will be used to record victim and witness elections about whether to receive notifications, records of trial, to submit matters in clemency, and concerning appellate rights.

(1) In all cases resulting in a sentence of confinement, the DD Form 2704 will be completed and forwarded to Commandant of the Marine Corps; Plans, Policy, and Operations (PPO); Security Division (PS); Law Enforcement, Investigations, and Corrections Branch (PSL); Corrections Section (PSL-CORR), the gaining confinement facility, the convening authority, and the victim or witness.

(a) Incomplete DD Forms 2704 received by CMC (PSL-CORR) must be accompanied by a signed memorandum detailing the reasons for the incomplete information, or they will be sent back to the responsible legal office for correction.

(b) Inmates shall not be granted access to DD Forms 2704, nor shall a copy of the forms be attached to any record to which an inmate has access.

(2) In all cases resulting in a conviction but no sentence of confinement, the DD Form 2704 will be completed and forwarded to CMC (PSL-CORR), the convening authority, and the victim or witness. NOTE: All copies of DD Form 2704 provided directly to victims and witnesses must be redacted to ensure a victim or witness does not receive personally identifiable information (PII) of any other victim or witness.

(3) For all convictions with a qualifying victim, a DD Form 2704-1 will be completed for each victim and forwarded to CMC (PSL-CORR), the Appellate Victim and Witness Liaison Officer, the convening authority, and the victim. This form may be included in the record of trial with appropriate redactions.

(4) A qualifying victim's signature and initials on a DD Form 2704-1 declining to receive the record of trial, to submit matters in clemency, receive appellate updates, or updates concerning the confinement status of the accused may satisfy the requirement for a written waiver.

D. The DD Forms 2704, 2704-1, and 2705, "Notification to Victim/Witness of Prisoner Status," are exempt from release in accordance with DoD Manual 5400.07.

040506. Information and Services to be Provided on Entry into Confinement Facilities. The VWAC at the military confinement facility shall:

A. On entry of an offender into post-trial confinement, obtain the DD Form 2704 to determine victim or witness election to receive notifications. If the form is unavailable, the confinement facility VWAC will coordinate with cognizant LSST VWAC or trial counsel to determine whether any victim or witness has requested notification of changes in inmate status. If LSST VWAC or trial counsel are unable to provide the DD Form 2704, the confinement facility VWAC will coordinate with CMC (PSL-CORR) to determine whether any victim or witness has requested notification of changes in inmate status.

B. When a victim or witness has requested notification of changes in inmate status the facility VWAC will use the DD Form 2705 to notify the victim or witness of any events listed in subparagraph 040506.C.

(1) The date the DD Form 2705 is provided to the victim or witness shall be recorded. This serves as evidence of notification consistent with the victim or witness' statutory rights.

(2) Inmates shall not be granted access to DD Forms 2704, nor shall a copy of the forms be attached to any record to which an inmate has access.

C. Victims and witnesses shall be notified of the following events:

(1) The scheduling of a clemency or parole hearing involving the inmate.

(2) The results of the clemency or parole hearing.

(3) The transfer of the inmate from one facility to another.

(5) In event of an escape, immediately upon the discovery of the escape and upon subsequent return to custody.

(6) Upon any entry of the inmate into a work release, furlough, or any other form of release from custody. Including release of inmate under supervision.

(7) The death of the inmate, if the inmate dies while in custody or under supervision.

(8) A change in the scheduled release date of more than 30 days from the last notification due to a disposition or disciplinary and adjustment board.

D. Make reasonable efforts to notify all victims and witnesses requesting notifications of changes in inmate status of any emergency or special temporary home release granted to the inmate.

E. On transfer of an inmate to another military confinement facility, forward the DD Form 2704 to the gaining facility, with an information copy to CMC (PSL-CORR).

F. Issue annual reports on the status of victim and witness notification requests to CMC (PSL-CORR).



040507. Information and Services to be Provided on Appeal

Victims have a right to receive notifications concerning the filings, hearing, and outcome of their case upon review by the Navy-Marine Corps Court of Criminal Appeals, the Court of Appeals for the Armed Forces (C.A.A.F.), or the U.S. Supreme Court. LSST VWACs or trial counsel should ensure victims and witnesses are well informed concerning their right to receive information on the appellate process. The LSST VWAC or trial counsel will inform the victim that additional notifications concerning the appellate process will be provided by government appellate counsel or Appellate VWAP Director, Office of the Judge Advocate General (OJAG), Code 40.

040508. Information and Services to be Provided on Consideration for Parole or Supervised Release

A. Before the parole or supervised release of a confinee, the military confinement facility staff will review the DD Form 2704 to identify any witness or victim requiring notification. Any question concerning a named person or their contact information will be referred to the appropriate staff judge advocate for resolution.

B. When considering a confinee for release on supervision, the military confinement facility commander will ensure all victims and witnesses listed on the DD Form 2704 that indicated a desire to be notified are given an opportunity to provide information to the Military Department Clemency and Parole Board in advance of its determination.

040509. Additional Procedural Considerations

A. At the conclusion of all court proceedings, the local responsible official will take appropriate action to ensure any personal property of the victim or witness held as evidence is safeguarded and returned as expeditiously as possible.

B. Except for information that is provided by law enforcement officials, LSST VWAC, or trial counsel in accordance with this chapter, requests for information relating to the investigation and prosecution of a crime from a victim or witness will be processed in accordance with DoD Manual 5400.07.

C. Any consultation or notification required by this chapter may be limited to avoid endangering the safety of a victim or witness, jeopardizing an ongoing investigation, disclosing classified or privileged information, or unduly delaying the disposition of an offense.

D. Although the victim's views must be considered, this instruction is not intended to limit the responsibility or authority of the Convening Authority to act in the interest of good order and discipline.

## 0406. DISCLOSURE TO VICTIMS OF EVIDENCE AND OFFICIAL DOCUMENTS

The counsel for the government is responsible for the disclosures and notifications under relevant statutory and regulatory requirements, which includes those listed in paragraph 040401, paragraph 040402, and the paragraphs below. If the victim is represented by counsel, the information will be provided to the VLC or civilian counsel. Counsel withholding any required information must consult supervisory counsel and limit the refusal to situations involving exceptional circumstances where disclosing the information to the victim would lead to the destruction of evidence, would compromise the investigation, or would otherwise be inconsistent with the pursuit of justice. Nothing in this section is intended to prevent the victim or the victim's counsel, if applicable, from requesting disclosure of additional documents as necessary to safeguard victims' rights. Nothing in this section is intended to prevent the counsel for the government from withholding listed information when necessary based on the facts of the case, or disclosing additional documents not listed, if doing so is authorized under 5 U.S.C. § 552a and SECNAVINST 5211.5F. The disclosure requirements listed in this chapter do not eliminate any specific requirements to provide information and materials to victims under the UCMJ, the Rules for Courts-Martial, Military Rules of Evidence, and other sources of applicable law and policy. For purposes of this paragraph, a victim

is defined under Article 6b, UCMJ, unless the specific provision states otherwise. Upon request by the victim or the victim's counsel, the counsel for the government shall provide the following information to the victim or detailed VLC unless otherwise directed by supervising attorney or military judge.

