



DEPARTMENT OF THE NAVY
OFFICE OF THE CHIEF OF NAVAL OPERATIONS
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OPNAVINST 5800.7A
N131
4 Mar 08

OPNAV INSTRUCTION 5800.7A

From: Chief of Naval Operations

Subj: VICTIM AND WITNESS ASSISTANCE PROGRAM (VWAP)

Ref: (a) DoD Directive 1030.1 of 13 Apr 04
(b) DoD Instruction 1030.2 of 4 Jun 04
(c) SECNAVINST 5800.11B
(d) MCO P5800.16A
(e) 10 U.S.C., Chapter 47
(f) Manual for Courts-Martial, 2005
(g) SECNAVINST 1752.4A
(h) SECNAVINST 1752.3B
(i) BUPERSINST 5800.3A
(j) 5 U.S.C. § 552a
(k) 5 U.S.C. § 552
(l) DoD Instruction 1342.24 of 23 May 95
(m) OPNAVINST 1750.3
(n) DoD FMR Vol. 7B, Chapter 59 of Jun 01

Encl: (1) Definitions

1. Purpose. To establish policy, designate responsibility and provide guidance for the implementation of the Victim and Witness Assistance Program (VWAP) per references (a) through (c). This instruction is a complete revision and should be reviewed in its entirety.

2. Cancellation. OPNAVINST 5800.7.

3. Definitions. Definitions used in this instruction are provided in enclosure (1).

4. Discussion

a. The military justice system operates to ensure good order and discipline is maintained and for the protection of persons and property. Without the cooperation of victims and witnesses, the military justice system would cease to function. In order to ensure the needs of the victims are properly

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addressed, Congress enacted a series of laws intended to inform victims and witnesses of their rights and responsibilities in the criminal justice system. Per references (a) and (b), the Department of Defense (DoD) has established policy in this area and directed implementation of relevant provisions of law. This instruction provides further guidance on the implementation of VWAP pursuant to reference (c).

b. Victims and witnesses of crime normally suffer some adverse impact from the crime. The VWAP is designed to minimize the effects of crime and to help victims and witnesses understand and participate in the military justice system. The VWAP ensures that Navy personnel are trained to provide appropriate information, referrals, and services.

5. Applicability. The provisions of this instruction apply to all Navy Sailors engaged in the detection, investigation, or prosecution of crime and to Navy Sailors assisting crime victims and witnesses. Guidance on VWAP as it pertains to Marine Corps personnel is found in reference (d). This instruction pertains to crime victims and witnesses of offenses committed in violation of reference (e) and to witnesses of offenses involved in proceedings conducted under reference (f). The provisions of this instruction are not limited to criminal offenses prosecuted at courts-martial. Crime victims do not forfeit their status when offenses are referred to Non-judicial Punishment (NJP) or administrative separation proceedings. In overseas locations, this instruction is limited to victims and witnesses who are Sailors and their families, DoD civilian employees, contractors and their family members.

6. Policy

a. Department of the Navy (DON) personnel will treat all victims and witnesses of crime with dignity and respect. Navy activities and personnel shall mitigate, within the means of available resources and per applicable law, the physical, psychological, and financial hardship suffered by crime victims and witnesses of criminal offenses under reference (e). All reasonable efforts shall be made to foster cooperation of crime victims and witnesses.

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b. Victims of domestic abuse or sexual assault often require assistance beyond the information and referrals required under the VWAP. References (g) and (h) provide additional guidance and specific programs for victims of those crimes.

c. While special attention must be provided to victims and witnesses of serious, violent crime, all crime victims and witnesses shall receive the assistance as outlined in this instruction.

d. The provisions of this instruction are intended to provide internal Navy guidance for the protection and assistance of victims and witnesses and the enhancement of their roles in the military criminal justice process without infringing on the constitutional and statutory rights of the accused.

e. This instruction is not intended to, and does not, create any entitlement, cause of action or defense, substantive or procedural, by any victim or witness or any other person, arising out of the failure to accord a victim or witness the services enumerated in this instruction. No limitations are placed on the lawful prerogatives of the DON or its officials.

f. A crime victim has the following rights:

(1) The right to be treated with fairness and respect for the victim's dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of court proceedings.

(4) The right to be present at all public court proceedings related to the offense, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.

(5) The right to confer with the attorney for the government in the case.

(6) The right to receive available restitution, if appropriate.

