



Victim and Witness Assistance Program (VWAP)



References

- DoD Directive 1030.1
 - DoD Instruction 1030.2
 - SECNAVINST 5800.11B
 - OPNAVINST 5800.7A
 - COMMNAVLEGSVCCOM 5800.4
 - LEGADMINMAN Chapter 6
 - DOD Victim and Witness Assistance Council
 - <http://vwac.defense.gov>
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VWAP Overview

- Victim Witness Assistance Program
 - Purpose:
 - To implement policy, assign responsibilities and prescribe procedures to provide assistance to victims of crimes and witnesses to crimes committed in violation of the Uniform Code of Military Justice (UCMJ).
 - Minimize the effects of crime and help victims/witnesses participate in the military justice system
 - Ensure that victims / witnesses receive appropriate response / assistance
 - Protect victims from further harm/hardship
 - Ensure that all victims are accorded their rights
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DON Policy

- Treat all victims/witnesses with dignity and respect
 - Ensure victims/witnesses of crimes are informed of their rights and provided assistance as appropriate
 - Particular attention should be paid to victims of serious violent crime, including child abuse, domestic violence and sexual misconduct
 - All reasonable efforts shall be made to foster cooperation of victims and witnesses
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When Does VWAP Apply?

- Whenever there is an offense in which there is a victim or a witness, including:
 - NJP
 - Administrative separation boards
 - Courts-martial



Who is a Victim?

- CONUS – all victims
 - OCONUS - limited to:
 - Military members and families
 - DOD civilian employees and families
 - Contractors (if provided for by contract) and families
 - Does not include individual involved in crime as accomplice or perpetrator
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Who is a Victim?

- If victim is under 18, incompetent, incapacitated, or deceased, the term includes either: spouse, guardian, parent, child, sibling, family member, or another person designated by court or local responsible official or designee
 - When victim is an institutional entity, victim is an authorized representative of the entity
 - Federal Departments, state and local agencies are not eligible for services available to individual victims
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Scenario #1

- Who is the victim in a child pornography case?



Scenario #1

- FBI's Office of Victim Assistance (OVA) tracks all known victims identified by NCMEC
 - Upon receiving notice from NCMEC that a federal investigator has encountered a known child pornography series, OVA issues a Field Information Report (FIR) about the victim
 - TC must work with NCIS to comply with notification letters
 - Must also comply with VWAP
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Victim's Rights

- To be treated with fairness and respect for victim's dignity and privacy
 - To be reasonably protected from the accused
 - To be notified of court proceedings
 - To receive restitution as available
 - To attend public court sessions
 - To confer with the attorney for the government
 - To be informed about case disposition (conviction, sentencing, imprisonment and release)
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Scenario #2

- What, if any, VWAP rights apply during:
 - NJP?
 - Administrative separation proceedings?



Scenario #2

- Rights that apply:
 - To be treated with fairness and respect for victim's dignity and privacy
 - To be consulted about disposition of the case
 - To be reasonably protected from the accused
 - To be informed of rights and provided assistance as appropriate
 - To receive restitution as available
 - To be provided with information regarding medical care, counseling resources, possible restitution or relief and transitional compensation
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Who is a Witness?

- Person who has information or evidence concerning a crime and provides that knowledge to a DON representative about an offense in the investigative jurisdiction of DON
- When the witness is a minor, the term includes a parent or legal guardian
- Does not include defense witness or individual involved in the perpetration of the crime as a perpetrator or accomplice



Witness' Rights

- To be treated with fairness and respect for witness' dignity and privacy
 - To be reasonably protected from the accused
 - To be notified of any scheduling changes that will affect the witness' appearance at court-martial
 - To be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including guilty plea)
 - To be informed about case disposition (conviction, sentencing, imprisonment and release)
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Multidisciplinary Program