040601. Before Preferral

A copy of the victim's statements, including video statements, and documentary evidence derived directly from and pertaining directly to the victim that are in the possession of the government. This obligation to disclose continues throughout the court-martial proceeding.

040602. After Preferral

A. A copy of the charge sheet, redacted for personally identifiable information (PII), setting forth the preferred specifications pertaining to the victim making the request.

B. Subpoenas for personal or private information regarding a victim named in a specification. See paragraph 090206 and R.C.M. 703(g)(3)(C)(ii).

040603. After Referral

A copy of the referred charge sheet, redacted for PII, setting forth the referred specifications pertaining to the victim making the request.

040604. Upon Receipt by the Government

A. A copy of any filing, including attachments, that may limit a victim's ability to participate in the court-martial, affect the victim's possessory rights in any property, concern the victim's privileged communications or private medical information, or any filing where a victim has a right to be heard regarding the filing, such as a motion filed under M.R.E. 412.

B. A copy of any proposed agreement and the final signed agreement, including the signed stipulation of fact, if any, related to the offenses involving that victim.

0407. NOTIFICATION TO VICTIMS IN CHILD PORNOGRAPHY CASES

040701. Article 6b Applies in Child Pornography Cases

Children depicted in images, videos, and other forms of child pornography are guaranteed all the rights listed in Article 6b, UCMJ, including the rights to reasonable, accurate, and timely notice of proceedings, to confer with counsel for the government, and if the accused is convicted, to be reasonably heard during sentencing. *United States v. Barker*, 77 M.J. 377 (C.A.A.F. 2018).

040702. VWAP Procedures for Child Pornography Cases

When the identity of the child depicted in the images is known, the trial counsel must provide all information required under paragraphs 0404 and 0405 of this chapter to the victim, or victim's designee. If an image appears to depict a victim whose identity is unknown to NCIS and trial counsel, the trial counsel should work with NCIS to request for review of the image by the Federal Bureau of Investigation (FBI). The FBI will provide information concerning any additional identifiable victims in the form of a Victim Information Report (VIR). The VIR shall not be further disseminated and information derived from the VIR shall be safeguarded and protected in accordance with 18 U.S.C. § 3509(d).

A. Known Victim Requesting Not to Receive Notifications. Should a victim elect not to be notified, the VIR will contain no contact information. In such cases, trial counsel will respect the victim's preference and will not attempt to make contact. Where a victim has elected not to be notified or participate in a

hearing, statements from the victim are not admissible during sentencing under Rules for Court-Martial 1001A; *see Barker*, 77 M.J. at 382-84. In these cases, trial counsel may only seek to introduce the victim's statement as negotiated through a plea agreement, or independent grounds for admissibility are established through the Military Rules of Evidence.

B. Known Victim Requesting Notifications. In cases where a victim was identified and the VIR contains the victim's or their representative's contact information, the trial counsel will be responsible for providing a copy of DD Form 2701, DD Form 2702, DD Form 2703, and a copy of the DD Form 2704 with a cover letter containing an explanation of the victim's rights and trial counsel's contact information.

C. Completing a DD Form 2704 in a Child Pornography Case. Section 2 of DD Form 2704 will never apply in a child pornography case, because there are always victims in child pornography cases involving actual children. Section 3 should be signed to reflect that there are eligible victims. Within Section 4, add the contact information provided on the VIR (contact information on VIR is valid for 45 days, trial counsel may need to request an updated VIR). When a known victim declines notification, or when all victims are either unidentified or unknown, Section 4 will contain a short statement explaining why contact information is unavailable.

#### 0408. INDIVIDUAL TO ASSUME RIGHTS OF CERTAIN VICTIMS

##### 040801. When Appointment May be Warranted

Under R.C.M. 801(a)(6) and Article 6b, UCMJ the military judge may appoint a person to assume the victim's rights under the UCMJ if the victim is under 18 years of age and not a member of the armed forces, is incompetent, is incapacitated, or deceased. The military judge is not required to hold a hearing before making such a designation. If the military judge orders a hearing, the trial counsel will ensure the victim is notified of the hearing and their right to be present at the hearing. The trial counsel must consult with the VLC, if applicable, regarding the selection of a designee. Per R.C.M. 801(a)(6)(C), the designee may not be the accused. The trial counsel may make the above notifications through the LSST VWAC.

##### 040802. Factors to Consider in Recommending Designee

This paragraph outlines factors and considerations for trial counsel recommending a designee for a military judge to appoint. Nothing in this paragraph restricts or limits a military judge's discretion under R.C.M. 801(a)(6) to appoint, or not appoint, an appropriate designee. Trial counsel should consider the following about the potential designee: the potential designee's age and maturity, the potential designee's relationship to the victim, and the potential designee's physical proximity to key participants and locations, including the probable location of the court-martial; the costs incurred in effecting the appointment; the willingness of the proposed designee to serve as designee; any appointment of a guardian by another court of competent jurisdiction; the victim's preference; potential delays that may result from the specific appointment; and any other relevant information indicating appointing a designee is in the victim's best interest.

##### 040803. Compensation for Designee Paid by Convening Authority

In most cases, the designee will be a family member, parent, or legal guardian not requiring compensation. If the military judge appoints a designee requiring payment for their services (such as a civilian guardian *ad litem* or counselor), the trial counsel will seek an order from the military judge fixing the rate and maximum amount of compensation. The convening authority is responsible for paying costs associated with a designee. The RTC may use their TAO to provide administrative assistance to trial counsel and convening authority to ensure proper funding.

#### 0409. ROLES AND RESPONSIBILITIES

##### 040901. Headquarters Marine Corps Roles and Responsibilities

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

- (1) Coordinate and manage the VWAP.
- (2) Ensure victim and witness assistance materials are available for law enforcement and investigative personnel, trial counsel, legal assistance attorneys, RVWLOs, VWLOs, and VWACs.
- (3) Receive and compile the reports required in DoDI 1030.02 and SECNAVINST 5800.11C and prepare an annual report using DD Form 2706 for submission to the Assistant Secretary of the Navy (Manpower and Reserve Affairs).
- (4) Provide a representative to the DoD VWAP Council established in DoDI 1030.02
- (5) Maintain a current list of all RVWLOs and VWLOs.
- (6) Ensure legal assistance counsel are available to provide information and advice to victims and witnesses of crimes pursuant to law and regulation.
- (7) Serve as the Responsible Official for the VWAP Functional Area Checklist (FAC) and designate a Functional Area Manager (FAM) responsible for providing required FAC updates.
- (8) Appoint an individual to serve as the VWAP Director.