(7) The right to information about the conviction, sentencing, imprisonment, and release of the offender from custody.

g. A witness in a court-martial proceeding has the following rights:

(1) The right to be treated with fairness and respect for the witness' dignity and privacy.

(2) The right to be reasonably protected from the accused offender.

(3) The right to be notified of any scheduling changes that will affect the witness' appearance at court-martial.

(4) The right to be notified of the apprehension of an accused, the initial appearance of an accused before a military judge, the release of the accused pending court-martial, and trial proceedings (including entry of a guilty plea).

(5) The right to information about the conviction, sentence, confinement and release from custody of the accused.

7. Program Overview. VWAP is a multi-disciplinary model, as described in reference (b), designed to identify and assist victims and witnesses of crime through the criminal justice process, beginning at the initial report of a crime and continuing through the investigation, prosecution, sentencing, confinement and release of the accused offender.

a. Per reference (c), Chief of Naval Operations (CNO) (N131) is the Component Responsible Official (CRO) for implementation of VWAP in the Navy.

b. Regional Commanders and Type Commanders are responsible for the overall implementation of VWAP in their geographic areas and for acting as the central point of contact for victims and witnesses in the criminal justice process. Program oversight is administered through the Staff Judge Advocate (SJA) office that provides legal support to the Regional and Type Commander.

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c. Unit Commanders, commanding officers (COs) and officers in charge (OICs) are responsible for ensuring that victims and witnesses (whether military or civilian) of crimes under military jurisdiction are afforded their rights and kept informed on the status of the case until administrative (non-judicial punishment, administrative separation, or other) or judicial disposition.

d. All disciplines in the military justice process (e.g., law enforcement, security, criminal investigations, convening authorities, legal/judge advocates, and corrections/confinement facilities) are responsible for ensuring a smooth transition of victim and witness assistance as provided for in this instruction during each stage of the criminal justice process.

e. Service providers (e.g., Fleet and Family Service Center (FFSC) personnel, family advocacy counselors, health care personnel, chaplains and legal assistance attorneys) are responsible to provide available services to victims and witnesses and to provide referrals to community based services where appropriate.

8. Responsibilities

a. The CRO is CNO (N131). Responsibility for oversight and administration of the VWAP is delegated to Navy Personnel Command (NAVPERSCOM), Office of Legal Counsel (PERS-00J). NAVPERSCOM (PERS-00J) shall:

(1) Exercise oversight and overall administration of the VWAP in the Navy.

(2) Ensure that victim and witness materials are distributed to the Local Responsible Officials (LROs).

(3) Receive the reports required by reference (b) from the LROs, Commander, Naval Legal Service Command, Director, Navy Criminal Investigative Service (NAVCRIMINVSVC) and NAVPERSCOM, Navy Corrections and Programs (PERS-00D1) concerning the assistance provided to victims and witnesses and prepare DD 2706, Annual Report on Victim and Witness Assistance, for submission to the Assistant Secretary of the Navy (Manpower and Reserve Affairs) (ASN (M&RA)).

(4) Act as the liaison with the Department of Justice (DOJ), Office for Victims of Crime, in obtaining and distributing victim and witness assistance materials to the fleet.

(5) Through NAVPERSCOM (PERS-00D1), act as the Central Repository for maintaining data on the number of victims and witnesses to whom Navy brig personnel provided notice of confinee status changes via DD 2705, Victim/Witness Notification of Inmate Status, and the cumulative total of each service's prisoners for whom brigs must provide victim or witness notifications. NAVPERSCOM (PERS-00D1) will also ensure confinement facilities meet their responsibilities per reference (b) and this instruction.

b. Echelon 2 commands shall ensure:

(1) VWAP administrative procedures and programs are implemented and maintained.

(2) VWAP is included as an item of interest during regular inspections.

(3) Subordinate commands actively support VWAP initiatives of Regional Commanders and Type Commanders; appoint Victim Witness Liaison Officers (VWLO) and Victim Witness Assistance Coordinators (VWAC) per this instruction; comply with this instruction and with the requirements, if any, of Regional Commanders and Type Commanders within whose geographic area the commands are located.

c. Regional Commanders and Type Commanders are designated the LROs as required by references (b) and (c). For purposes of VWAP, Regional Commanders have responsibility for shore establishments within their geographic area of responsibility and Type Commanders have responsibility for fleet units within their area of responsibility. LROs shall:

(1) Ensure close coordination is maintained between local VWAP representatives from NAVCRIMINVSVC, base security personnel, Staff Judge Advocates (SJA), legal assistance attorneys, COs, health care providers at military treatment facilities, corrections facilities staff, FFSC staff and chaplains.