- Begins at the initial report of a crime and continues through investigation, prosecution, sentencing, confinement and release of offender
 - Ensures smooth transition for victim and witness assistance throughout entire process
 - Key players:
 - SJA, VWLO, VWAC, TC, NCIS, law enforcement, Commanders, Convening Authority, correctional facility
 - Support services provided by FFSC personnel, FAP, healthcare personnel, chaplains, legal assistance attorneys and civilian referrals
 - Victim Witness Assistance Council coordinates efforts
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SJA

- Responsible for administering program oversight and providing program support to Regional and Type Commanders



VWLO

- Victim Witness Liaison Officer
- Appointed in writing by Regional or Type Commander
- Shall be appointed from the legal office to provide legal support
- Preferably an SJA, civilian attorney or paralegal with legal training / experience in VWAP with a grade of GS-9 or above
- Coordinates VWAP assistance in his/her AOR
- Ensures commands are educated and comply with VWAP
- Ensures command VWAC is appointed, trained and receives directory of military and civilian programs and services for victim support
- Chairs meetings of local Victim Witness Assistance Council



VWAC

- Appointed in writing by CO, Unit Commander or OIC
 - Cannot be a chaplain
 - Educates command personnel on VWAP
 - Primary POC on VWAP matters
 - Obtains and distributes VWAP materials to members of the command
 - Must coordinate with other VWACs when different victims, witnesses and/or accused are from different commands
 - Confirms TC complies with notification requirements and has obtained victim's views about disposition and plea negotiations and forwarded to convening authority
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NCIS/LE

- Have a continuing duty to take reasonable measures to protect victims and witnesses from further threat, harm or intimidation
 - Take action to minimize threats
 - Usually provide DD 2701
 - If requested, provide victim with information on status of investigation
 - Notify victim/witness of apprehension of offender
 - Safeguard victim's property and assist in returning as soon as possible
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DD 2701: Initial Information for Victims & Witnesses of Crime

increased concern for their personal safety and that of their family, trouble concentrating on the job, difficulty handling everyday problems, feeling overwhelmed, and thinking of the crime repeatedly.

Some or all of these behaviors may occur and will ease with time. They are normal reactions but you may wish to see a counselor. State compensation funds may be available to reimburse you for such counseling. The Victim/Witness Assistance Responsible Official will have further information.

Your Rights As A Victim.

As a Federal crime victim, you have the following rights:

- The right to be treated with fairness and with respect for your dignity and privacy;
- The right to be reasonably protected from the accused offender;
- The right to be notified of court proceedings;
- The right to be present at all public court proceedings related to the offense, unless the court determines that your testimony would be materially affected if you as the victim heard other testimony at trial;
- The right to confer with the attorney for the government in the case;
- The right to available restitution;
- The right to information about the conviction, sentencing, imprisonment, and release of the offender.

If You Need Additional Assistance:

In regard to the status of the investigation, contact the investigator below:

(Name)

(Telephone Number)

In regard to other assistance available, contact the command Victim/Witness Responsible Official, or the person identified below:

(Name)

(Telephone Number)

In regard to the prosecution, contact the legal office below:

(Name)

(Telephone Number)

In regard to compensation for medical or other expenses, contact the state office for Crime Victim Compensation:

(Name)

(Telephone Number)

Please notify these offices of any changes of address or telephone number.

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
<http://dod.mil/vwac>

DEPARTMENT OF
DEFENSE



INITIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME



Trial Counsel

- Once assigned to a case must:
 - Identify victims and witnesses
 - Comply with:
 - Notification requirements
 - Consultation requirements
 - Documentation requirements

DD 2702: Court-Martial Information for Victims & Witnesses of Crime

Sentencing.

In this phase, the judge or members (jury) decide the appropriate types and amount of punishment. The Trial Counsel may call witnesses to show aggravating factors concerning the offenses. The defense may call witnesses to show the offense may be less serious than otherwise indicated. You may be asked to return to the witness stand and testify as to how the crime has affected you. This may include the emotional, physical and financial suffering you experienced.