B. Commandant of the Marine Corps; Plans, Policy, and Operations (PPO); Security Division (PS); Law Enforcement, Investigations, and Corrections Branch (PSL); Corrections Section (PSL-CORR). In accordance with SECNAVINST 5800.11C, CMC (PSL-CORR) is designated the central repository for the purpose of tracking notices related to the status of Marine Corps offenders confined in military correctional facilities. CMC (PSL-CORR) shall:

- (1) Ensure a Victim/Witness Certification and Election Concerning Inmate Status form (DD Form 2704) is received at the cognizant confinement facility for every confinee whose case involved a qualifying victim or witness, including those confined pursuant to summary courts-martial.
- (2) Establish a victim and witness notification program in each Marine Corps brig and detention facility. Regardless of a confinee's military service, Marine Corps brigs and detention facilities will use the Victim/Witness Notification of Inmate Status form (DD Form 2705) to provide notification to victims and witnesses in the event of any change of a confinee's status.
- (3) Ensure that upon receipt of a DD Form 2704 indicating a victim or witness has requested notification, a confinee adjunct file is established to track notification of status changes. Any DD Form 2704 indicating a victim or witness does not desire notification will be filed at the brig at which the confinee is confined. The DD forms and adjunct files will be destroyed two years from the date the confinee is released from confinement, or is paroled, whichever is later.
- (4) Ensure the corrections database accurately reflects the location and status of all confinees enrolled in the notification program.
- (5) Verify compliance with notification requirements prior to directing any confinee transfer or transport per MCO 1640.3F.
- (6) When appropriate, direct termination of the notification program for victims or witnesses who are unreachable after reasonable efforts. For confinees of other military services, forward requests for notification to the appropriate service central repository.

(7) Inform briggs of any requests from victim or witness for removal from the notification program received by Headquarters Marine Corps.

(8) Provide current and accurate information to the DON Corrections Management and Information System (CORMIS) and any other military service mandated tracking system.

(9) Compile data and submit annual reports in accordance with this order and SECNAVINST 5800.11C.

040902. Command Roles and Responsibilities

A. COMMCICOM, COMMARFORRES, and Regional MCI Commanding Generals (CGs). Regional MCI CGs are responsible for ensuring that VWAP is properly implemented at each installation within their region. COMMCICOM is responsible for the VWAP in the National Capital Region. COMMARFORRES is responsible for the VWAP in the Marine Reserve. COMMCICOM, COMMARFORRES, and regional MCI CGs shall each appoint in writing a Regional Victim Witness Liaison Officer (RVWLO), by name, title, duty address, and telephone number.

(1) RVWLO responsibilities are described below in Paragraph 040903.A.

(2) The RVWLO shall be an officer or civilian employee of appropriate grade, experience, and maturity sourced from the supporting LSSS.

(3) The RVWLO may also serve as Installation Victim Witness Liaison Officer (IVWLO).

B. Installation Commanders. Installation commanders possessing General Court-Martial Convening Authority (GCMCA) and other installation commanders as practical are designated as the Local Responsible Officials pursuant to DoDI 1030.02 and SECNAVINST 5800.11C. Each installation commander is responsible for implementing and maintaining a VWAP on their respective installation and any subordinate installations. Local Responsible Officials shall:

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

(2) Appoint in writing an installation VWLO, by name, title, duty address, and telephone number. The VWLO shall be an officer or civilian employee of appropriate grade, experience, and maturity. The VWLO shall not serve as a trial counsel, defense counsel, VLC, staff judge advocate, or legal assistance attorney.

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

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

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

(6) Construct and maintain, with the assistance of the local Marine and Family Programs office, a directory of military and civilian programs, services, and crime victim compensation funds available to victims and witnesses, and ensure the directory is published on the installation's public website. When

appropriate, and after consultation with the cognizant Staff Judge Advocate, enter into Memoranda of Agreement (MOA) with civilian agencies to ensure victims and witnesses are provided required services.

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

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

C. Unit Commanders, Commanding Officers, and Officers-in-Charge. Unit commanders, commanding officers, and officers-in-charge are responsible for understanding and aggressively supporting the VWAP and ensuring compliance with this Chapter and all applicable regulations supporting the VWAP. All rights, responsibilities, and procedures associated with the VWAP apply to the total force. Commanders of tenant commands aboard a non-Marine Corps installation shall coordinate VWAP procedures with the applicable installation commander and, to the extent the applicable installation commander's procedures are not inconsistent with this chapter, implement the installation commander's service specific procedures. Where inconsistent, commanders will implement the procedures set forth in this chapter. Every commander (battalion/ squadron-level equivalent and above) shall:

(1) Appoint a unit VWAC, in writing, by name, title, duty address, and telephone number. The VWAC shall be an Officer, Staff Non-Commissioned Officer, or civilian employee of appropriate experience, temperament, and rank. The appointment shall indicate any geographically separate detachment or sub-unit supported the VWAC must support. A copy of the appointment will be provided to the installation VWLO and the detachment or sub-unit. The VWAC shall not serve as a Uniformed Victim Advocate.

(2) Ensure VWACs are immediately notified when any member of the unit is identified as a victim or witness as defined in this Order.

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

(4) Make appropriate efforts to protect victims of violence or abuse from further harm. When necessary, commanders shall request a brief on any threat assessment conducted by law enforcement or investigative personnel in order to create a reasonable plan to ensure the safety of victims and witnesses. The cognizant VWAC(s) should attend this brief. Commanders shall ensure victims and witnesses are made aware of the resources available to promote their safety, including military protective orders (MPO). Where one party to an MPO resides off-base, the commander shall ensure an MOA exists between installation PMO and local law enforcement in accordance with MCO 5580.2B.

(5) Ensure all unit personnel are provided annual VWAP training that ensures unit personnel know the identity of the VWAC and understand victim and witness rights.

D. Unit Victim Witness Assistance Coordinators (VWAC)

(1) The unit VWAC shall be an Officer, Staff Non-Commissioned Officer, or civilian of appropriate experience, temperament, and rank. The unit VWAC shall not serve as a victim advocate, trial counsel, defense counsel, VLC, or legal assistance attorney.