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(2) Establish a Victim Witness Assistance Council in significant geographic areas or where needed to coordinate the efforts of the above named disciplines in providing a comprehensive assistance program.

(3) Ensure data is maintained on the number of victims and the number of witnesses who are provided DD 2701, Initial Information for Victims and Witnesses of Crime, by staff assigned to law enforcement and base security and from command VWACs. Submit an annual report with this data via DD 2706 to NAVPERSCOM (PERS-00J) covering the period 1 January through 31 December of the previous year no later than 15 February of the current year.

(4) Establish and maintain, with the assistance of the local FFSC, a directory of military and civilian programs, services and crime victim compensation funds available within their geographic area to which a victim or witness may be referred; and when appropriate, enter into a Memorandum of Agreement with civilian agencies to ensure victim and witnesses are provided needed services.

(5) Appoint, in writing, including name, title, duty address, and telephone number, a Victim Witness Liaison Officer (VWLO). The VWLO is the representative for the Regional Commander or Type Commander and is responsible for coordination of victim and witness assistance within their area of responsibility. A copy of the appointment letter shall be forwarded to NAVPERSCOM (PERS-00J).

(6) Ensure commands within their area of responsibility are educated and comply with the requirements of VWAP and appoint a command VWAC as required by this instruction.

d. Unit Commanders, COs, and OICs are responsible for understanding and ensuring compliance with VWAP. Specifically, they shall:

(1) Ensure staff involved in criminal investigations, law enforcement, and security are trained in VWAP policies and requirements, provide crime victims and witnesses with DD 2701, Initial Information for Victims and Witnesses of Crime, and maintain the reporting data for submission to the LROs per paragraph 15.b of this instruction.

(2) Appoint in writing (including name, title, duty address, and telephone number), a command VWAC and ensure the command VWAC fulfills the duties delineated in this instruction. The command VWAC shall be an E5 or above (or civilian equivalent). Chaplains shall not serve as VWAC.

(3) Educate command personnel as to the rights of crime victims and witnesses.

e. Commander, Naval Legal Service Command shall ensure:

(1) Trial counsel fulfills their responsibilities under VWAP as delineated in this instruction.

(2) Trial counsel provides the confinement facility and the Central Repository with DD 2704 Victim/Witness Certification and Election Concerning Inmate Status at the conclusion of every court-martial in which confinement is awarded.

(3) Data is maintained on the number of victims and the number of witnesses who received DD 2702, Court-Martial Information for Victims and Witnesses of Crime; DD 2703, Post-Trial Information for Victims and Witnesses of Crime, and the number of victims and witnesses who elected to be notified of confinee status changes via DD 2704. Personal information on victims and/or witnesses shall not be kept together with this data. Provide NAVPERSCOM (PERS-00J) with an annual report using DD 2706 covering the period of 1 January through 31 December of the previous year no later than 15 February of the current calendar year.

(4) Formal training is established and maintained for VWAP in the Basic Lawyer, Legal Officer, Legalman, SJA, and Senior Officer Courses offered by the Naval Justice School.

f. Director, NAVCRIMINVSVC is responsible for ensuring all investigative personnel under their cognizance are educated and trained on the requirements of VWAP. Ensure field components maintain data on the number of victims and the number of witnesses who receive DD 2701 from investigative agents. Provide NAVPERSCOM (PERS-00J) with an annual report using DD 2706 covering the period of 1 January through 31 December of the previous year no later than 15 February of the current calendar year.