Punishment.

The court-martial ends when the judge reads the sentence to the accused. Normally, any confinement ordered begins at the time the sentence is announced. Other parts of the sentence, such as forfeitures of pay and reduction in rank, take effect after the "convening authority", usually a senior officer, takes "action" on the case. This generally occurs within two to three months, but can take longer in more complex cases.

If the accused is sentenced to prison, you have additional rights to notification of any changes in the inmate's status. These will be explained to you by the Trial Counsel or a designated representative.

If the offender is convicted or discharged for abusing you or your children, you may be eligible for "transitional compensation" benefits. Contact the Trial Counsel for an application (DD Form 2707) and for further information.

Your Participation.

You may choose to participate in the trial at several stages. You may ask to be:

- Notified of and be present at all public court proceedings;
- Consulted on pre-trial confinement of accused and release of accused from pre-trial confinement;
- Contacted about the proposed dismissal of any and all charges;
- Consulted on decision not to prosecute;
- Contacted regarding the proposed terms of any negotiated plea;
- Consulted on proposed terms of any pre-trial agreement;
- Notified of the acceptance of a guilty plea; to present to the court evidence on sentencing;
- Informed about the conviction, sentencing, and imprisonment of the accused.

Points of Contact:

Victim/Witness Responsible Official

(Name)

(Telephone Number)

Trial Counsel

(Name)

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
<http://dod.mil/vwvac>

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COURT-MARTIAL
INFORMATION FOR
VICTIMS AND WITNESSES
OF CRIME

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DD FORM 2702, MAY 2004

Previous edition is obsolete.



TC - Notification Requirements

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

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



TC - Consultation Requirement

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

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



TC - Other Assistance

- Separate waiting room
 - Provide victims/witnesses with information concerning services such as transportation, parking, child care, lodging, translators and interpreters
 - Take reasonable steps to inform employers that victim/witness is involved in court-martial (upon request)
 - Contact creditor if victim/witness subject to serious financial strain caused by crime or cooperation in investigation / prosecution
 - Safeguard victim's property held as evidence and return it as soon as possible
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DD 2703: Post-Trial Information for Victims & Witnesses of Crime

Your Rights As A Victim.

As a victim of a crime, you have the following rights under the Victim's Rights and Restitution Act of 1990 (Public Law No. 101-647):

- To be treated with fairness and with respect for your dignity and privacy;
- To be reasonably protected from the accused;
- To be notified of court proceedings;
- To be present at all public court proceedings related to the offenses, unless the court determines that your testimony would be materially affected if you heard other testimony at trial;
- To confer with the attorney for the Government (Trial Counsel) in the case;
- To receive available restitution;
- To receive information about the conviction, sentencing, imprisonment, parole eligibility and release of the accused.

Points of Contact:

Service Central Repository

(Name)

(Telephone Number)

Confinement Facility

(Name)

(Telephone Number)

Service Clemency and Parole Board

(Name)

(Telephone Number)

Other

(Name)

(Telephone Number)

For further information on crime issues, see the DoD Victim and Witness Assistance Council web page at:
<http://dod.mil/vvac>

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DEPARTMENT OF
DEFENSE



POST-TRIAL
INFORMATION FOR VICTIMS
AND WITNESSES
OF CRIME

DD FORM 2703, MAY 2004

Previous edition is obsolete.