(2) In cases involving victims, witnesses, or accused from different commands, the VWACs from each command may have overlapping duties and responsibilities. VWACs must closely coordinate with other VWAP personnel, law enforcement, and trial counsel.



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

(4) Ensure processes are in place to maintain data on the number of victims and witnesses who receive DD Forms 2701. Ensure that the total number of victims and witnesses provided a DD Form 2701 is reported to the Installation VWLO on a quarterly basis.

(5) When the victim or witness is a member of the unit VWAC’s command, the VWAC shall follow these procedures:

(a) Ensure the victim or witness is advised of applicable rights and provided a DD Form 2701, if one has not already been provided.

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

(c) As needed, assist the victim and witness in obtaining necessary counseling.

(d) Coordinate with other unit VWACs and VWAP personnel involved in the victim’s or witness’ case.

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

(6) When the VWAC’s Command is the Convening Authority, the VWAC shall follow these procedures:

(a) Once the command is aware that an accused is a member of their unit, the VWAC shall identify any victims and witnesses. VWAC will notify the appropriate VWAC for any victim or witness within another command. For victims and witnesses within the VWAC’s command, the VWAC will provide the necessary assistance outlined above.

(b) After charges are preferred, the VWAC shall ensure the victims and witnesses are provided the necessary notifications, documents, and updates outlined in this chapter. The VWAC will coordinate with law enforcement, trial counsel, LSST VWAC, VLC, and other unit VWAC, as needed, to ensure compliance.

(c) The VWAC shall confirm that detailed trial counsel has obtained the victim’s views, if any, concerning jurisdiction, pretrial plea negotiations, and disposition and has forwarded the information to the convening authority. Additionally, the VWAC shall verify that the trial counsel has notified the victim of the nature of the charges, date of preferral, and commander’s disposition decisions. In cases involving detailed VLC, VWAC will coordinate with VLC.

(d) In cases not referred to court-martial, a VWAC will perform all necessary notifications and confer with the victim, or the victims’ VLC if a VLC is detailed, including all notifications required from the command in cases of alternate disposition as outlined in paragraph 0128a and paragraph 0142a, JAGINST 5800.7G (JAGMAN).



(7) Where a victim or witness has requested notifications concerning accused in pretrial confinement, the VWAC shall coordinate with LSST VWAC, confinement facility, and trial counsel to effectuate pretrial confinement status notifications.

(8) The VWAC shall obtain and distribute VWAP materials and provide annual VWAP training to the members of the command.

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

(10) When designated by the commander, conduct victim notifications required by paragraph 040403 of this Volume.

040903. Victim Witness Liaison Officer Roles and Responsibilities

A. Regional Victim Witness Liaison Officers (RVWLO)

(1) The RVWLO shall be an officer or civilian of appropriate experience, temperament, and rank. The RVWLO shall be sourced from the supporting LSSS but shall not serve as a trial counsel, defense counsel, VLC, staff judge advocate, or legal assistance attorney.

(2) Ensure regional compliance with this order.

(3) Maintain a list of VWLOs from each installation under the cognizance of their commanding general and ensure copies of this list are provided to all cognizant VWLOs and the VWAP Director, JMJ.

(4) Ensure basic VWAP training is provided to all new VWLOs and VWACs within the RVWLO's region.

(5) Collect and maintain data on the number of victims and witnesses, in the region, who receive DD Forms 2701-2703 and who elect notification via DD Form 2704. Report this data to the VWAP Director, JMJ on a quarterly basis.

(6) Assist members of Commanding General's Inspection Program (CGIP) during the preparation and conduct of functional area inspections of units and installations within the region concerning VWAP compliance.

(7) Chair and conduct semi-annual VWAP symposiums to discuss VWAP-related issues.

(8) Liaise with the VWAP Director, JMJ and SJA to CMC as needed.

B. Installation Victim Witness Liaison Officer (VWLO)

(1) The VWLO shall be an officer or civilian of appropriate experience, temperament, and rank. The VWLO shall be sourced from the supporting LSST or Staff Judge Advocate Office but shall not serve as a trial counsel, defense counsel, VLC, staff judge advocate, or legal assistance attorney.

(2) Ensure installation and tenant commands comply with this Chapter.

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

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

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

(6) In conjunction with the installation Marine and Family Programs office and SAPR program, maintain an installation website including, 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 local geographic area.

(7) Obtain and distribute VWAP information and ensure basic training is provided to all VWACs appointed to units aboard the installation.

(8) In coordination with unit VWACs, law enforcement, trial counsel, legal assistance attorneys, VLC, SJAs, and service providers ensure victims and witnesses are notified of their rights.

(9) In coordination with law enforcement, ensure victims are provided the name, title, duties, address, and telephone number of all relevant personnel involved in their case.

(10) Compile and maintain data concerning the number of victims and witness provided DD Form 2701-2703 and who elected notification on DD Form 2704 and report that data to the Installation Commander and RVWLO on a quarterly basis.

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

(12) Ensure that the VWAP Director, JMJ and the RVWLO are notified when a new VWLO is appointed.

(13) Ensure that all victims receive all required notifications and case updates. Assist victims in exercising their rights and obtaining support, when needed.

040904. Legal Community, Law Enforcement and Corrections Roles and Responsibilities

A. Staff Judge Advocates. Provide advice and guidance to convening authorities and commanders on the scope of the VWAP, their obligations to victims and witnesses, and commanders' roles and responsibilities in ensuring VWAP compliance. In particular, coordinate with unit VWAC to ensure commander complies with the notification requirements outlined in paragraph 040403 of this Chapter and, when required, the notification requirements outlined in paragraph 050209 of this Volume.

B. LSST OIC

(1) Hire and appoint an LSST VWAC in writing, by name, title, duty address, and telephone number in order to enable VWAP compliance and aid trial counsel efforts to notify victims. The LSST VWAC will be a civilian of sufficient experience and temperament. The LSST OIC will ensure the LSST VWAC is properly trained concerning SVIP requirements. LSST Yuma and LSST Iwakuni do not require an independent VWAC. Once hired, the VWAC will fall within the TSO supervisory chain.

(2) Ensure courtrooms are equipped with separate waiting room for victims, victim witness support personnel, and government witnesses during courts-martial and administrative hearings to minimize interactions with the accused, respondent, and defense witnesses.

C. Branch Head, JMJ. Supervise the VWAP Director and serve as the VWAP Director's rating official if the VWAP director is a civilian employee.

D. VWAP Director. The individual designated by the SJA to CMC to manage the VWAP. The VWAP Director works within JMJ. The VWAP Director's rating official is the Branch Head, JMJ and the higher level review is normally the Deputy Director, JAD. The VWAP Director's duties include the following:

(1) Conduct program policy development and provide VWAP related advice to the four regions.