9. Victim Witness Liaison Officers (VWLO) are appointed by the Regional Commander and Type Commander to provide overall supervision and oversight of the VWAP within their area of responsibility. The designated VWLO shall be appointed from the legal office to provide legal support to the Regional and Type Commander, preferably a Staff Judge Advocate, civilian attorney, or paralegal who has legal training/experience with VWAP in the grade of GS-9 or above. VWLOs shall:

a. Ensure each command within their area of responsibility appoint a VWAC. A copy of the appointing letter shall be forwarded to the VWLO.

b. Maintain a list of VWACs within their area of responsibility.

c. Ensure VWACs in their area of responsibility receive training materials and appropriate guidance on VWAP.

d. Obtain and maintain a directory of military and civilian programs and services within their area of responsibility that are available for counseling, treatment, and other support to victims. VWLOs shall distribute this list to VWACs within their area of responsibility.

e. Obtain reporting data from VWACs and physical security/base security staff on the number of victims and witnesses who received DD 2701 during the period of 1 January through 31 December of the previous year for inclusion in the annual report to NAVPERSCOM (PERS-00J) due no later than 15 February of the current year.

f. Chair meetings of the local Victim Witness Assistance Council, if locally established.

10. Investigative and law enforcement staff. The term "investigative and law enforcement staff" includes NAVCRIMINVSVC, base police, installation security, and other professionals trained to conduct criminal investigations (onboard ship or ashore). (For purposes of this instruction, this term does not include people appointed to conduct investigations under JAGINST 5800.7C (JAGMAN), chapters II, III, IV, VIII, and XII.) Investigative and law enforcement staff shall:

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a. Be trained in VWAP and provide victims and witnesses information as provided in this instruction.

b. Threat assessment. All law enforcement and investigative personnel have a continuing duty to take reasonable measures within their means to protect victims and witnesses from further threat, harm or intimidation. To that end, investigative and law enforcement personnel shall make an immediate assessment of the situation and take action to minimize, within available means, threats to the victim and witnesses. Military Protective Orders (MPOs) and civilian protective orders are options that should be explored, when appropriate. Exercise care in discussing any protective measures that may be afforded the victim or witness to avoid creating unrealistic expectations concerning the level of protection available.

c. Provide victim and witnesses with DD 2701, complete with contact information listed on the back of the form. Victim identifying information will be maintained in the investigative file.

d. Assist victims and witnesses, upon request, with contacting the individuals responsible for providing services and relief described in DD 2701. A directory of service and relief providers may be obtained from the FFSC and VWLO.

e. If requested by the victim, the person in charge of the investigation will keep the victim informed of the status of the investigation/inquiry, to the extent providing such information does not interfere with the investigation.

f. If requested, the person in charge of the investigation shall promptly notify the victim/witness of the apprehension of the suspected offender.

g. Investigative and law enforcement staff shall safeguard the property of a victim held as evidence and shall assist in returning it as soon as possible.

11. The Command VWAC is the command's primary point of contact for victim witness assistance matters. The VWAC is responsible for obtaining and distributing VWAP materials and for providing VWAP training to the members of the command. In cases involving

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victims, witnesses, or accused from different commands, the VWACs for the respective commands may have overlapping duties and responsibilities. In this situation, coordination between several VWACs is essential.

a. Victim or Witness is a Member of a VWAC's Command.

Ensure the victim or witness has been advised of their rights by providing DD 2701. Additionally, the VWAC shall:

(1) Provide the victim with information concerning military and civilian resources available to the victim, including legal assistance, counseling, treatment and available compensation through Federal, State, and local agencies.

(2) Maintain contact with other VWACs and other VWAP personnel (such as Trial Counsel) involved in the victim's case.

(3) Assist victims and witnesses as appropriate and necessary in the exercise of their rights.

b. Accused is a Member of VWAC's Command. Once the command is aware that the accused is a member of the command, the command's VWAC shall identify the victim and determine whether the victim has been advised of their rights via DD 2701. Additionally, the VWAC shall, upon request of the victim:

(1) Inform the victim of the accused's pretrial confinement status, including release from pretrial confinement.

(2) If the convening authority is not the accused's command, notify the convening authority's VWAC of the identity of the victim and of the victim's election of rights.

c. VWAC's Command is the Convening Authority. After charges have been preferred against an accused, the VWAC shall identify the victims and witnesses, determine whether they have been advised of their rights, and determine the victims' elections concerning those rights. Additionally, the VWAC shall, upon request from the victim:

(1) Confirm the Trial Counsel assigned to the case has obtained the victim's views concerning disposition of the offenses and plea negotiations and has forwarded this information to the convening authority.

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(2) When a victim has requested notification, the VWAC will advise the victim of the accused's pretrial confinement status.

(3) Confirm the Trial Counsel has complied with the victim's request to be notified of the following:

(a) The date charges are referred and the nature of the charges;

(b) Acceptance of a pretrial agreement;

(c) The court-martial findings concerning guilt;

(d) The sentence adjudged; and

(e) The convening authority's action on the findings and sentence of the court-martial.