DD 2704: Victim/Witness Certification & Election Concerning Inmate Status

VICTIM/WITNESS CERTIFICATION AND ELECTION CONCERNING INMATE STATUS	
<i>(This form is exempt from Freedom of Information Act release.)</i>	
PRIVACY ACT STATEMENT	
<p>AUTHORITY: 42 U.S.C. 10606 <u>et seq.</u>, Victim's Rights and Restitution Act of 1990; 18 U.S.C. 1501 <u>et seq.</u>, Victim and Witness Protection Act of 1982.</p> <p>PRINCIPAL PURPOSES: To inform victims and witnesses of their post-trial rights; to determine whether the victim or witness of a crime elects to be notified of changes in the confinement status of a convicted criminal offender; and to record the election by the victim or witness of their desire to be notified about subsequent changes in inmate status.</p> <p>ROUTINE USES: None.</p> <p>DISCLOSURE: Voluntary; however, failure to provide identifying information will prevent the corrections facility from notifying victim or witness of changes in a criminal offender's status.</p>	
SECTION I - ADMINISTRATIVE INFORMATION	
Installation _____ City _____ State _____ ZIP Code _____ Incident Number _____ Organizational Identifier (ORI) _____	
SECTION II - CERTIFICATION OF NO VICTIM OR WITNESS	
<i>(Complete this section only if there are no victims or witnesses who are entitled to notification under the Victim's Rights and Restitution Act of 1990, and DoD Instruction 1030.2.)</i>	
As representative for the Government in the court-martial case of United States v. _____, <i>(Name of accused) (Last, first, middle initial)</i> _____, convened by _____, <i>(Social Security Number) (Court-martial convening order number, date, and issuing command)</i> I certify that this case does not involve a victim or witness entitled to receive information about the confinement status of the defendant as required by the Victim's Rights and Restitution Act of 1990 (Public Law 101-647; 104 Stat. 4820). _____ <i>(Signature of person certifying) (Typed name (Last, first))</i> _____ <i>(Date) (YYYYMMDD) (Grade and title)</i>	
SECTION III - CERTIFICATION OF ADVICE TO VICTIM(S) AND WITNESS(ES)	
<i>(Complete this section when there are victims or witnesses entitled to notification.)</i>	
I certify that on this date I personally notified the victim(s) and witness(es) in the court-martial case of United States v. _____, <i>(Name of accused) (Last, first, middle initial) (Social Security Number)</i> _____, convened by _____, <i>(Court-martial convening order number, date, and issuing command)</i> whose sentence included confinement, of their right under the Victim's Rights and Restitution Act of 1990 (Public Law 101-647, 104 Stat. 4820), to receive information about the status of the inmate, to include length of sentence, anticipated earliest release date, likely place of confinement, the possibility of transfer, and the right to receive notification of a new place of confinement. I advised of the possibility of parole or clemency with an explanation of these terms. Additionally, I advised of the right to prior notification of the inmate's parole hearings, release from confinement, escape and death. I advised that to receive notification of the inmate's transfer, parole hearings, and release from confinement, the victim or witness must provide the information required in Section IV of this form. I advised all victims and witnesses that if they elect to terminate or reinstate notifications, or if they change their address listed above, they must contact the Military Service Central Repository listed in Section V. _____ <i>(Signature of person providing notification) (Typed name (Last, first))</i> _____ <i>(Date) (YYYYMMDD) (Grade and title)</i>	
DD FORM 2704, MAR 1999	PREVIOUS EDITION IS OBSOLETE.
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WHS/DOIC, Mar 99



TC - Compensation

- Ensure victims receive information regarding compensation programs:
 - State
 - Other financial sources of relief
 - Transitional Compensation for Abused Dependents



Deployed Units

- VWAP applies to all units in all locations
- Availability of victim services is reduced
- SAPR policies apply to deployed units



Scenario #3

- What if victim / suspect are on the same ship?
- What if the victim wants:
 - To get off the ship?
 - To get out of the Navy?



Scenario #3

- Must consider health and safety of victim, suspect and others
- It is critical to talk to victim about viable options and get the victim's input
 - E.g., victim may prefer a quick NJP to waiting a long time for trial



Additional Scenarios

- What if the victim doesn't want to work with you?
- What if the victim doesn't think he/she can testify?
- What if the victim is having a problem with the trial counsel? The defense attorney?
- What if the victim is being harassed? Afraid of the accused? Afraid of the accused's friends/family?