(2) Coordinate with RVWLO, Installation VWLO, LSST VWAC, command VWAC, victim service organization, and law enforcement concerning best practices for VWAP implementation.

(3) Consolidate VWAP data submitted from RVWLOs, law enforcement, and other parties in order to produce and submit the annual report to USD (P&R) via ASN (M&RA).

(4) Manage a training program focused on developing and hosting training VWAP training for RVWLO, Installation VWLO, law enforcement personnel, command VWAC, LSST VWAC, and Confinement Facility VWAC.

(5) Maintain a publicly available VWAP website to facilitate the spread of VWAP information, training, and forms.

(6) Execute other such VWAP-related duties as the SJA to CMC dictates.

E. CTC, RTC, and STC

(1) Ensure TSO personnel provide victims with appropriate elections, notifications, and disclosures in accordance with paragraphs 040401-02, 040502-06, and 0406 of this Chapter.

(2) Ensure TSO personnel input victim election and notification data into the electronic military justice case management system in accordance with the requirements outlined in this Chapter.

(3) Ensure TSO personnel input the information of each victim and witnesses into the electronic case management system and the following data is collected: the number of victims and witnesses who receive DD Form 2702, DD Form 2703, elect to exercise their rights via DD Form 2704.

(4) Ensure the total number of victims and witnesses provided DD Forms 2702, DD Form 2703, and electing to be notified of confinee status change on DD Form 2704, are reported to the installation VWLO on a quarterly basis.

(5) Ensure each LSST VWAC is appointed to the installation Victim and Witness Assistance Council and provide a copy of the LSST VWAC appointment letter to the respective VWLOs.

F. Trial Counsel and LSST VWAC

(1) Trial counsel shall identify victims and witnesses in their cases prior to preferring charges and ensure each receives a DD Form 2701, if not previously provided. In the event a victim or witness is identified after preferral of charges, the individual shall be treated the same as when identified prior to preferral, to include issuance of DD Form 2701.

(2) After preferral of charges, provide all victims and witnesses with DD Form 2702 "Court-Martial Information for Victims and Witnesses of Crime" and determine their elections. Ensure that victims and witnesses are notified of their rights and provided information concerning the criminal justice process. Notify the applicable VWACs to ensure the VWACs are aware of victims or witnesses under their cognizance.

(3) At the earliest possible opportunity, trial counsel shall determine whether VLC represents any victims in their case. When a victim is represented by VLC, the trial counsel shall provide all required case notifications through the VLC.

(4) Personally, or through the LSST VWAC, trial counsel shall provide victims and witnesses with all applicable documents, information, notifications, and records described in paragraph 040401-02, 040502-06, and 0406 this chapter. Ensure all notifications and documents are provided as early as possible.

(5) Victim's Right to Confer and Express Views Concerning Pretrial Plea Negotiations. Trial counsel shall ensure victims are aware of their right under paragraph 040401 of this chapter to express their opinions regarding certain matters. In cases in which a victim elects to express their concerns, trial counsel shall ensure the victim's views are forwarded to the convening authority for consideration. Trial counsel will explain that victim's input is not dispositive, and the discretion resides with the convening authority. Trial counsel will explain that they are attorneys for the government and that government advocacy on victim's behalf does not establish an attorney-client relationship between the victim and trial counsel. In cases involving a detailed VLC, trial counsel coordinate with VLC to ensure the victim's views are provided to the convening authority.

(6) Separate Waiting Room. Trial counsel shall ensure victims, victim witness support personnel, and prosecution witnesses are aware of the availability of separate waiting area out of the sight and hearing of the accused and defense witnesses.

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

(8) Notification of Employer. Upon request by the victim and/or witness, the trial counsel shall take reasonable steps to inform that person's employer of the reasons for that person's absence from work.

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

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

(11) Post-Trial Confinement Status of Accused. At the conclusion of every court-martial in which confinement is adjudged, trial counsel shall confer with each victim and witness to determine whether they desire to receive information about the confinement status of the accused. Trial counsel shall complete a DD Form 2704 and shall ensure redacted copies are provided to:

- (a) The confinement facility.
- (b) Victims and witnesses entitled to receive such information.
- (c) The responsible unit VWAC.

(12) Data. Ensure all VWAP related information is recorded accurately in the individual case file and the electronic case management system. The LSST VWAC shall assist the trial counsel as directed by the RTC.

(13) Cases on Appeal

(a) Trial counsel or LSST VWAC, must provide victims and witnesses basic information regarding the appeals process. In cases with VLC, trial counsel may simply confirm VLC provided the relevant information to the victim.

(b) Trial counsel shall determine whether victims and witnesses elect to receive further information and updates during the appellate process. Trial counsel or LSST VWAC shall forward the contact information of each victim and witness seeking updates to OJAG, Code 46 along with a copy of each DD Form 2704. The information shall be transmitted directly to Code 46 via encrypted email or letter and shall not be appended to the Record of Trial.

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

(14) Pornography. Trial counsel shall be aware of the requirements associated with victims of child pornography. See also Paragraph 0407.

D. Legal Assistance Attorneys. Provide eligible crime victims with information and legal assistance advice. In addition to any limits 10 U.S.C. § 1044e and Volume 5 of this manual place on the provision of legal assistance, legal assistance attorneys shall not provide advice or advocacy concerning a crime or issue forming the basis for the persons status as a victim.

E. Victims' Legal Counsel (VLC). Represent and provide advice to all eligible victims of sex-related and domestic violence offenses in accordance with 10 U.S.C. § 1044e, Section 548 of the FY20 NDAA (Pub. L. No. 116-92) and Volume 4 of this manual.

040905. Law Enforcement Roles and Responsibilities

A. Installation Investigative and Law Enforcement Personnel

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

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

(b) Ensure DD Form 2701s are provided to victims and witnesses and contain accurate contact information. The number of DD Form 2701s provided victims and witnesses will be tracked and reported to installation VWLO.

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

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

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

(4) The lead investigator will ensure each victim and witness understands their rights and receives a completed DD Form 2701. The form shall include the name and telephone number of the

investigator, VWLO, cognizant command VWAC, and, when appropriate, a victim advocate. Investigative reports will not contain the home address and telephone number of victims and witnesses unless the information is specifically pertinent (e.g., crime scene at the victim's home).

(5) Investigative and law enforcement personnel shall familiarize themselves with the Installation VWLO's directory of victim support organizations and services and supply victims and witnesses with appropriate information to facilitate their obtaining support.

(6) At victim's request, the lead investigator will keep the victim apprised of the status of the investigation, to the extent it will not interfere with the investigation.