12. Trial Counsel shall adhere to the requirements of VWAP, ensuring the following specific responsibilities are met:

a. Once Trial Counsel has been assigned to a case, they shall identify the victims and witnesses in the case and provide them with a DD 2702.

b. Trial Counsel shall ensure victims and witnesses are provided information concerning their role in the criminal justice process, including what to expect from the system, what the system expects from them and the stages of the criminal justice process.

c. Victim Notification. When a victim has requested notification, Trial Counsel shall ensure at the earliest possible convenience, the victim is advised of:

(1) The pretrial confinement status of the suspected offender;

(2) The date charges are forwarded for investigation at an Article 32 hearing and/or referred to a court-martial, and the nature of the charges;

(3) The acceptance of a pretrial plea agreement;

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- (4) The scheduling of each court proceeding;
- (5) The findings of the court-martial;
- (6) The sentence adjudged; and
- (7) The convening authority's action concerning the findings and the sentence.

d. Witness Notification. When a witness has requested notification, Trial Counsel shall ensure at the earliest possible convenience, the witness is advised of:

- (1) The acceptance of a plea;
- (2) The findings of the court-martial;
- (3) The sentence adjudged; and
- (4) The convening authority's action concerning the findings and the sentence.

e. Victims views concerning Pretrial Plea Negotiations. Victims have a statutorily designated advisory role in decisions involving prosecutorial discretion, such as plea-bargaining. Trial Counsel shall ensure victims are aware of their right to act in this advisory capacity. In those cases in which a victim has elected to exercise the right to act in such an advisory capacity, Trial Counsel shall ensure the victim's views concerning prosecution and plea negotiations are obtained and forwarded to the convening authority.

f. Rescheduling of Court-Martial Proceedings. Trial Counsel shall ensure, as soon as possible, all victims and witnesses who have been scheduled to attend criminal justice proceedings are notified of any scheduling changes that will affect their appearances.

g. Separate Waiting Room. Trial Counsel shall ensure, to the extent possible, victims and prosecution witnesses are provided with a waiting area during court-martial proceedings that is removed from and out of the sight and hearing of the accused and defense witnesses.

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h. General Assistance at Trial. Trial Counsel shall ensure victims and witnesses are provided with information concerning the availability of, and, to the extent possible, assistance in obtaining, services such as transportation, parking, child care, lodging, and court-room translators or interpreters.

i. Notification of Employer. Upon request of a victim or witness, the Trial Counsel shall take reasonable steps to inform the employer of the victim or witness the reasons for absence from work due to court-martial.

j. Explanation to Creditors. In appropriate cases, Trial Counsel shall contact the creditor of a victim or witness who is subjected to serious financial strain caused by the crime or cooperation in the investigation or prosecution of an offense.

k. Victim's Property. Trial Counsel shall safeguard the property of a victim held as evidence and shall return it as soon as possible.

l. Sentencing. Trial Counsel shall inform victims of the opportunity to present evidence to the court at sentencing. In compliance with applicable law and regulation, the victim may submit a statement concerning the impact of the crime, including financial, social, psychological, and physical harm suffered by the victim.

m. Post-Trial Information. At the conclusion of a court-martial, the Trial Counsel shall provide victims and witnesses the DD 2703 to convey basic information about the post-trial process.

n. Any consultation or notification required by paragraph 12 may be limited to avoid endangering the safety of a victim or witness, jeopardize an ongoing investigation, disclosing classified or privileged information or unduly delaying the disposition of an offense. Although the victim's views should be considered, this instruction is not intended to limit the responsibility or authority of Navy Sailors to act in the interest of good order and discipline.

o. Post-Trial Confinement Status of the Accused. At the conclusion of every court-martial in which confinement is adjudged, Trial Counsel shall prepare a DD 2704 wherein the

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victim or appropriate witness (those who fear harm by the offender) may elect to be notified of changes in the offender's status in confinement. The DD 2704 should not be attached to any record to which the confinee has access. Trial Counsel will ensure that copies are provided to:

(1) Either NAVPERSCOM (PERS-00D1) as the Central Repository for the Navy, or the Commandant of the Marine Corps (POS-40) as Central Repository for the Marine Corps;

(2) The confinement facility where the accused offender will be confined; and

(3) Victims and/or witnesses whose entitlement to receive confinement information has been certified by Trial Counsel.

p. Trial Counsel shall maintain data on the number of victims and the number of witnesses who received a DD 2702, DD 2703, and the number of victims and witnesses who elected to be notified of confinee status changes via a DD 2704. This data shall be forwarded annually to the Naval Legal Service Command using DD 2706 as required by paragraph 16 of this instruction.

q. Trial Counsel shall ensure victims receive information concerning compensation programs available from the State and other sources of financial relief. Trial Counsel will also ensure the victim is apprised of Transitional Compensation for Abused Dependents, if applicable.

13. Confinement facilities shall adhere to the requirements of the VWAP per references (a) through (c), reference (i) and this instruction. The CO (or OIC) of the confinement facility shall appoint a VWAC in writing to ensure compliance with VWAP. The VWAC shall thoroughly understand their responsibilities and comply with the requirements of VWAP pursuant to this instruction, reference (i), and any additional guidance promulgated by higher authority.

a. Upon entry of an offender into post-trial confinement, the VWAC shall verify receipt of a DD 2704 provided to the brig by Trial Counsel. Reference (i) provides further guidance in the event the DD 2704 did not accompany the prisoner. If the DD 2704 provides information concerning the victims/witnesses who are entitled to information concerning the prisoner's status, ensure

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the inmate's brig file is marked with a white label with "VW" written at least 1 inch high in black and the DD 2704 is kept in a separate adjunct file. The adjunct file shall be Privacy Act Protected and not made available to the prisoner, their counsel, friends or family or anyone without official need to know. The VWAC shall be vigilant to ensure the victim and witness information is not disclosed to the prisoner or any third party at any time.

b. If a prisoner requests information from the adjunct file about a victim or witness per the access provisions of the Privacy Act (PA) per reference (j), the request may be denied under the PA exemption (j)(2). If a request for such information is made under the Freedom of Information Act (FOIA) per reference (k), access to these records will normally be denied per FOIA exemptions 6 and 7(c). All brig files shall be maintained per the Privacy Act System Notice N01640-1, Individual Correctional Records.

c. Upon receipt of a request for notification from a victim or witness entitled to information concerning the confinement status of an inmate, commanders of confinement facilities will ensure DD 2705 (with a cover letter if appropriate) is completed and mailed to the requesting victim or witness. The purpose of this letter is to provide the victim or witness with instructions on how to be kept apprised of an inmate's location as well as inform them of their own responsibility for keeping the Central Repository, NAVPERSCOM (PERS-00D1) informed of any changes in their address or telephone number. A copy of the form will be retained in the inmate's adjunct file.

d. DD 2705 shall be utilized to notify victim and witnesses of inmate status changes, including:

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

(2) The transfer of an inmate from one facility to another. The commander of the sending facility shall forward the inmate's adjunct file to the personal attention of the commander of the gaining facility. The commander of the gaining facility shall send DD 2705 to those victims and witnesses who have requested notification within 14 days of the inmate's arrival at the gaining facility.

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(3) The escape (and subsequent return to custody), work release, furlough, emergency leave, or any other form of release from custody. Telephonic notification shall be made to victims and witnesses of an inmate's escape and return to confinement. Telephonic contact shall also be made when the inmate is unexpectedly released or placed on emergency leave and a DD 2705 will not be received prior to their release date.

(4) The release of the inmate to parole supervision.

(5) The death of an inmate, if the inmate dies in custody.

(6) 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.

e. Certified Mail. All correspondence forwarded to a victim or witness, including the Standard Notification, shall be sent via certified mail, return receipt requested. At no time will the inmate's name or identification number be noted on the receipt. Once the receipt is returned to the confinement facility, it is to be filed in the inmate's adjunct file.

f. All contacts with a victim or witness, including unsuccessful contact attempts, shall be documented and recorded in the inmate's adjunct file. The information contained in this record, as well as the remainder of the adjunct file, shall not be disclosed to the inmate, their counsel, friends or family, or to anyone without an official need to know. Paragraph 13.b contains further guidance.

g. Eligibility. A victim or witness is considered eligible for notification of an inmate's confinement status when:

(1) The Trial Counsel has provided verification the individual is entitled to notification in the DD 2704, or

(2) The individual later requests to be notified after first electing on DD 2704 not to be notified.

h. Reports. The number of victims and witnesses who were notified of changes in inmate status via DD 2705 must be reported per reference (b). The VWAC shall retain data on the

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number of victim and witness notifications from 1 January to 31 December and report those numbers to the Central Repository, NAVPERSCOM (PERS-00D1), for inclusion in the annual report due to NAVPERSCOM (PERS-00J) on 15 February of the current year.