(7) On request, the lead investigator shall promptly notify victims and witnesses when a suspect is apprehended.

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

(9) To ensure command VWACs are notified of criminal investigations requiring action under this chapter, the following notifications shall be made, as applicable:

(a) If both the accused and victim are military members, the lead investigator will provide the victim's identity to the VWAC of the accused's command, the VWAC of the victim's command and Installation VWLO.

(b) If only the accused is a military member, the lead investigator will provide the victim's identity to the VWAC of the accused's command and Installation VWLO.

(c) Where only the victim is a military member, if a DoD criminal investigative agency is involved in the investigation, the lead investigator will provide the victim's identity to the VWAC of the victim's command and Installation VWLO. If no DoD criminal investigative agency is involved, the local law enforcement liaison will liaise with the non-DoD law enforcement agency to obtain victim's identity and provide the information to the VWAC of the victim's command and Installation VWLO.

040906. Corrections Roles and Responsibilities

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

(1) Establish a local VWAP for tracking notifications made to victims and witnesses who indicated a desire to be notified on a DD Form 2704.

(a) The brig/PCF commanding officer (CO) or OIC shall appoint, in writing, a Confinement Facility VWAC and alternate VWAC. Both the Confinement Facility VWAC and alternate VWAC must be mature individuals who possess a clear understanding of the importance of VWAP and the need to ensure the confidence and confidentiality of victims and witnesses.

(b) Prior to assuming their duties, parties appointed to serve as Confinement Facility VWAC shall receive a brief on their responsibilities under this manual and all other applicable references (including higher authority).

(c) Confinement Facility VWAC shall not disclose the Personally Identifiable Information (PII) of a victim or witness to confinees or third parties at any time.

(d) The Confinement Facility VWAC will ensure Victim and Witness information in the Corrections Management Information System (CORMIS) is accurate, up-to-date, and complete.

The Confinement Facility VWAC will use information from CORMIS and the central repository CMC (PSL-CORR) to manage the program and generate reports.

(2) Documenting receipt of DD Form 2704

(a) Confinement Facility VWACs will document the receipt of all DD Form 2704s in CORMIS.

(b) Confinement Facility VWAC will verify that a DD Form 2704 accompanies all post-conviction confinees entering their initial day of confinement, including confinees whose cases did not involve a witness or victim. Failure to present a completed DD Form 2704 should be addressed as described below and shall not be grounds for the brig/PCF to refuse a confinee.

(c) If a post-conviction confinee enters the brig for confinement without a DD Form 2704, the Confinement Facility VWAC shall notify the Senior Trial Counsel of the supporting LSST that there is a delinquent DD Form 2704 no later than the next working day. All attempts to obtain the delinquent DD Form 2704 shall be fully documented in CORMIS. If a DD Form 2704 remains delinquent more than 2 working days, the CO or OIC shall attempt to resolve the deficiency using the chain of command.

(d) CMC (PSL-CORR) will use reports derived from CORMIS to monitor and track any non-receipt of a DD Form 2704 for post-conviction confinees and closely coordinate with the regional LSSS and the cognizant Convening Authority to ensure expedient resolution of identified issues.

(3) If the brig/PCF receive a request for notification directly from a victim or witness rather than through a DD Form 2704, the Confinement Facility VWAC will determine if the person claiming victim or witness status is listed on the initial DD Form 2704 and confer with the trial counsel, LSST VWAC, and SJA for the case. If the Confinement Facility VWAC determines the person is a bona fide victim or witness not listed on the DD Form 2704, the Confinement Facility VWAC will request trial counsel produced a new DD Form 2704 certifying the victim or witness and indicating their notification preference.

(4) The individual confinement record of each confinee included in the victim and witness notification program will be identified with a white label placed on the outside of the file with the letters "VW" written in at least one (1) inch high in black. A brig/PCF-specific number will be assigned to the case and placed on the white label. The brig/PCF-specific number will be developed using the brig/PCF's CORMIS unit identification code (UIC), the year and month the confinee's case was adjudged, and a sequential number of the file for that calendar year (e.g., 31001 10-11 001).

(5) The Confinement Facility VWAC will create a Victim and Witness Notification Record associated to the brig/PCF-specific number on the confinee's record. This record will contain documentation of each contact with relevant victims or witnesses, including telephonic and unsuccessful attempts to contact. Each contact or attempt will also be recorded in CORMIS, showing the date, time, type of contact, phone number/address used, staff name, reasons for the contact, and outcome of contact.

(6) DD Form 2705 "Victim/Witness Notification of Inmate Status" is used to advise victims and witnesses of all release and release-related activities, transfers, and escapes. Except as prescribed below, all notification will be made at least 45 days prior to the action. All correspondence shall be sent certified mail, return receipt requested. The receipt shall be filed in the Victim and Witness Notification Record. The Confinement Facility VWAC shall attempt telephonic contact if any mailed notification is returned without receipt.

(a) Initial Contact. The Confinement Facility VWAC shall send acknowledgements to any victims and witnesses electing to receive notifications within ten working days of receiving a DD Form 2704. A completed DD Form 2705 shall be included with the initial enrollment letter.

(b) Clemency/Parole Hearing. The Confinement Facility VWAC shall notify victims and witnesses of the scheduling of any clemency or parole hearing as soon as a date is set by the



cognizant Clemency and Parole Board (C&PB). The Confinement Facility VWAC shall notify victims and witnesses of their right to request a personal appearance at the hearing and to submit statements (written or taped) to the C&PB describing the impact of the crime on their lives. The Confinement Facility VWAC shall refer requests from victims and witnesses seeking to appear in person at a hearing to the appropriate C&PB. Personal appearances before the brig/PCF disposition board are not authorized.

(c) Release. When a confinee is scheduled to be released the Confinement Facility VWAC shall notify victims and witnesses using a DD Form 2705 that contains the date of release, reason for release, and anticipated destination of accused (city and state). In parole cases, include location, phone number, and name of the parole officer. Notification should occur as soon as the release is scheduled. Telephone contact shall be made if confinee is released unexpectedly and victim or witness would not receive the DD Form 2705 prior to the confinee's release.

(d) Escape. The Confinement Facility VWAC shall notify victims and witnesses telephonically as soon as possible after an escape is discovered. Telephonic notification of victims and witnesses will occur again as soon as possible after the confinee's apprehension and return to confinement. After making telephonic notification Confinement Facility VWAC will follow-up in writing.

(e) Transfer

1. The Confinement Facility VWAC shall notify victims and witnesses of all planned transfers of confinee and include the receiving brig/PCF's address. The Confinement Facility VWAC will provide the receiving brig/PCF with victim and witness information by either hand delivery or certified mail sent to the CO or OIC.