14. Service providers include family advocacy counselors, FFSC personnel, chaplains, health care personnel, legal assistance attorneys, and other advocates who assist victims and witnesses of crime. Service providers shall:

- a. Understand and support VWAP and know the rights of victims and witnesses under VWAP.
- b. Inform crime victims and witnesses about VWAP when they present for counseling, treatment or advice.
- c. Inform victims of dependent abuse offenses of the benefits available under Transitional Compensation for Abused Dependents.
- d. Inform crime victims of State crime compensation funds that may be available to reimburse victims for certain expenses incurred as a result of crime.
- e. Know the VWAP points of contact at their duty stations, specifically base police, NAVCRIMINVSVC, SJA, FFSC, Family Advocacy Program Representative, medical clinics or hospitals, and chaplains for victim and witness assistance issues.

15. Military Victim Assistance Programs. The following are additional resources and benefits available to crime victims:

- a. Sexual Assault Victim Intervention (SAVI) Program. Victims of sexual assault require the services of a victim advocate specially trained to provide additional emotional support and information to the victim outside of the victim services available under VWAP. Reference (g) contains further guidance.
- b. Family Advocacy Program (FAP). FAP provides counseling services to victims of domestic violence and referrals to civilian agencies, and works as a liaison for the victim with

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the command in obtaining military protective orders and removal of an abusive Sailor from the home. Reference (h) contains further guidance.

c. Transitional Compensation for Abused Dependents.

Congress authorized monthly payments to spouses and dependent children who have been the victims of abuse by their sponsor. This entitlement applies when the Sailor has been separated from the service for misconduct resulting from the abuse of their family members. The separation can be either the result of court-martial or administrative processing. Refer to references (l) and (m) for further guidance. The victim's spouse and/or family member should be referred to the Sailor's CO for assistance with completion of the DD 2698, Application for Transitional Compensation. Duration of payments will be at least 12 months but not more than 36 months. If, as of the commencement date of payments, the unserved portion of the Sailor's End of Active Obligated Service (EAOS) is less than 36 months, the duration will be the greater of the unserved portion or 12 months. Applicants may also be eligible for medical and dental care and commissary and exchange privileges for the duration of the payments. Refer to references (l), (m), and NAVADMIN 231/01 for further guidance.

d. Benefits for Dependents Who Are Victims of Abuse by Sailors Losing Right to Retired Pay. Reference (n) provides the spouse (or former spouse) and dependent children of a Sailor are entitled to receive a portion of the sponsor's disposable retired pay if:

(1) The sponsor, after becoming retirement eligible on the basis of years of service, has their eligibility to receive retirement pay terminated as a result of misconduct involving abuse of a spouse or dependent child;

(2) The spouse, or former spouse, obtains a divorce decree with a court order, in the manner applicable to a division of property, for the payment of an amount from the disposable retired pay of the sponsor; and,

(3) The spouse or former spouse was married to the sponsor for at least 10 years or more during which the sponsor performed at least 10 years of creditable service. While receiving payments pursuant to this program the sponsor or

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former sponsor, is entitled to medical, dental, commissary, exchange and other benefits as though the sponsor or former sponsor were entitled to retired pay. A dependent child, who was a member of the household of the sponsor or former sponsor at the time of the misconduct, is entitled to medical, dental, commissary, exchange and other benefits as though the sponsor or former sponsor were entitled to retired pay. Defense Finance and Accounting Service (DFAS) manages this program and should be contacted for additional guidance.

16. Reporting Procedures. References (b) and (c) require an annual report to the Under Secretary of Defense (Personnel and Readiness) (USD) (P&R)) via ASN(M&RA) that provides data on the assistance provided to victims and witnesses of crime. To assist in the completion of this report, the commands listed below shall maintain and forward data covering the preceding calendar year to NAVPERSCOM (PERS-00J) no later than 15 February each year.

a. Director, NAVCRIMINVSVC is required to track the numbers of victims and the number of witnesses who received a DD 2701 from field components.

b. LROs (Regional Commanders and Type Commanders) are responsible for the number of victims and the number of witnesses who received a DD 2701 from military police, installation police/base security and command VWACs within their area of responsibility.

c. Commander, Naval Legal Service Command, is responsible for the number of victims and the number of witnesses who received a DD 2702; the number of victims and number of witnesses who received a DD 2703; and the number of victims and the number of witnesses who elected via DD 2704 to be notified of changes in inmate status.

d. NAVPERSCOM (PERS-00D1) is responsible for the number of victims and witnesses to whom Navy brig personnel provided notice of confine status changes via DD 2705 and the cumulative total of each service's prisoners for whom brigs must provide victim or witness notifications.

17. Resources. The Department of Justice, Office for Victims of Crime, 633 Indiana Avenue, N.W., Washington, D.C. 20531,

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(202) 514-6444, can provide information concerning training and available materials. The following web sites are also excellent tools for information on victim and witness assistance:

The DoD Victim Witness Assistance Council:

<http://www.dod.mil/vwac/>

Commander, Navy Personnel Command VWAP Web site:

<http://www.npc.navy.mil/CommandSupport/VWAP/>

Department of Justice, Office for Victims of Crime

<http://www.ojp.usdoj.gov/ovc/>

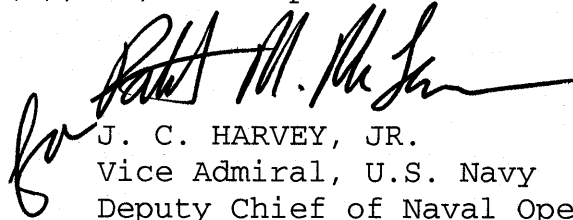
18. Forms and Reports

a. All of the forms listed below are available at
<http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>:

- (1) DD 2698, Application for Transitional Compensation
- (2) DD 2701, Initial Information for Victims and Witnesses of Crime
- (3) DD 2702, Court-Martial Information for Victims and Witnesses of Crime
- (4) DD 2703, Post-Trial Information for Victims and Witnesses of Crime
- (5) DD 2704, Victim/Witness Certification and Election Concerning Inmate Status
- (6) DD 2705, Victim/Witness Notification of Inmate Status
- (7) DD 2706, Annual Report on Victim and Witness Assistance

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b. Report Control Symbol DD-P&R(A)1952 is assigned to paragraphs 8a(3), 8c(3), 8e(3), 8f, and 12p.



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DEFINITIONS

1. Central Repository. A headquarters office, designated by the Secretary of the Navy to serve as a clearinghouse of information on confinee status and to collect and report data on the delivery of victim and witness assistance, including notification of confinee status changes.

2. Component Responsible Official (CRO). Person designated by the Chief of Naval Operations (CNO) primarily responsible for coordinating, implementing, and managing the VWAP within the Navy. The CRO is CNO(N131). Responsibility for oversight and administration of the VWAP is delegated to Navy Personnel Command, Office of Legal Counsel (PERS-00J).

3. Local Responsible Official (LRO). Person designated by CNO who has primary responsibility for identifying victims and witnesses of crime and for coordinating delivery of services through an interdisciplinary approach as described in reference (b). The Regional Commanders and Type Commanders are the LROs for the Navy.

4. 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 (UCMJ), reference (c), or in violation of the law of another jurisdiction in cases where military authorities have been notified. Such individuals shall include, but are not limited to, the following:

a. Military sponsors and their family members.

b. When stationed outside the continental United States (OCONUS), Department of Defense (DoD) civilian employees and contractors, if provided for by 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.

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c. When a victim is under 18 years of age, incompetent, incapacitated, or deceased, the term includes one of the following: (in order of preference) a legal guardian, parent, child, sibling, another family member, or another person designated by the court or LRO, or designee.

d. The term "victim" does not include an individual involved in the crime as a perpetrator or accomplice, even though the individual may be one of the representatives described above.

e. For a victim that is an institutional entity, an authorized representative of the entity. Federal Departments and State and local agencies, as entities, are not eligible for services available to individual victims.

5. Witness. A person who has information or evidence concerning a crime, and provides that knowledge to a Department of the Navy (DON) representative about an offense in the investigative jurisdiction of DON. When a witness is a minor, that term includes a parent or legal guardian. The term "witness" does not include a defense witness or an individual involved in the crime as a perpetrator or accomplice.