2. The receiving brig/PCF's Confinement Facility VWAC shall notify all victims and witnesses of the confinee's new location and enrollment in the brig/PCF's victim and witness notification program within ten days of the confinee's arrival.

3. If transferred to the United States Disciplinary Barracks (USDB), the Confinement Facility VWAC making the transfer shall provide a sealed envelope containing the victim and witness information to the cross country chasers for hand delivery to the Victim/Witness Coordinator at the USDB.

4. If transferred to a civilian facility, the Confinement Facility VWAC shall deliver the original victim and witness information to the civilian facility's Victim/Witness Coordinator or in-processing personnel. A copy of all victim and witness information will also be forwarded to the USMC central repository.

(f) Emergency Leave. The Confinement Facility VWAC shall notify victims and witnesses prior to the confinee's release on emergency leave. This may occur through the use of telephonic notification documented in CORMIS.

(g) Death. The Confinement Facility VWAC shall notify victims and witnesses within ten days of confinee's death.

(7) Requests for Cancellation of Notifications

(a) A victim or witness may be removed from the notification program only through written request. The request must be addressed to the current brig/PCF at which confinee is located. All requests for removal shall be kept in the confinee's file.

(b) After three unsuccessful attempts to contact a victim or witness, at least one of which is through certified mail, a brig/PCF may request permission from CMC (PSL-CORR) to cancel the

enrollment of a victim or witness in the program. Requests shall be submitted in writing and include a description of the efforts taken to contact the victim or witness.

(8) Contact or Communication with Victims or Witnesses. Confinees will be instructed that contact with any victim or government witness, whether direct or through a third party, without written permission from the brig/PCF CO or OIC is prohibited. This prohibition includes, but is not limited to, contact via telephone, in-person visits, written letters, email, social media, and other means of personal, written, or electronic communication. Confinees desiring to communicate with a victim or witness may submit a DD Form 510 requesting permission from the CO or OIC. Prior to granting permission for contact to occur, the CO or OIC shall direct the Confinement Facility VWAC to contact the victim or witness and ascertain whether they want contact from the confinee. This requirement applies regardless of whether a victim or witness has elected to participate in the VWAP.

(10) Repository Reports. Confinement facility VWACs shall ensure all VWAP information is entered in CORMIS within five days of the end of each quarter of the Calendar Year (i.e., 5 January, 5 April, 5 July, and 5 October). CMC (PSL--CORR) will compile the information and submit a consolidated report to the VWAP Director, JMJ, for inclusion in the annual report to the Under Secretary of Defense (Personnel and Readiness) (USD(P&R)).

(11) Pretrial Detainee. Responsibility for notifying victims and witnesses on the status of pretrial detainees rests primarily with the convening authority, LSST VWAC, and trial counsel. As needed, the Confinement Facility VWAC will advise remote commands on the appropriate action in case of events requiring notification (e.g. escape, death, etc.).

(12) Records Disposition

(a) Transferred Confinees. Victim and witness records shall transferred to the receiving brig/PCF CO or OIC as described in paragraphs above.

(b) Released Confinees. All documents containing victim or witness information shall be maintained securely and separately from the confinee's record for two years after confinee's full term release date pursuant to records schedule 1000-41. Once eligible for destruction, the records will be destroyed in accordance with service regulations on PII. Victim and witness documents will not be forwarded to the archives for storage.

(c) Victim/Witness Data. CMC (PSL-CORR) will retain victim and witness related data entered into CORMIS indefinitely.

(13) Internal Controls. Brig/PCF COs and OICs are responsible for establishing internal controls ensuring information on victims and witnesses is kept strictly confidential and that no unauthorized person accesses the information. Victim and witness information will be marked as follows: **"EXEMPT FROM RELEASE UNDER FREEDOM OF INFORMATION ACT. ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION."** When shipping or hand delivering victim and witness information, the information will have a cover sheet stamped: **"ALL VICTIM AND WITNESS INFORMATION IS EXEMPT FROM RELEASE UNDER THE FREEDOM OF INFORMATION ACT. ONLY CMC (ARSF) CAN AUTHORIZE RELEASE OF INFORMATION."** Brig/PCF standing operating procedures shall include provisions related to the Victim and Witness Notification Program and VWAP compliance will be part of the brig/PCF's functional adequacy inspection conducted by CMC (PSL-CORR) and the Commanding General's Inspection Program.

040907. Sexual Assault Prevention and Response (SAPR) and Family Advocacy Program (FAP)

A. Inform crime victims and witnesses concerning their VWAP rights, available services, and eligibility for assistance when they receive counseling, treatment, or advocacy services.

B. Ensure victims and witnesses understand the rights afforded to them under the law and this chapter, and coordinate with law enforcement, command VWACs, and legal personnel to ensure each victim is provided a DD Form 2701.

C. Appoint, in writing, a representative to the local Victim and Witness Assistance Council. Ensure the representative remains familiar with relevant points of contact for VWAP aboard the installation.

#### 0410. REPORTING

##### 041001. Annual Reporting Requirements

A. An annual report shall be provided to USD (P&R), via the Assistant Secretary of the Navy (ASN (M&RA)), concerning assistance provided under this chapter. Not later than 1 March of each year, VWAP Director, JMJ, shall forward a completed DD Form 2706 containing data covering the preceding calendar year to ASN (M&RA). This reporting requirement is assigned Report Control Symbol DD-5800-10 (External Report Control Symbol DD-P&R (A) 1952).

B. To comply with this requirement, all personnel involved with the VWAP shall maintain data, as appropriate, on the number of victims and witnesses provided DD Forms 2701–2703, the number of victims and witnesses electing to receive notifications concerning confinee status via DD Form 2704, and the total number of victims and witnesses provided notice of confinee status changes via DD Form 2705.

C. CMC (PSL-CORR). Report the total number of DD Form 2705 notifications Marine Corps brigs sent to victims and witnesses sent concerning confinee status changes to the VWAP Director, JMJ, via a DD Form 2706 no later than 1 February. The report should contain the cumulative number (as of 31 December) of confinees from each service about whom the brigs must provide victim or witness notifications.

D. COMMCICOM, COMMARFORRES, and Regional Marine Corps Installation CGs. Forward, on a quarterly basis, a DD Form 2706 report containing data on the total number of victims and witnesses that received DD Forms 2701–2703 and that elected to receive notification about accused on a DD Form 2704 to the VWAP Director, JMJ. Reports are due the 20th day of the month following the end of the calendar year quarter (i.e., 20 April, 20 July, 20 September, and 20 January) with the data for the previous quarter.

G. Law Enforcement Personnel. Maintain data on the number of victims and witnesses provided a DD Form 2701 and forward the data to the Local Responsible Official to ensure quarterly reports are submitted in a timely and accurate manner.

H. Correction Facilities. Commanding officers of correction facilities shall submit a monthly report to CMC (PSL-CORR) which includes the total number of confinees from each service about whom the brig must make victim or witness notifications as of the last day of the reporting month and the following information about each confinee:

- (1) Confinee's name and social security number.
- (2) Confinee's date of confinement (including whether the date is the initial confinement date or the date of transfer from another facility).
- (3) Date admitted into the VWAP and the number of victims or witnesses for each confinee.
- (4) Location of the court-martial convening authority.
- (5) Number of victims or witnesses notified about a change in confinee status (via DD Form 2705 or telephonically) and the reason for notification. Including information on unsuccessful attempts to contact a victim or witness.

- (6) Copies of any correspondence received from a victim or witness.
- (7) Confinee's minimum release date and parole eligibility date.

041002. Forms. VWAP forms are available at <https://vwac.defense.gov/VWAC-Forms> and on HQMC, Judge Advocate Division VWAP website. The VWAP Director may be contacted concerning forms at (703) 693-8909.

#### 0411. DEFINITIONS

Central Repository. A designated office that serves as the clearinghouse for information on confinee status and which collects and reports data on the delivery of notifications pertaining to confinee status changes to victims and witnesses. The central repository for the Marine Corps is CMC (PSL-CORR).

Component Responsible Official. Person designated by the CMC as primarily responsible for coordinating, implementing, and managing the VWAP. The Component Responsible Official for the Marine Corps is the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC).

Confinement Facility Victim Witness Assistance Coordinator (VWAC). A staff member at a military confinement facility who is appointed in writing as responsible for notifying victims and witnesses of changes in a confinee's status and for reporting those notifications to the central repository.

Court Proceeding. As used in this Order, court proceeding includes preliminary hearings held pursuant to Article 32, UCMJ, hearings under Article 39(a), UCMJ, courts-martial, presentencing hearings, and appellate hearings. Conferences, such as those between attorneys and the military judge pursuant to R.C.M. 802 or between attorneys and a preliminary hearing officer pursuant to Article 32, are not court proceedings.

Installation Victim and Witness Liaison Officer (VWLO). The Installation VWLO is an installation commander's primary representative responsible for administration and oversight of the VWAP aboard their installation. The Installation VWLO chairs the local Victim Witness Assistance Council.

Investigative and Law Enforcement Personnel. Naval Criminal Investigative Service (NCIS), Marine Corps Criminal Investigative Division (CID), military police, installation security, and other individuals with authority to conduct criminal investigations or inquire into crime. For the purposes of this chapter, this term does not include individuals appointed to conduct investigations under Chapter II of JAGINST 5800.7G.

Local Responsible Official. The person designated by the CMC as primarily responsible for identifying victims and witnesses of crime and coordinating the delivery of services as described in this order through a multi-disciplinary approach. The local responsible official may delegate responsibilities in accordance with this chapter. Installation commanders are the local responsible officials in the Marine Corps.

LSST Victim and Witness Assistance Coordinator (VWAC). The LSST VWAC is an individual assigned to the Legal Services Support Team responsible for providing specialized legal support personnel and services to victims and witnesses within the LSSA in accordance with this chapter and other applicable guidance. The LSST VWAC is trained in Special Victim Investigation and Prosecution (SVIP) requirements and supports SVIP trial counsel ensure notifications and rights of victim and witness are maintained in assigned cases. The LSST VWAC monitors and coordinates the recording of VWAP material into the case management system.

Regional Victim and Witness Liaison Officer (RVWLO). The RVWLO is the Marine Corps Installation (MCI) Commanding General's primary representative responsible for the VWAP throughout their region (e.g. East, West, and Pacific). In the National Capital Region, the RVWLO is Commander, Marine Corps Installations Command's (COMMCICOM) primary representative responsible for the VWAP. In the Marine Forces Reserve, the RVWLO is the Commander, Marine Forces Reserve's (COMMARFORRES) primary representative responsible for the VWAP. The RVWLO shall be filled by the cognizant LSSS.



Service Providers. Personnel responsible for providing support services include Sexual Assault Prevention Response (SAPR) and Family Advocacy Program (FAP) personnel; chaplains; legal assistance attorneys; and health care professionals.

Victim. A person who has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime in violation of the Uniform Code of Military Justice or the laws of another jurisdiction in any case where military authorities have been notified. Victims include, but are not limited to, the following:

- a. Military members and their family members.
- b. When stationed outside the continental United States, DoD civilian employees and contractors, if provided for in the contract, and their family members. This program applies to services not available to DoD civilian employees and contractors, and their family members, in stateside locations, such as medical care in military medical facilities.
- c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes either: a legal guardian, spouse, parent, child, sibling, family member, or another person the court designates, local responsible official, or designee.
- d. The term does not include any individual involved in the crime as a perpetrator or accomplice, even if individual meets one of the other groups listed above.
- e. An authorized representative of an institutional entity that meets the direct loss requirement. Federal Departments, State, and local agencies are not eligible for services as institutional entity victims.

Victim and Witness Assistance Coordinator (VWAC). A command or local service provider's designated representative for victim and witness assistance matters. The VWAC is responsible for distributing VWAP materials, ensuring victims and witnesses receive assistance, and providing VWAP training to their command.

Victim and Witness Assistance Council. An installation-level council that promotes efficiencies, coordinates victim assistance-related programs, and assesses the implementation of victim assistance standards and victim assistance-related programs in accordance with this order and applicable higher guidance. The Council does not discuss specific cases, victims, or witnesses, but focuses on victim and witness services and the manner in which those services are being provided locally. The Council provides the Installation VWLO and installation commander with information regarding the availability, use, and capability of victim and witness services aboard the installation. The local council should consist of the Installation VWLO, tenant unit VWACs, and representatives from SAPR, FAP, NCIS, CID, Provost Marshal's Office (PMO), the installation SJA Office, the installation legal assistance office, chaplaincy, the confinement facility/brig, and other offices deemed appropriate.

Victim Assistance-Related Programs. The Sexual Assault Prevention and Response Program (SAPR), the Family Advocacy Program (FAP), and the Victim Witness Assistance Program (VWAP).

Witness. A person possessing information or evidence about a crime within the investigative jurisdiction of the Marine Corps and who provides that knowledge to investigative and law enforcement personnel or to a Marine Corps representative. When the witness is a minor, the term "witness" includes an adult family member, legal guardian, or other person responsible for the minor witness. The term does not include a non-percipient character witness, expert witnesses, or any individual involved in the crime as a perpetrator or accomplice.